

**CRIMINAL TRIBES AND BRITISH POLICY
1871 — 1928.**

Dissertation submitted to the Jawaharlal Nehru University
in partial fulfilment of the requirements for
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MASTER OF PHILOSOPHY

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C E R T I F I C A T E



This is to certify that the dissertation entitled "Criminal Tribes and British Policy 1871 - 1928" submitted by Ms. Anindita Mukhopadhyay in partial fulfilment of the requirements for the Degree of Master of Philosophy has not been submitted earlier for any other degree to this or to any University.

It is to recommend that this dissertation be placed before the examiners for their consideration for the award of the Degree of Master of Philosophy.

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C O N T E N T S
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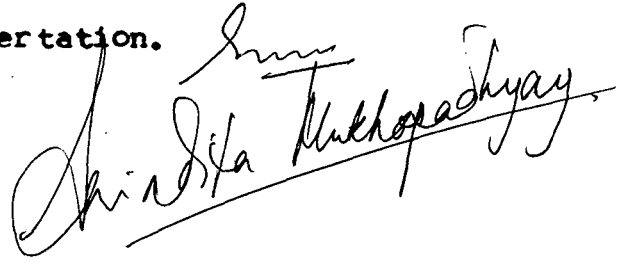
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I must also take this opportunity to thank the Library staff of the National Archives, the Lucknow Archives, the Central Secretariat and of Jawaharlal Nehru University. It goes without saying that I am completely responsible for the mistakes that remain in the dissertation.

A handwritten signature in cursive script, reading "Anindita Mukhopadhyay". The signature is written in dark ink and is positioned to the right of the text block above it.

ANINDITA MUKHOPADHYAY.

ABBREVIATIONS

C.T. Act - Criminal Tribes Act.

IESHR - Indian Economic and Social Historical Review.

Ins. Gen. of Police - Inspector General of Police.

N.W.P. and Oudh - North Western Provinces and Oudh

Secy - Secretary

INTRODUCTION

INTRODUCTION

The concept of alien, backward and hostile tribes has been current in India from at least the second half of the first millenium B.C. The "Aryan speakers" regarded with contempt "the technologically inferior tribes" living in the forests, and still in the hunting-gathering stage (e.g. Sabara, Pulinda, Mutiba and Kirāta). Significantly, the Rāmāyaṇa labels such food-gathering and hunting peoples as "rākṣasas", the enemies of Rāma.¹ Still earlier, in the Rg Veda, the concept of alien tribes comes in the references to the Dāsas or Dasyus, who are compared to the demons because of their dark skins, snub noses, strange rites and language.² In the third century B.C., Aśoka makes a distinction between "the tribal peoples and the forest tribes.... It would seem that the forest tribes did not easily reconcile themselves to law and order."³ While this statement does not reflect the criminality of the tribes, it does reveal the state authorities grappling with a law and order problem in the forest tribes. The

1. Romila Thapar, "The Image of the Barbarian in Early India", in Ancient Indian Social History, Some Interpretations, 1978, pp.158f.

2. Ibid., p.154.

3. Ibid., p.163, in a reference to the 2nd Separate Edict, J. Bloch, Les Inscriptions d' Ashoka, p.140ff.

Arthasāstra also observed the same problem of the forest tribes (aranyaka, ātavikah) and observed that "it was necessary to pay them off from time to time to prevent their resorting to plundering and pillaging."⁴ The references to their criminal practices, and to the state having to pay them off, are obvious.

In the first millenniumⁿ A.D., with the growth of trade across the Vindhayas, the Vindhyan forest tribes made a reputation for themselves as plunderers of trading caravans.⁵ In the tenth century, a Ganga inscription,⁶ mentions a Śabara Chief, called Naraga, who was likened to Madhu and Kaitabha (rākṣasas). Not only was the Śabara Chief compared thus unfavourably, but, in yet another inscription,⁷ the same chief is accused of laying waste the neighbouring countryside. Such lawlessness was promptly punished by the state when the Brahmins complained of the deprivations. Not only the chief but even his family and followers - son-in-law, children and praja - were

4. Ibid., p.163, citing Arthasastra: II, 1; III, 16; VII, 8; VIII, 4; IX, 1; IX, 3; X, 2.

5. Ibid., p.161.

6. Epigraphia Carnatica, vol.II, Kannada Research Centre, Mysore University, Srabanabelgola Inscription (henceforth Ins.) No.64, pp.20-23.

7. Epigraphica Carnatica, vol.VI, (old ed.), Kadur district, Ins. No.147.

put to death. Derrett notes that the forest tribes were lawless, and were feared by the plains-people.⁸

"Amongst the inhabitants of this favoured land ...an important distinction is to be drawn between the inhabitants of hills and plain.... All plain-dwellers feared the hill-dweller because his habitation and way of life made the plain-dweller of every description his natural prey.

These inhabitants of the hill ranges, whose chieftains were referred to generally under the title 'malepar' or hill-chiefs, belonged originally to tribes, presumably of pre-Dravidian origin, which had either never known life on the plain, or had been driven thence by the imperial dynasties. Their life was of necessity harder and less organized than that of the plain-dweller.... their contacts with the outside world were few and not always friendly. Their crops were raised precariously on uneven ground and whenever security permitted. They hunted the beasts of the forests, sold sandal to merchants and often raided outlying farms and villages, carried off women, cows and drought cattle...they proved a constant source of alarm and annoyance to the authorities in the plain....

On the other hand the plain dwellers found it useful to enlist these Bedar, not only as watchmen against their own kind... but also to exterminate predatory animals as the tiger and leopard.⁹

Later in time, one finds more examples of repressive state measures against any restless tribals. The Mughals

8. J.D.M. Derrett, The Hoysalas; A Medieval Indian Royal Family 1957.

9. Ibid., pp.7-9.

ruthlessly suppressed the Kolis in the North Western Poona, and "in the process they hunted down Kolis, and either made them prisoners or slaughtered them, destroyed their leader or 'naik' and his clan and took the prisoners to Junnar and had their heads cut off and piled into a pyramid.."¹⁰

✓ Owing to simple demographic pressure, the tribal has historically been pushed away from the plains, forced into hills and forests.¹¹ This gradual elimination from their resources has pushed the tribals occasionally to lapse into criminality: "owing to their shrinking subsistence base, the tribals would take to plunder. Matters would become worse in a famine when they would descend from hills to loot villages which invited heavy reprisals."¹² A good example of some tribals taking to crime because of hunger were the Bhils. They turned from village watchmen into robbers under the onslaught of famine. The Marathas retaliated against the Bhils "by the most cruel measures and other forms of savage punishments."¹³

10. K.S. Singh's Tribal Society in India, "Tribal Movements," p.123. quoting in Gazetteer of Bombay Presidency, Khandesh, vol.XII, pp.227-8.

11. Ibid., p.123. Also Thapar, op. cit., pp.152-53.

12. Singh, op. cit., p.122.

13. Ibid., p.122, quoting James M. Campbell (ed.), Gazetteer of the Bombay Presidency, Khandesh, vol.XII, p.254.

✓ The criminality of the Gonds (of Central Provinces) was the result of the loss of political power to the Marathas. They turned into robbers and marauders of "the most daring type, who would make a dash into the rich country of the Narmada Valley and after looting and killing all night, returned straight across country to the jungle fortresses..."¹⁴ The harassment of the Gonds by the Marathas led them to "lose every vestige of humanisation" and become "the cruel, treacherous savages that the colonial officers found them to be..."¹⁵ Such examples of tribal deprivations posing a threat to the state show that the British government in India was not the first to face the task of suppressing tribal 'lawlessness'. Yet, while the problem remained similar, the colonial period saw a different treatment of the tribals who took to crime or were believed to be 'criminal'.

The tribal problem was identified on an all-India scale and an attempt was therefore made to curb all such criminal activities all over India by passing an Act in 1871. This was a development quite unprecedented in India because ✓(a) there had been no previous attempts to stop tribal criminality at the all-India level, and (b) former attempts

14. Ibid., p.122 quoting R.V. Russell (ed.), Central Provinces District Gazetteer, Betul District, 1907, pp.37-8.

15. Ibid., p.122, quoting Charles Grant (ed.), The Gazetteer of Central Provinces, 1870, pp.LXXXV-CV.

by individual kings at crushing tribals had been sporadic and violent, and had not been sustained over a long stretch of time as was to happen in the British Raj.

This shift in the administrative perception was due to the fact that the British had come to India with their own evolved values, institutions, structures and ideological perspective. Saberwal has argued that the British colonial administrative system in India was built with elements drawn from the depths of European political and religious institutions.¹⁶ The Raj had not much understanding of the values which had evolved in India, since it saw her through the eyes of alien rulers; yet, for administrative effectiveness, perforce, they had to grapple with the complex Indian society. Inescapably then, they brought the a priori concepts formed in their own social and political historical experience to the administration of an alien society.¹⁷

16. Satish Saberwal, India: The Roots of Crisis, pp-13-14 ff.

17. That alien peoples should be perceived through pre-conceptions is a trap which even professional anthropologists cannot easily escape, as David Price has recently shown. In the previous studies of the Nambiquara (Western Mato Grosso, Southern Rondonia, Brazil), the term "band" - then current in anthropological writings - was assumed to characterize the "traditional socio-political units". During his field-work, however, the author found that the Nambiquara could not comprehend the concept of "band" as applied to their society, and that it had no synonym in their vocabulary. He concluded therefore "that collectivities such as the tribe (or the band) are to be understood as products of a colonial context rather than traditional socio-political units." David Price, "Nambiquara Geopolitical Organisation", in Man, vol.22, No.1, March 1987, p.2.

In administrative records and in the ethnographic studies conducted by the British bureaucrat-ethnographers, the terms "caste" and "tribe" - and even "class" at times - were used interchangeably to describe the numerous "criminal castes and tribes". Admittedly, the pressure of thousands of castes, sub-castes, and tribes, criminal or otherwise, was bewildering for the bureaucrats engaged in administering the vast country. It was vital for them that careful compilations be made of detailed and accurate data-bases about the Indian people in the Census and other official records; knowledge which would be available for evolving a suitable administrative strategy: "It.... occurred to the census commissioner that this costly statistical material might be made the basis of an attempt to extend and systematise our knowledge of the customs, beliefs and occupations of the Indian people..." Risley makes himself even clearer when he states further that:

"...the native society is made up of a network of sub-divisions governed by rules which affect every department of life, and that, in Bengal at any rate, next to nothing is known about the system upon which the whole native population regulates its domestic and social relations. If legislation, or even executive action, is ever to touch these relations in a satisfactory manner, an ethnographic survey of Bengal, and a record of the customs of the people, is as necessary an incident of good administration as a ...survey of land and a record of the rights of its tenants."¹⁸

¹⁸ H.H. Risley, Tribes and Castes of Bengal, "Preface", p.vii.

Risley then systematically tabulates all the castes, sub-castes and the tribes, together with their respective occupations in the four-fold varna system.¹⁹ The necessity of determining the caste occupations is also stressed, arising out of the awareness that

"The English system of classification is utterly unsuited to this country, and completely destroys all sense of proportion between the different groups, as may be judged from the fact that, according to it, 'tenant-cultivator', 'farmer's daughter', 'hangman', 'crocodile catcher' are all placed on the same level, and are all considered as principal occupations of the people of these provinces."²⁰

Thus categorisation is an attempt to look for order in a seemingly disordered spread of elements - a step in cognitive economy which would be useful in cognitive effectiveness. R. Pant, in her paper, argues that in "contemporary social sciences"

"...castes appear as relatively discreet communities whose members share certain modes of worship, food, dress, occupation: who relate with other similarly defined groups on the basis of an assigned ritual-political standing; and finally, caste is a label for groups whose history and identity have been so constituted... the conceptualisation of caste in this way owes much to the discourse of the British colonial administration on the structure of Indian society."²¹

19. Ibid.

20. Ibid., "Introduction", p.xii.

21. Rashmi Pant, "The Cognitive Status of Caste in Colonial Ethnography", IESHR, 24, 2, 1987, p.145.

✓ There was not only a recognition of the organization of castes and their particular caste occupations, but even the tribes, both criminal and non-criminal, found their way into slots or administrative categories, thus providing the British administration with synoptic view of the Indian society.

✓ The colonial administrator-ethnographers believed that the tribes should be studied in their ethnic diversity before the process of "gradual Brahmanization" obliterated all the peculiar characteristics of the tribal societies. H.H. Risley²² recommended that the work of studying them should take precedence, as the fast-growing communication network was bringing the tribes closer to the all-absorbing caste hierarchy of the Hindus; the tribals were being sucked into the Hindu social structure, thus making any later study of this ethnological zoo impossible.

✓ Northcote W. Thomas,²³ in the preface to W. Crooke's Races of Northern India, not only commented upon the urgency of ethnographic data-collection, but also felt that England had lagged far behind Germany in the collection of such data about "savage life" and "savage culture". If "duty"

22. H.H. Risley, op. cit., vol.I, "Introduction", pp.XV-XIX.

23. W. Crooke, Races of Northern India, p.vi.

could be done, and the Imperial Bureau of Ethnology set up, only then could English anthropologists "hold up their heads before their more fortunate German and American brethren."

H.H. Risley²⁴ has cited numerous examples of tribals losing their identity in Hinduism. For example, the whole Rajbansi tribe of Kachh, Rungpur, adopted gotras to make their identification with Hinduism complete. Occasionally leading men of the tribes would take up Kshatriya status, usually Rajput Kshatriyas, engage Brahmin priests, and gradually be taken as Hindus.

However, such absorption into Hinduism depended on the social acceptance by the Hindus of a new social category. Generally the unaccepted tribals would remain on the fringes of the caste system. If they took to crime in a general way, apart from their caste occupation, or supplemented their income through criminal means, such groups might be called criminal tribes or criminal castes, according to the perception of the individual bureaucrat; hence the interchangeable use of these categories "caste" and "tribe" in most of the colonial writing.

This is why despite his meticulous definitions of a caste and a tribe in his book, The people of India, Risley

24. Risley, op. cit., "Introduction", pp.XVI-XVII.

could use the terms interchangeably. Risley defined a caste as

"...a collection of families or groups of families bearing a common name; claiming common descent from a mythical ancestor, human or divine; professing to follow the same hereditary calling; and regarded by those who are competent to give an opinion as forming a single homogeneous community. The name generally denotes or is associated with a specific occupation. A caste is almost invariably endogamous..."²⁵

A tribe, on the other hand, was defined as:

"...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, ...usually speaking the same languages and occupying, professing, or claiming to occupy a definite tract of country."²⁶

Yet this attempt to keep the tribes and the castes as different entities could not be scrupulously maintained, in official records, and in writings like M. Kennedy's book.²⁷ M. Kennedy, the Deputy Inspector General of Police, Railways and Criminal Investigations, Bombay Presidency, made a minute study of the criminal classes, their modus operandi, the area they inhabit, their marital customs,

25. H.H. Risley, People of India, p.68.

26. Ibid., p.62.

27. M. Kennedy, The Criminal Classes of India, 1907.

language, their criminal vocabulary, and many other details. A number of criminal castes and tribes is noted: the Banjaras, the Kolis, the Mang Garudis, Bhamptas, Bhils, Chapparabunds, and many others. The book was clearly meant to help the police locate and capture the criminals, whether they be from castes or tribes; but even so, every chapter begins with the "name of the tribe", and then the description follows. Yet, from the description of the languages used by them, which are generally local dialects of the regions they inhabit, religious practices and customs,²⁸ these social groups cannot be designated as pure tribes. These two terms, thus, are merely convenient labels, and are not used with ethnographic care. The title of the book is characteristic: "The Criminal Classes of India", referring loosely to tribes, castes and even gangs. Even the administrator-ethnographers confuse the two. For example, the Chaini of Oudh and the Eastern districts are described as "A cultivating, fishing and thieving caste", who are the off-shoots of some "non-Aryan tribe"²⁹ or "broken, Gypsy-like tribes"³⁰ inhabiting the base of the Himalayas..."

28. Lower Caste Hindus have similar customs. See ibid., pp.63-83. (Kaikadis); also W. Crooke, The Tribes and Castes of the North Western India, pp.149-57 (Banjaras) vol.I; pp.106-14 (Binds) vol.II.

29. Ibid., vol.II, p.167, citing from Risley, Tribes and Castes, vol.I, p.106.

30. Such terms as 'gypsy tribes' are direct imports from western experience, superimposed on Indian society.

This kind of confusion was due to the large social zone in which it would be idle to try to differentiate between tribe and caste. Low caste Hindus, just like the tribals, ate meat, drank liquor, their women had more freedom and could re-marry and divorce without social opposition, and so on.

K.N. Thusu has studied the tribal Gonds of Chandrapur district, Maharashtra.³¹ He observes that though the tribals are proud of their tribal identity, certain tenets of Hinduism, especially religious ones, have been absorbed. They even subscribed to the idea of purity-pollution and therefore did not accept food from the low caste Gonds.

Louis Dumont's study takes up the case of the Pramalai Kallar of the Madura district.³² The name suggests a traditional character of criminality. Since Dumont locates the Pramalai Kallars as a sub-caste within the caste hierarchy and thus places the sub-caste in the proper historical perspective, it is another example of the perception

31. K.N. Thusu, "A Movement Among the Gonds of Chanda" in K.S. Singh (ed.), Tribal Movements in India, vol.II, pp.161 ff.

32. L. Dumont, A South Indian Sub-caste: Social organization and Religion of the Pramalai Kallars. The word 'kallar' means a thief (p.10). The Kallars also had a reputation of being warriors (pp.10-14). But during the colonial rule, they were primarily peasants, though they had "two sources of additional revenue: theft and protection against theft - the occupation of watchmen". (p.14) Because of their predilection for other people's property and for cattle-theft, they were marked as a "criminal tribe" in 1918 by the Raj. (pp.26-32)

of a sub-caste as a 'tribe' by the colonial government.³³

Therefore, the 'criminal tribes' cannot be studied in isolation as tribals inclined to crime only. They have to be within the Hindu society, generally on the fringes of the caste system, and following a fixed caste occupation.

The books written by colonial administrator-ethnographers, and taken up in this study, describe the tribes and castes of the Presidencies. Risley³⁴ exhaustively describes the castes and tribes of the Bengal Presidency - their physical appearance, social customs, language, marriage rites, death ceremonies, caste, caste occupation, the region or area of habitation, and so on. Bombay Presidency is taken up by M. Kennedy,³⁵ while W. Crooke³⁶ and

33. This is not unusual. Sub-castes were seen as tribes. E.g. W. Crooke mentions the caste occupations of the tribes: Binds are "A non-Aryan Tribe in the Eastern district of the Division, some are non-occupancy tenants. Many are hired ploughmen;....they work as in Bihar, at fishing, well-sinking, building mud walls, mat and basket making... doing earth work on tanks, and roads, watching fields and villages". vol.II, p.108; Chaini - "They have given up their occupation of mat-weaving and now live by fishing and thieving at fairs." vol.II, p.167. Dalera: "A tribe of basket makers, day labourers, and thieves found in Barielly and Taras." vol.II, p.244.

34. H.H. Risley, Tribes and Castes.

35. M. Kennedy, op. cit.

36. W. Crooke, op. cit. Tribes and Castes.

E. Thurston³⁷ take up Northern India (United Provinces) and the Madras Presidency respectively. But these works do not mention the government policy towards the criminal castes and tribes, not even M. Kennedy, who specifically worked on the "criminal classes" of India.

Before independence, Indians themselves did not write much about tribals, let alone their criminal activities. Even Mahatma Gandhi placed the tribal problem on the low-priority list as compared with the Harijans.^{37a} It was only after 1951, when the Criminal Tribes Act was repealed and the Criminal Tribes were redesignated as "de-notified tribes", that studies concerning them came to be published. Previous to this period, the tribals were discussed only when they figured in political controversies; thus the furor created by the nationalists in the pre-1947 period when Verrier Elwin proposed to keep the tribals in their natural habitat, untouched by Hinduism.³⁸ This kind of isolation of the tribes was seen by the nationalists as a new dimension to the 'divide and rule' policy.

37. E. Thurston, op. cit.

37a. K.S. Singh, "Mahatma Gandhi, Nationalism, and the Tribal Question" in his, Tribal Society in India, 1985.

38. K.S. Singh, op. cit., 1985.

Indian writings on 'Criminal Tribes' can therefore be said to belong to the post-independence period. An early work on the Criminal Tribes is by B.S. Bhargava. While the passage of the Criminal Tribes Act in 1871 was condemned, the 'tribes' themselves were regarded superciliously. In some statements echoes of the Raj's sentiments regarding their slovenliness, laziness and criminality can be heard:

"Following their settlement, they have been compelled to put on more clothes.... But improvement in dress is not visible to the same extent among tribes which are living in remote parts of the [unspecified] District due to their lesser contact with civilized and advanced people..."³⁹

or even,

"In the past, they used to wander... in search of jungle products, wild animals and opportunities for theft and robbery....

In settlements they are either exempted from payments of land revenue or have to pay a very nominal rent.... In the beginning when they settled on land were asked to cultivate it, they did not make proper use of the facilities [good seed, ploughs etc.]..."⁴⁰

also,

"On the whole, the members of Criminal Tribes have proved to be less efficient

39. B.S. Bhargava, The Criminal Tribes, A Socio-Economic Study of the Principal Tribes and Castes, 1949, p.80.

40. Ibid., p.81.

in the cultivation of land than the peasants of other castes."⁴¹

and

"Formerly they had instinctive aversion to hard work; in fact they were most lazy and indolent.... Those who have begun to take an interest in work do not like to sit idle for a single moment." [after they came to the Criminal Tribes Settlement].⁴²

In the light of these statements, one feels that the author was ambivalent about the 'Criminal Tribes Act'. He thought that the 'Criminal Tribes' were notorious, and stringent action should be taken against them, but he also wanted to register a protest against the Act as an injustice to 'Criminal Tribes' as a matter of form.⁴³ He thought their settlements were established "with a view to reforming people by giving them adequate facilities... so that their permanent assimilation as law-abiding citizens may be possible." Until the tribes were reformed, they remained "...primitive, ...have ...adopted anti-social conduct, and ...have earned the designation of criminal for themselves."⁴⁴

Gauri Shankar's work was published in 1949 and it takes a close look at the working of the Act in Barabanki

41. Ibid., p.83.

42. Ibid., p.87.

43. Ibid., p.98 ff.

44. Ibid., p.121, Chap.XI.

and Benares settlements.⁴⁵ After a detailed account of the social life and of the pattern of crimes committed by the Karwals and Sansiahs confined to the settlements, we get a systematic account of the functioning of the Act in the settlements. (He saw the Act as based on an outdated conception that the tendency to crime was inherited; and the repercussion of the Act appeared to him as more harmful than beneficial. The effects of the settlement on the tribes are not mentioned; but an important aspect of the grass-roots functioning of the Act is discussed: alterations, and different interpretations of the Act in different provinces according to the exigencies of the situation, prevented uniform implementation of the law all over the country.)

✓ V. Raghaviah's book is a tabulation of the "wandering" nomads all over India.⁴⁶ The "criminal nomads" are seen as another type of 'nomad' amongst many other varieties like trader nomads, beggar nomads, and so on. It is a mechanical division of the various "nomadic" tribes. While maintaining that some nomadic tribes were criminal, he condemns the Criminal Tribes Act as a "treacherous colonial Act":

45. Gauri Shankar, Born Criminals; The Ex-Criminal Tribes

46. V. Raghaviah, The Nomads, 1968.

"This legal engine of repression relentlessly worked by an unsympathetic alien government, wrought such havoc on the moral and material condition, environment and psychology of the tribals for nearly a century, that it made misanthropes of men and destroyed all zest in life."⁴⁷

✓ Another book, written by Sher Singh Sher,⁴⁸ is a detailed study of the Sansis, a criminal tribe. Sher Singh Sher builds up his case around the premise that Sansis were actually dispossessed Rajputs, driven out of their homeland by Muslims. In their homeless wanderings, they became suspects in the eyes of the British, who after 1857, were trying to establish law in India. Their pilfering, and vagrancy caused them to be branded as a "Criminal Tribe". Stephen Fuchs, in the Preface of the book, supports Sher Singh Sher's contention that the Sansis were Rajputs.

✓ Stephen Fuchs' essay, "Nomadic Tribes in the Plains of Northern India"⁴⁹ is again a tabulation of the "Criminal Tribes" in the Punjab, North Western Provinces and the United Provinces. However the Criminal Tribes and Castes are not the only tribes listed but even non-criminal vagrant

47. Ibid., Chap.VII, p.190.

48. Sher Singh Sher, The Sansis of Punjab, 1965.

49. S. Fuchs, The Aboriginal Tribes of India: The Criminal Tribes are Nats, Bawariahs, Bhars, Sansis, Haburahs among others, pp.105 ff.

tribes have been mentioned. He states that all these tribes are inveterate nomads, and cannot be persuaded to settle down to a life of sedentary agriculture.

The other books, concerned with tribal societies at large in India, have a bearing also on the "criminality" of some of them. Many tribal problems, some of which burst into open revolt, in due course, can often be identified with the problems faced by the Criminal tribes as well. The Forest Laws passed in 1878, the Abkari Laws in 1890, the Criminal Tribes Act in 1871 etc. did cause a lot of tribal restlessness. There are many contemporary authors who agree on this issue. K.S. Singh's⁵⁰ Tribal Movements in India, vols.I and II provide a lot of useful insight into the impotent rage, misery, and incomprehension on the part of the tribals about the colonial laws. In the 'Introduction' of the second volume, K.S. Singh analyses the base of the Agrarian and Forest Movement,⁵¹ and discusses the general causes for tribal disaffection - e.g. the erosion of their rights in the forest and forest land, as among the Gonds of Chanda and Adilabad (Madhya Pradesh).⁵² He also examines the deep-seated causes that led up to the Forest Satyagraha

50. K.S. Singh (ed.), Tribal Movements in India, vols I and II, 1982, 1983.

51. Ibid., vol.II, Introduction, pp.IX-XVI.

52. Ibid., "The Gond Movements", Chap.II, pp.177-85.

in Palamaun. In the pre-Independence period, the freedom leaders had mobilised the Kharwars of Palamaun on the forest issue.⁵³ When the same forest policy as was carried on in British India continued in Independent India - they rebelled. An interesting folk song is indicative of their grievance -

"...Let us confront the sarkar. The forest bush was taken away, the bush, the hills were also taken away, We were cheated."⁵⁴

More revealing:

Mahatma Gandhi had told us,...cultivate barren lands, produce cotton, spin the charkha, manufacture clothes, wear them and beat drums. But where is the Kisan Raj?...We feel that the Britishers have not gone as yet. We think the Zamindari is as it was before."⁵⁵

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K.S. Singh's Tribal Society in India also has several very penetrating essays on various aspects of colonial rule in India. One such aspect is Anthropology and Colonialism,⁵⁶ where he discusses whether anthropology was "a child of imperialism". The nationalists saw only the colonial purpose behind anthropology, i.e. as another lever to

53. Ibid., "Forest Satyagraha," Chap.12, pp.187-95.

54. Ibid., p.190.

55. Ibid., pp.189-90.

56. Ibid., Tribal Society in India, Chap.6, pp.104-18.

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split up India along tribal and non-tribal lines. The suggestion by Verrier Elwin and other anthropologists, that the tribals be isolated from the mainstream of Indian socio-political life, did not seem helpful.

A study done by C.V. Fürer-Haimendorf⁵⁷ involves a number of tribes of Andhra Pradesh and Arunachal Pradesh.⁵⁸ The book takes up all aspects touching the tribals - the tribes' relationship with the government,⁵⁹ the land and the tribals,⁶⁰ the forest policy of the Government and the Tribals,⁶¹ their economic development⁶² etc. An outline of the pre-colonial and colonial back-drop provides the continuity between colonial forest policy, the revenue policy and the post-independence policies pursued by the Indian Government, and finds little difference in the consequences of the policies followed by the colonial and Indian governments.

57. C.V. Fürer-Haimendorf, Tribes of India, The Struggle for Survival.

58. Ibid., pp.2-32.

59. Ibid., pp.32-50.

60. Ibid., pp.51-78.

61. Ibid., pp.79-96.

62. Ibid., pp.97-125.

Hardiman's Coming of the Devi⁶³, David Arnold's "Dacoity and Rural Crime in Madras"⁶⁴, and "Rebellious Hillmen"⁶⁵, Sarkar's "Forest Satyagraha",⁶⁶ and "Popular Movements"⁶⁷ etc. discuss the problems of restrictive forest and Abkari laws and the land problem which lead upto either eruption of violence by tribals and peasants, or an increase in rural crime. Hence these authors have been cited often in the text of the dissertation. Foucault's work⁶⁸ has been used to get an insight into the "why" of the Criminal Tribes Act passed by the British government. Foucault's study focusses on France alone, and he takes the reader through two centuries - 17th to the 19th - of penal punishments. The central theme deals with the change in the penal system in France with the rise of the bourgeoisie and the rapid industrialisation of the West, as a result of which private

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63. David Hardiman, Coming to the Devi, Adivasi Assertion in Western India, 1987.
64. David Arnold, "Dacoity and Rural Crime in Madras, 1860-1940", Journal of Peasant Studies, 6, 1979, pp.145 ff.
65. David Arnold, "Rebellious Hillmen" in Ranajit Guha (ed.), Subaltern Studies I, 1982.
66. Sumit Sarkar, "Primitive Rebellion and Modern Nationalism: A Note on Forest Satyagraha in the Non-Cooperation and Civil Disobedience Movement" in A Critique of Colonial India, 1985, pp.77 ff.
67. Sumit Sarkar, Popular Movements and 'Middle Class' Leadership in Late Colonial India: Perspectives and Problems of a History from Below, 1980.
68. Michel Foucault, Discipline and Punish, 1977.

property became pivotal to Western economy. Industrialisation also brought in its wake condemnation of vagabondage, of people who did no work, of beggary; the days of alms-giving were disappearing with the rapid progress of industrialisation and the growth of private property. A more stringent attitude towards the lowest classes of people was associated with the belief that these people were far more prone to theft than any other class. This aspect of Foucault's work helps us to analyse the British colonial policy towards the wandering "Criminal Tribes" and "Castes" whose low caste status coincided with their weak economic position. With an entrenched prejudice against the purposeless, unsettled life of vagabonds and beggars, it was natural to assume that the poor, scantily clad and scantily fed tribes, roaming without fixed destinations, were a threat to property and to the maintenance of law and order.

Other than these books, I have relied on some primary material for the main body of the dissertation. Some Police and Home Judicial records concerning the Criminal Tribes I found particularly useful. Other than these, two Government publications in 1891, the Evidence Recorded by the Committee to Enquire into Certain Questions Connected with the Police Administration of the North-Western Provinces and Oudh, and its sequel, Report on the Committee to Enquire into Certain Questions Connected with the Police in the North-Western Provinces and Oudh, have been helpful.

Other Government publications like the Imperial Gazetteer of India, volume I, Imperial Gazetteer of India, volume XXIV, Report of Jail Conference, the Administrative Reports of North-Western Provinces and Oudh, Report on the Proceedings of the Forest Conference, have also been used here. I make a passing reference to the Appendix to Report of the Committee on Prison Discipline, 1838, but it belongs to a time well before the period of our discussion which starts from 1871, and so hardly enters the analysis. Apart from these, I cite the various Criminal Tribes Acts and the Forest Acts.

The body of the dissertation is divided into three chapters. The first chapter is further divided into seven parts. The first part discusses the existence of restraints imposed upon the criminal elements in Europe and then argues that each restraints weighed down more heavily in colonial India, for instance, the separation of the Criminal Tribes physically from the mainstream of Indians. The second part considers the categorisation of 'Criminal Tribes' for administrative convenience. Comprehensive data-banks for such criminal tribes were recommended for the same purpose. The third major argument is an attempt to understand the colonial administration's attitudes and ideas regarding the Criminal Tribes, and how such ideas and attitudes relied heavily for practical and theoretical support on similar attitudes displayed towards crime and criminals in Europe. This was especially for the colonial Government's perception

of petty crime and private property. But the study notes the disjunction between the laws evolving in the West and their imposition on the social order in India.

Thus the 'Criminal Tribes' were caught between official antipathy and high caste rejection, with only an occasional word of understanding from either side. The official attitude echoed, in part, much indigenous antipathy towards these groups, an antipathy reinforced by official propaganda, like announcing the entry of a "criminal tribe" into a village, or posting a sentinel when a "criminal tribe" camped outside a village. Such preventive restraints on the thievish habits of these "criminal tribes" also served to exalt the role of the Raj as the saviour of poor rural-folk. The fifth part reviews the legal provisions of the Criminal Tribes' Act, while the sixth discusses the malpractices within the system of surveillance, which therefore proved to be inadequate and oppressive rather than reformative.

The second chapter has four parts. The first concerns the essentially petty nature of the crimes committed by the "criminal tribes"; the second examines the actual functioning of the Act in the "criminal tribes' settlements". Then follows a discussion of the failure of "criminal tribes" to become cultivators, which was the goal of the Government-managed settlements. However,

the Salvation Army's approach was more realistic, as it recognised that mere force would not induce the "settled" tribes into becoming good cultivators, and hence gave them work more suited to their interests. The final part of the second chapter observes that by early twentieth century, even gangs of mixed castes were being brought into the net of the Criminal Tribes Act. The colonial conception of crime as a "caste-occupation" no longer held, for now even Brahmins showed up as part of a gang. Yet, while noting this development, the colonial government tried to restrain them under the "Criminal Tribes Act," an act previously reserved for a "wild, vagrant population".

The third chapter does not bear directly on the Criminal Tribes Act, but rather examines the state control over the renewable resource - forests - and how such a control could affect the dwellers in and around the forests. This chapter is divided into two parts. The first part discusses the assumption of state control over forest areas and tries to identify the state's rationale for such a control. The second part tries to analyse the forms this control took, namely the Forest Acts, and the effect it had on the tribals. This section also tries modestly to see whether such a policy could create distress among the lowest sections of the population, and thus cause an increase in crime.

The study remains general throughout the three chapters; only the second chapter analyses the three case studies of the Barwars of Gonda, the Sansiahs of Kheri, and the Haburahs of Newada, all three settlements in the United Provinces. Moreover, the concentration on examples in the United Provinces contributes to the impression that the study is on the United Provinces. However, the third chapter deals with the Bhils of Khandesh, the Mahadeo Kolis of Bombay Presidency and the Kanjars of the United Provinces, three disparate instances collected to give a few typical reactions to the forest and Abkari policies of the Raj.

CHAPTER I
THE PROBLEM OF CRIMINAL TRIBES

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I

HOW THE CRIMINAL TRIBES
WERE PERCEIVED

Long before the colonial rule found the tribes to be a menace to its law and order, even Indian rulers had tussles with them. Therefore, the concept of tribes taking to crime had deep roots in Indian history. However, Criminal Tribes as a general term and the Criminal Tribes Act of 1871 to curb their criminality, both measures introduced by the British, were quite unprecedented in India. Similar legislations had been enacted even in the West against certain classes.¹ A loose and vagrant population is present almost everywhere, and Europe and England have been no exceptions through the centuries. The 'gypsies' of the West possessed a reputation of being thieves; in the general population there was an easy conviction about their thieving habits,² and their poverty-stricken, dirt-ridden way of life. Even the laws regarding the poor, vagrants and tramps, reflected this attitude of the

1. See M. Foucault, Discipline and Punish, pp.63, 83, 84 and 86.

2. George Eliot's book, Mill on the Floss reflects this belief. Maggie Tulliver's brown skin and black eyes were held to be disreputable because "the gypsies" had such colouring, not "respectable folk". "She had once suggested that he [Tom Tulliver] should stain his face brown, and they should run away together [to the gypsies]; but Tom rejected the scheme... observing that gypsies were thieves, and hardly got any thing to eat, and had nothing to drive but a donkey..." p.113.

public and the State in the eighteenth century France.³ That there was a basically intolerant attitude towards these people in the West is undoubted. But the legal system in the West did not weigh down as heavily on them as the colonial legal system was to do on vagrant tribes in India.

The term 'Criminal Tribes' became common currency in the British administration. It conjures up images of crime and violence, and of anti-social and unlawful activities. The legislation of 1871 sought to check such flagrant violation of the law by a section of the Indian population. There was a heavy stress on the maintenance of law and order, so much so that a section of the Indian people had to be branded as "criminal" and separated from the bulk of the population so that its corrupting influence would not affect the people as a whole. How did the colonial Government perceive the "criminal tribes"? Before the Act of 1871 was passed, T.V. Stephens, a Law Member of the Executive Council, who moved the Bill, declared:

"We all know that traders (sic) go by caste in India... The only means of subsistence open to him other than the trade to which he is born, is agriculture...

...'professional criminals' ...really means ...a tribe whose ancestors were criminals from the time immemorial, who are themselves destined by the usage of caste to commit crime.

3. See Foucault, op. cit., pp. 37, 97.

Therefore, when a man tells you he is a Budduk or a Kunjur, or a Sonoria, he tells you... that he is an offender against the law, has been so ever since the beginning, and will be so to the end; that reform is impossible..."⁴

Forty to fifty years later, there was hardly any difference in the colonial outlook:

Their habits of life make their existence a curse to all their neighbours. Even when not engaged in organised crimes their petty pilfering is a nuisance to everybody who comes near them. Shakespeare might have been describing a member of an Indian criminal tribe when he calls Autolycus 'a picker of unconsidered trifles; clothes hanging out to dry, stray goats, anything that may be found unwatched round the houses or in the precincts of villages disappear the instant ... a party of these people is in the neighbourhood.'⁵

This was the statement made by General Booth-Tucker of the Salvation Army when he was describing the Haburahs, Beriahs, Sansiahs and Barwariahs.

Since there was a similar problem in the West, the sanctimonious attitude of the British Government can perhaps be put down to an uncertainty about the law and order situation in India after the Mutiny.⁶ This feeling of uncertainty is reflected when "religious mendicants" called "Sunnayasees"

4. Judicial Part A, Prog. Nos. 9-20, 10th Sept. 1870.

5. F.No.413, Police, 1910, Dec. Prog. Nos.40 & 44.

6. See Stephen Fuchs' Aboriginal Tribes of India, pp.122-123.

(sic.) are suspected of carrying "about papers relating to political matters" which spread about mischievous reports against the Government, tending to unsettle the minds of the people.⁷ Moreover, it is possible that the Government felt that better control of the subcontinent could be achieved if the population was submissive and predictable. A stray and shifting population could not, therefore, be conducive to good government, which in colonial eyes meant greater control over the vast Indian population. In a report, General Booth-Tucker states

"The vast majority of the Indian people are of a strictly law-abiding character, and the bulk of crime is committed... by tribes... a kind of guerilla warfare is created in which are marshalled on one side a force of nearly 150,000 police and 700,000 village watchmen, while on the other side it might be fairly estimated that no less than 3-4 million of these hereditary criminals are ranged. The women as well as children, cooperate in their nefarious purpose, forming the scouts and outposts of this vast, fugitive army of bandits.

It is only by the ceaseless and unwearrying vigilance of the police and by their thorough intimacy with the lives of the Criminal Tribes that their deprivations are kept within reasonable limits."⁸

Perhaps this is why the Raj felt outraged at the disregard for the sanctity of private property by these vagrant tribes,

7. Home Department, Judicial, 1870, 10th September, Prog. Nos. 9-20.

8. F.No.413, op. cit.

and why this problem became especially refractory in colonial India. The "lawlessness" of these tribes was deemed as a threat to the existing structure of law and order in the country. In the West the problem had been dealt with by legislation: any individual who violated the existing laws were imprisoned. But without exception, the laws came into force only after a crime was committed, or if the malefactor was caught red-handed in the act of committing a crime. In India, a colony of the British Empire, interception of crime was attempted even before the actual commission of crime by confining would-be-malefactor to settlements.

Some tribes were defined as criminal because they had no "fixed habitation". Their criminal tendencies had to be checked by setting them in colonies or settlements; they had to be weaned from their wandering habits in order to transform them into reformed and law-abiding citizens. Other than these "vagrant tribes", who used to steal and rob with impunity and then escape, there were the "settled" criminal caste or tribes who operated from settled bases. According to the Government, these "criminal castes" were more amenable to reform, but they took to crime because of the calls of hereditary caste-occupations. This category was seen in the light of the "peculiar social conditions of India", that created offenders against property and who were organized "in castes or associations similar to castes". Such organizations provided a cushioning effect against the stringency

of the penal system. The full effect of punishments could not be felt because the caste organisation took care of the families of the convicted criminals, and even undertook the training of the children whose legal guardians were in jail.⁹

The Criminal Tribes Act was passed in 1871 to curb the deprivations of these criminals on Indian society. The Act circumscribed the categories of criminals comprehensively: "...any tribe, gang or class of persons" (emphasis mine), guilty of breaking the law systematically, was to be labelled as "criminal tribes", and from then onwards subjected to a harsher system of penal control than the ordinary criminal.

II

CATEGORISATION OF "CRIMINAL TRIBES"

The purpose behind such categorisation was, to a certain extent, an administrative convenience. The British were after all an alien race. Rashmi Pant argues that "...conceptualisation of caste in this way owes much to the discourse of the British colonial administration..."¹⁰ By dividing and sub-

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9. Report of the Committee to Enquire into certain questions connected with Police Administration (ADM.) of North Western Provinces and Oudh (or United Provinces), 1890. (Henceforth as Report, 1890.)
 10. R. Pant, "The Cognitive Status of Caste in Colonial Ethnography", IESHR, vol.XXIV, No.2, April-June 1987, p.145.

dividing the numerous segments of the Indian population into distinct blocks according to caste (e.g. population statistics, sex statistics, male and female ratio) the Government was actually trying to erect a visible framework of the Indian society from an incoherent and heterogenous mass, with no visible order. Such detailed information about the people was essential for the evolution of an administrative strategy. By pigeon-holing the various sections of the population, a synoptic view of the Indian society could be had. A proper understanding of the society in this manner could then be used for control and manipulation of India for the benefit of the colonial rule. The British Administrators were concerned about the movements and the precise caste designations of the "criminal castes" and "tribes" for this reason. Surveillance would help the police to exercise a rigid control. This process of identification had to be built up by the district police, for "the Criminal Tribes are not forthcoming with such information (about their caste occupation, names etc.) for confusion about their names prevent effective surveillance..." Haburahs, because of police harassment, disappeared into Nepal, and when they returned to British territory, they had changed their name to Karwal, a comparatively harmless tribe. Census reports could not cover them adequately, for even their numbers were not known and thus "many tribes... escaped enumeration while others were enumerated under names and castes other than

their own."¹¹

By the same logic, one could advance the idea that the category of "criminal tribes" also served the same purpose by assembling within it a number of disparate groups with criminal propensities, with their criminal case-histories recorded, their movements carefully mapped out, and thus, providing a far more thorough and systematic method of control to the colonial government. Not only this, by assembling these criminals of the society in settlements, their labour could also be utilised in production. Such production might not be economically very useful, but, it was to be hoped that strict discipline, coupled with a vigorous work-schedule would instil into these "hereditary criminals" a sense of the Western work ethics. This would also have the (possible) benefit of making the criminals ashamed of their lazy criminal existence, and the colonial government would thereby be free of a pestilence.

It was thus perhaps essential for controlling and utilising their labour for the benefit of the colonial government (however marginally) that detailed knowledge and information be obtained about these tribes. But in this scheme of things, possibly the idea of controlling these tribes was

11. Home Department, Police, Part A, Prog. Nos. 136-152, 1909.

the main objective of the colonial government. In each district of the United Provinces there grew up quite a sizeable data bank regarding the movements, habits, thieves' slang and other kinds of information about these "criminal tribes". All this was preserved for future reference. This need for detailed information was summed up by W. Crooke,¹² the Magistrate of Mirzapur. His detailed analysis of the needs for the efficient working of the police force sums up the general official attitude towards the accumulation of data regarding these tribes.

"In Districts where there are specially criminal tribes such as Doms, Aheriyas, Sansiyas and the like, intelligent Head Constables should make a special study of them, their manners and customs, caste, organisations, connections in other districts, their peculiar argot or thieves' Latin. Information of this kind should be tabulated and arranged by an expert in detection and ethnology and published confidentially for the use of Police Officers and Magistrates."¹³

This need to record all the cases and the histories of these tribes, together with detailed information about their habits also arose partly because as government officials, magistrates and superintendents of police were transferable. Such a data in each and every district and province about the

12. Civil List, 1916, p.452.

13. Evidence recorded by the Committee appointed by the Government to enquire into certain questions connected with Police Administration of the North Western provinces and Oudh (1890) (hereafter Evidence), pp.43, 44.

"bad characters" and "criminal tribes" would prevent wastage of time while a new official became acquainted with the criminal elements in the district to which he was transferred. Thus the administration would become more efficient.

III

ORIGIN OF THE IDEA OF SEGREGATION OF CRIMINAL ELEMENTS

While such categories as "criminal tribes" may have made the task of governing easier, we may ask how the concept of corralling off and segregating a section of the population which violated established laws and trifled with "property" emerge. In the West, the concept of segregation was not unknown. It was practised towards the Jews. In theory, if not in practice, the idea of segregation was highly developed.¹⁴ Thus such a well-formed concept of segregation, as seen in the "criminal tribes" settlements, did not spring from colonial soil alone; these ideas and attitudes towards criminals and criminality, the whole perception of the Indian society by the British, was knit into the colonial ethos, which in turn shaped the outlook of the British administrators of India. And since the British were also the rulers of India, their attitudes and perspective were bound to affect the Indian society. The Indian Penal Code was influenced by the

14. See Foucault, op. cit., Panopticism, pp.195-228.

British judicial system. Even if the Act was negative in the sense that it tried to prevent crimes being committed by clamping control over the communities that were thought to be criminal, the Criminal Tribes Act of 1871 reflected a great influence of the British Penal System, and so did the methods dealing with such criminality. To be registered on the criminal register or forcibly finger-printed on suspicion - these were not normal procedures. That the "criminal tribes" were treated in such a way shows the degree of their criminality as perceived by the colonial rule. It is in this context that an analysis of the evolution of such an outlook, and how it fitted the colonial situation, has to be located.

As noted earlier, an important colonial concept was that of property. The Magistrates, the Superintendents of Police, and every other British official rail against the disrespect shown towards the institution of property by these tribes. They declare again and again that these tribes very seldom turn violent (to be examined in the next chapter) but in the next breath declare that they are dangerous, for "they do not usually kill or maim for the sake of being brutal, but they have very little scruple in using violent measures to assist their attacks on property."¹⁵

15. F.No.413, 1910, Dec. Police, Prog. Nos.40-41.

This preoccupation with the protection of private property through a severe penal code developed gradually throughout the West. Michel Foucault's work, Discipline and Punish unravels the two intertwined threads: the penal system and the methods of punishment were made more stringent gradually, and their reach was extended from violent to petty crimes. He also dwells upon the vital importance of 'Discipline' in modern society. Why did the discipline in prison, hospital, armies, schools, become so crucial in the 17th and 18th centuries. He sees 'discipline' in all aspects of modern life to a fundamental principle of today's world, namely the maximum, and the most economical use of human beings, who form a great mass of resource, but whose work potential can be maximised only through discipline. Only the utility of prison discipline, however, will be discussed in this chapter.

Clearly there is no exact parallel between the developing scenario in the West (as Foucault saw it) and the situation in colonial India. Most importantly, the conditions of industrialisation were different in India. In the West, a correlation can be seen between the growth of private property, a bourgeoisie rising steadily, in terms of money and power, and a rising rate, in petty crime.¹⁶ In colonial

16. "First, with the general increase in wealth, but also with the sudden demographic expansion, the principal target of popular illegality tended to be not so much rights, as goods: pilfering and theft tended to replace smuggling and the armed struggle against the tax agents." Foucault, op. cit., p.84.

India, on the other hand, there was no such growth of private property: the British rule had not created a bourgeoisie that was even fractionally as powerful as the Western bourgeoisie.¹⁷ The vast majority of the Indian middle-class was only white-collar workers in British private companies or in government service. In the Indian context industrialization and the bourgeoisie were slow to grow. The magnitude of petty crimes was therefore seen to be threatening despite the absence of developments which had accompanied the phenomenon in Europe. Possibly this was due to the colonization of India whereby the value-structure of a highly industrialized society came to be superimposed on a pre-industrial society. The privatisation of property in India meant the uprooting of many popular and time honoured customs which did contribute to the rise in petty crime (see Chap.III). Moreover, the penal laws in England were at least discussed in the Houses of Parliament, and their practice was therefore tempered by an active public opinion. There was no similar public opinion in India and, in any case, the Indian public opinion would not have been exercised over the misfortunes of "Criminal Tribes". Moreover, a penal code codified on the lines of the British Penal laws could never really be understood by

17. Sumit Sarkar, Modern India, 1983, pp.38-39.

"The British presence inhibited indigenous capitalism not just through... grossly discriminatory tariff and excise policies directed against the Bombay industry, ,, but through a whole variety of structural constraints."

a people whose ideas about ownership of property were rather different.

But the British were not interested in the popular comprehension of the laws. They were determined to control the society at all costs. The bulk of the population was completely harmless and only some were lone criminals, while the "wandering tribes" and "criminal castes" were guilty collectively of thefts, robberies, burglaries, pilfering and other anti-social activities; consequently the need of the hour was seen to be to control these latter first. The easiest method of restraining them was simply to separate them from the rest. General Booth-Tucker of the Salvation Army quite firmly detached the ordinary Indian population from the criminal. "The vast majority of the people of India", who were of "a strictly law-abiding character", was greatly different from the criminal tribes, who "committed the vast bulk of the crime... and to whom... criminality has become a hereditary occupation."¹⁸

No wonder then that the Criminal Tribes Act of 1871 armed the colonial Government heavily with special legislative powers to deal with this category.

However, the broad sweep of Foucault's work does explain much about the basic principles underlying the functioning

18. F.No.413, 1910, Dec., Police, Prog. Nos.40, 41.

of the colonial rule. The transformation in the penal laws, as seen in post-seventeenth century France by Foucault, is echoed in the British Penal laws enacted in India. Foucault traces the transition from inhuman, exhibitionary punishments to imprisonment or confinement with an aim to reform the criminal. This is seen as part of a process: the process of a penal system becoming more regulated, more ready to intervene at the smallest intransigence which were formerly excused, deep penetration of surveillance and control throughout the entire social body, something the erratic justice of the sovereign power was unable to achieve in France, even in the 17th century.¹⁹

There also came a qualitative difference in the nature of justice. No longer was the king the sole fount of justice, surrounded by purchaseable offices and ineffective minions;²⁰ judgement was henceforth shared by myriad authorities - psychologists, psychoanalysts, doctors etc. - who would all have a role in establishing "truth".²¹ There was even a different

19. See Foucault, op. cit., pp.77-79. Throughout the eighteenth century, inside and outside the legal apparatus, in both everyday penal practice and the criticism of institutions, one sees the emergence of a new strategy for the exercise of the power to punish." (pp.81-82) (Here one must note that it has been assumed that Foucault's perception of 18th century France holds for 19th century England, which presumably influenced the colonial style in India.)

20. Ibid., pp.77-78.

21. Ibid., pp.81-82.

view of "crime" and the "criminal", for judgement did not stop at evaluating the seriousness of a crime, and deliberate only over the suitable punishment which had to be given to the criminal. Now the crime itself was judged from a different angle: the causes of the crime were sought, and the criminals' acts would have to be explained in the light of their "instincts, heredity, unconscious or environment."²² Even law had to be selectively applied, appropriate to the crime committed. Merely delivering the sentence would no longer be enough. The reform and rehabilitation of criminals was also the aim of the legal apparatus.²³ To this end, the discipline of the prison was considered to be the ideal instrument, for its compulsory work-schedule included hard labour and a very rigid time-table fixing the time to sleep, to eat, to work or to rise in the morning. Such a co-ordinated prison routine was expected to re-instill the will to work in the prisoner, a first step taken in the direction of his rehabilitation.

Alongside these gradual transformations there was also a change in the nature of crime. Violent crimes waned in proportion to the increase in the crime against property.²⁴

22. Ibid., p.19.

23. Ibid., p.19.

24. Ibid., "...one observes a considerable diminution in murders and... in physical acts of aggression; offences against property seem to take over from such crimes of violence....", p75.

But such petty crimes were frowned upon more and more by the propertied classes. While the penal sentences had come to lose their previous harshness with the diminution of violent crimes, there was a gradual closure of all legal loopholes, which used to allow a fair share of illegal rights to the poorest classes. Anyway, such tolerance of illegalities, had previously enjoyed social sanction because illegalities had prevailed in some form or the other in all strata of society. While the upper classes enjoyed such illegalities as their privileges, the lowest classes also enjoyed illegal rights.²⁵ But between the tolerated illegalities of the lowest classes and crime there existed a line, which quite often disappeared altogether: "...so criminality merged into a wider illegality, to which the lower strata were attached as to conditions of existence."²⁶ Thus, while some breaches of the law were condoned, (e.g. smuggling), others - vagabondage or beggary, the characteristics of a shifting, unsettled population - were seen as threats to society, and were therefore "the least favoured of illegalities."²⁷ Illegalities, therefore, had an aura of either

25. Ibid., Theirs were not privileges but "...they benefitted, within the margins that were imposed on them by law and custom, from a space of tolerance gained by force or obstinacy." p.82

26. Ibid., p.83.

27. Ibid., p.83.

social tolerance or intolerance depending on whether or not these were likely to issue in crime (i.e. whether they formed potential threats to society). But with the growth of private property, the illegalities of the lower classes became theft. For what had previously been accessible to them (e.g. fire-wood, or free pasture) had now been converted into the absolute property of the bourgeoisie, who no longer tolerated any infringements of property rights.²⁸ Thus "...all the tolerated rights that the peasantry had acquired or preserved (abandonment of old obligation or the consolidation of illegal practice etc.) were now rejected by the new owners who regarded them quite simply as theft..."²⁹ With the consolidation of private property, and the rise in petty crime, there was an increasing demand for security.

To curb such widespread illegalities, it then became necessary to have "a closer mapping of the social body."³⁰ Stricter methods of surveillance, a tighter partitioning of the population, and more efficient techniques of locating and obtaining information became necessary. Surveillance emerged as the most effective method for the prevention of crime. The

28. Ibid., "The illegality of rights, which often meant the survival of the most deprived, tended, with the new status of property to become an illegality of property. It then had to be punished." p.84.

29. Ibid., p.84.

30. Ibid., p.78.

irregularity and ineffectiveness of kingly justice was discarded and there were gradually new legislations, so that "controls became more thorough, penal interventions became at once more premature and more numerous."³¹

Punishments, too, were gradually made more universal through the systematic codification of penal laws. Similar transgressions received similar punishments. And since the imprisonment of the prisoner would not ensure protection against property, it was considered necessary to reform the criminal's mentality, so that he could be safely released from prison. This was also why recidivists received harsher sentences than first offenders, since they obviously had not become reformed - "Through the repetition of the crime", the criminal's "intrinsically criminal character" was manifested. In France, a recidivist received double penalty.³² This was perhaps the principle behind the stiff penalties given to second-time offenders under the Criminal Tribes Act.

The cause of crime was often put down to laziness, vagabondage, beggary,³³ disinclination to work. The prison

31. Ibid., p.78.

32. Ibid., p.100.

33. Ibid., Citing Le Roy-Ladurie, "...In France, the legislation on vagabondage had been revised in the direction of greater severity. On several occasions, since the seventeenth century, a tighter, more meticulous implementation of the law tended to take account of a mass of minor offences that it once allowed to escape more easily: in the eighteenth century, the law became heavier, harder on theft, whose relative frequency had increased, and increased, and towards which it now assumed the bourgeois appearances of a class justice. p.76.

discipline was thought to be ideal since it could inculcate in the prisoner, through a monotonous routine, the value of physical labour. Thus there was an attempt to root out crime from the source by reforming the criminal himself. Crime was to be made unattractive by making sure of retribution for every instance of it.

All these developments in the West had come about gradually. Even then the lowest classes, who had been facing discrimination because of their unsettled way of life over a long time, faced hardships when their accustomed "illegalities" were taken away one by one by the new property laws. These property laws, which had evolved through a long period in the West, were applied to India by official fiat with disastrous results. A whole new penal code accompanied the new property laws, and crime-rates increased, as an inevitable consequence.

This summary of how the penal system was transformed in the West shows the similarities as well as the dissimilarities between the colonial and Western situations. There is a great similarity in the concept behind the erection of prison, the Indian Penal Code, the courts: yet with a difference. In the West the criminals were treated as individuals; their case histories were compiled as individuals and they were sentenced as such also. But in the colonial context, control was

clamped over communities³⁴ which had a criminal record in the eyes of the law; and thus in India, criminality was sought to be controlled through prisons, true, but also by restraining whole communities of potential criminals, or tribes and castes whom the British Government considered criminal. Perhaps this could be ascribed to the perception of the Indian society by the colonial administrators. Caste and caste occupations³⁵ were an integral part of a community - indeed, of the entire Indian social structure. Such group-criminality necessitated strict control. The sole concern of the local governments was that the "settled criminal tribes" should not at any time break out into crime. It was, therefore, a mark of triumph, and a sign of these tribes' complete reformation, when famines took heavy toll of their health and strength and yet the crime register showed no drastic increase in petty crime.³⁶

34. F.NO.413 of 1910, Dec. Police, Prog.Nos.40&41, From General Booth-Tucker, to Secy. of State for India. "...and the bulk of the crime is committed, not as in Europe by isolated individuals, but by tribes, to whom... criminality has become a hereditary occupation. Cradled in illegal courses, their moral senses are naturally blunted, if not obliterated...."

35. See K.S. Singh's Tribal Society in India: Varna, Jati and Jana, pp.70-86.

36. File No. 35, 1909, April, Part A, Prog.Nos.7-9. From F. Booth Tucker to Financial Secretary to Government of United Provinces: The Haburabs condition was commented upon thus after a hard year: "The majority of them appeared to be in such a physically unfit condition that any hard labour could scarcely be expected. They (Haburabs) alleged that they have no food either for their families or for their livestock..." But it was decided by the Government to retain the Haburabs in the settlement

A question might arise - if in India there was no rising bourgeoisie, how could the existing rate of petty crime be ascribed to the growth in private property? But while it was true that there was no massive growth in private property, it must be remembered that the British Government's interest in India was economic as well as political. Any benefit accruing to India through the railways, monetization of the economy, the reservation of forests, manufacturing monopolies by British private firms in which the state had an indirect interest, and so on, was only secondary to the colonial government's interest. In India it was not the private property of individuals or that of a class that was in danger. The interest of the government was at stake. One is tempted to say that the colonial state owned the maximum amount of "private property" in the shape of forests and mines, and the Government was anxious to ensure that it was not cheated out of its dues.³⁷ Hence the reserve forests were closed against trespass and in protected forests, the valuable species of trees was reserved for the Government. Abkari laws prevented the fermentation of home-made liquor in order to allow the government to tap this lucrative source of income. The contravention of these laws came under the category of theft

contd...

rather than the Bhatas, in spite of the fact that the former would never make good cultivators unlike the Bhatas, for 'they were relatively free from criminal tendencies.'

37. By "private property" of the Government it is meant that the "Reserve Forests", Government-owned mines, revenues etc. were at the disposal of the State.

and unlawful trespass.

Since the wandering, unsettled tribes, with their herds of cattle or goats, presented a threat to the government property and jeopardised the smooth functioning of the administration, the government attempted in part to settle them in a specified area.

While there was a superficial similarity in the colonial penal system to the Western model, in practice, the Indian penal system was almost a caricature of the Western system. For in the West, the legal and penal framework had been moulded gradually to the needs of the people and society. But in colonial India, the framework had been conceived after the Western model and forced onto Indian society, regardless of the totally different Indian social conditions and social requirements of the people.³⁸

IV

THE CRIMINAL TRIBES AND THE SOCIO-POLITICAL SITUATION

The 'criminal tribes and castes' were barely accepted as a part of the society by the other castes. They were always objects of fear, superstition, and distrust.³⁹ These

38. See Satish Saberwal, India: Roots of Crisis, pp.28 and 32.

39. F.No. 35 of 1909, April, Nos.7-9, "The village headmen were... strongly opposed to their (the Haburahs and Bhatus) being settled in the locality."

feelings, as well as the contempt the higher castes felt for them, were fully fostered by the police in their actions and propaganda. In many districts of the United Provinces, the adverse publicity given to the "criminal tribes" passing through these villages made their public images fearsome in the minds of the people. A general practice in many districts of the United Provinces was to hand over a criminal tribe from one police jurisdiction to another under the strict watch of the police and the village chowkidar. At the outskirts of the village, they were stopped, while "the inhabitants are warned to look out, for the Kanjars, or whoever they may be, have arrived."⁴⁰ It appears that an image of desperate criminals, who would stop at nothing, was being carefully cultivated by the colonial authority. Unfortunately, by following such a policy, the local government was actually closing any route the criminal tribe might have had to make an honest living by selling their handicrafts to the villagers - or even goods and articles bought by them on their travels, for after such a publicity campaign by the police they invariably got "a cold shoulder in the villages." Differing from the villages they traversed also did not help to make their reception cordial.⁴¹ On the contrary, their

40. Evidence, pp. 38-40. Question nos. 28-37, deal with Criminal Tribes.

41. *Ibid.*, "The Kanjars undoubtedly are" a "criminal tribe". "They harass the entire countryside wherever they are, by their dacoities and thefts. They are not given so much to burglaries, but they steal grain from the threshing floors, blankets and clothes from people out watching their crops..." Report from the Magistrate of Agra, J.F. Finlay. (Initials of the Magistrate from p.516, Civil List, 1916). p.35.

own behaviour bore out the bad reputation given to them by the police. But whether such thefts occurred because the "criminal tribes" were poor, or simply because they were addicted (the latter was generally held to ^{be} the true cause for these thefts) was not considered relevant by the people.⁴²

That the criminal tribes and castes did not get sympathetic treatment was related to the hierarchical caste system. The upper castes were utterly indifferent to the plight of the criminal tribes.⁴³ Most educated Indians, when questioned, were openly appreciative of the government's efforts to rid the society of these "pests", an adjective used by the British officials, and happily accepted by the Indians. Educated Indians never raised their voice against the excesses by the police in relation to control over this section of the population. It was left, ironically, to the British colonial administrators to do so.

The educated Indians actually made requests to the colonial government for harsher treatment of these "criminal

42. Ibid., The District Superintendent of Moradabad, William C. Thomas, (Civil List, p.697) reporting on the Haburahs colonized at a village called Navada, in the Chajlait Police Circle, described them as "...these wretched Haburahs are in a condition of semi-starvation and destitution; they are half-naked, and many utterly so," and again, "A kind of half-hearted surveillance has been kept up; the result, where serious crimes are concerned, have been good, but petty crimes have not been checked." pp.34-35.

43. See K.S. Singh's The Tribal Society in India, p.70.

tribes". In a questionnaire in 1890, in an answer to a question about any improvement in the behaviour of criminal tribes, an Indian, named Lala Nihal Chand (Muzaffarnagar) replied very firmly in the negative. He said, "...Sansiahs, Kanjars etc. are in the habit of wandering, and they lodge for weeks in some village. They plunder the surrounding villages... giving them a lot of trouble.... They are getting worse and more troublesome day by day... The only measure I can recommend to improve their condition, is to settle them in some lonely place where there is no population..." He even solicited the government's aid in controlling the Bawarias who "proved to be very troublesome for the surrounding areas..." and the Lala was therefore compelled to "humbly" beg the attention of the government "to do something in that direction and relieve the poor people from this calamity."⁴⁴

In this questionnaire, only one half-hearted support for the amelioration of the conditions of the tribes came from Priyanath Bannerji of Bareilly. He spoke against the police system that practically hounded these tribes from one district to the other. He observed "...that the present system of quartering police on them who lead them on from one village to another, making the tribe over to the next constable of the village, and not allowing them opportunities

44. Evidence, p. 375.

and facilities to settle down is bad... if they are kindly treated, and not hooted like out-castes... they will settle down."⁴⁵ This measured statement is the only one of its kind, and it shows the limits of how far the educated Indian was prepared to go.

It was left to the British officials themselves to ponder and analyse the shortcomings of the system. The Magistrate of Bijnor Robert Bullock,⁴⁶ mentioned that the arbitrary power of the police, exercised indiscriminately over the criminal tribes, had turned "the police surveillance" into "an engine of oppression."⁴⁷ Alexander, Magistrate of Etawah, said that it was the police who victimised these tribes, for "there is always an inclination to make such persons scape-goats for crime when the real culprits cannot be discovered."⁴⁸

As for the villagers, ignorance and superstition went into shaping their opinion of the criminal castes and tribes. Illustrative of the general attitude of villages in the United Provinces, the villagers of Newada abhorred the Bhatas, even though they were confined to settlements.

45. Ibid., p. 375.

46. Civil List, op. cit., p. 462.

47. Evidence, p. 103.

48. Ibid., p. 103.

Complaints about their thieving poured in.⁴⁹ The officer-in-charge of this settlement declared:

"It is doubtless true that the villagers of Newada dislike both the Bhatas and the Haburahs, and the former more because they are feared everywhere. But it will be the same everywhere they are placed."⁵⁰

This innate fear was developed by the British officials in charge of these settlements. The Haburah settlement in Moradabad received a very bad report. The official tales of the infamy of the Haburahs not only struck fear into the hearts of the simple villagers, but they had the effect of hardening the official policy towards the criminal tribes. The most familiar characteristic of these reports was the half-truths about the conditions of the settlements published in them. For example, the report on the Haburahs in 1909 completely omitted to mention the total lack of facilities i.e. the absence of water from their fields, very poor and infertile soil, the Haburahs' lack of experience in cultivation,

49. F.No.35, April, 1909, Part A, Nos.7-9. Police Department.

50. Ibid. It is to be noted that in the same file, J.P. Hewett, declared "...the Bhatas would certainly be blamed for all the violent crimes in the neighbourhood whether they commit them or not. This is because they are a finer lot of men than the Haburahs, and are feared, whereas the latter are despised." Therefore, perhaps it would not be very wrong to conclude that the criminal elements within the village itself took advantage of the scare of the criminal tribes, and stole. The blame of course, fell on the Bhatas and Haburahs.

and their extremely poor physical condition; yet the report did not fail to mention that these people were very lazy. To quote a typical passage from F.J. Cooke's report on the Haburahs contains a reference to Mr. Stratchey's comment in 1895, where the latter likened them more to "wild beasts than human beings".

"They are lazy and exceedingly dirty and wear a minimum of clothing, and feed largely on vermin... Much money has been spent in an attempt to make cultivators out of them and the attempt has failed. They will not plough or graze the cattle except under compulsion from the chowkidar."⁵¹ While this might be an accurate description of the Haburahs in the settlement, no allowance seems to have been made for the fact that the Haburahs, a wandering tribe, with a very inadequate knowledge of settled agriculture, had been forced to "settle down" by the government. Such conditions had been prevailing in the Haburah settlement ever since 1890. The then Magistrate of Moradabad, Mr. Arthur Clement Holmes,⁵² had stated: "Owing to the hard times, the colony is not in a very flourishing condition at present."⁵³ Of the same settlement the District Superintendent, William Thomas said:

51. Ibid., March.

52. Civil List, op. cit., p.556.

53. Evidence, pp.101-2.

"It seems to me to be an illegal restraint and small benefit accruing from it."⁵⁴ In 1909, the conditions of these criminal tribes remained as bad. Yet their "whining and cringing" and servility to the visiting officials were dismissed and their repeated appeals for aid, together with their poor conditions were ascribed to their laziness and dislike of physical exertion. They were "mere children in intellect and industry, very much on a par with the Australian Blacks." Even their caste inferiority was cited to prove how unworthy they were of better conditions for survival. F.J. Cooke, an officer, points out how low-down they were on the social scale; they were "...barbers to Bhangis, and do small services for them, but that the latter will not eat their food. This is sufficient proof of the low estimation in which they are held."⁵⁵ (emphasis mine)

In this manner, a very poor impression was conveyed to the senior officials, who would cursorily affirm the truth of these reports (a brief visit to the settlements in question, and the inspection of living conditions there would reinforce the message of the report) and thus the old prejudice against these tribes and castes would be strengthened and would appear in the official policy. With rare exceptions, the official opinion changed very seldom.

54. Ibid., pp.34-35.

55. F.No.35, 1909, April, 7-9, op. cit.

From this it can be observed under what a weight the "criminal tribes" laboured. From the pincer-like grip of the society and the colonial government there was no escape for them. On one side was the high caste contempt (and even low caste prejudice) which found expression in many ways - distrust, fear, ascription of ritual impurity, and so on, and the behaviour of the upper castes was often imitated by the lower castes, anxious to claim a status superior to that of another community for once. On the other was the colonial perception which saw them as threats to the maintenance of law and order, and which was leading to legislations intended to deal with their deprivations. Perhaps one can say that the government in order to heighten the pressure on the criminal tribes, actually fostered and strengthened the prevailing fears and prejudices by creating the spectre of unchanging and unchangeable criminals, whom the government at much expense, was trying to reform so they would no longer be a "scourge in the districts." It is also possible that such an image served both to censure the criminal tribes, and to exalt the colonial government as the preserver of law and order, the sincere well-wisher of the people (the Mai-Baap). It was the government's intention to make the people aware that it was only the Raj's constant vigilance and police surveillance which had successfully dealt with a problem that had been troubling India for centuries.

PROVISIONS OF THE CRIMINAL TRIBE'S ACT

What were the provisions of the Act which armed the local government for a serious law and order problem? Let us consider the major provisions of the Act of 1871, and the amendments to this Act in the subsequent Acts passed in 1897, 1908, 1911 and 1924.

The Act of 1871 provided for the registration of all declared criminal tribes. All members of criminal tribes had to report at regular intervals and had to inform the authorities if they were to absent themselves from their residences for a day or more; for trips outside the settlement passes were required, and any member caught without a pass outside the settlement was imprisoned.⁵⁶ All members of a declared criminal tribe had to answer the roll call, which could take place at any unscheduled hour. If any member failed to respond, the onus was on one to prove to the officer-in-charge of the settlement that one had no evil intentions during the absence from residence. Absconding from any settlement or reformatory also meant imprisonment or fines or both.⁵⁷

Any breach of these rules invited punishment. Any such defaulter "...was liable to imprisonment for one year on a

56. Criminal Tribes Act, 1871, Section 25 (Henceforth CTA).

57. Ibid., Section 20(2).

first conviction, for two years on a second conviction, and to three years, or a fine... or both on any subsequent conviction."⁵⁸ The principle behind such a law has been analysed by Foucault.

In 1897, this Act was amended and penalties were increased for second and third convictions.⁵⁹ The amendment also provided for the separation of children from parents who were "a source of evil influence" on the children's minds and morals. Any child under the age of eighteen⁶⁰ and over the age of four was thus liable to be sent to reformatories reserved solely for the children of the declared criminal tribes and castes. The Act of 1871 and amendment of 1897, quite significantly differentiated between settled and "unsettled" criminal tribes and castes.⁶¹ All the Acts from 1871 to 1924

58. Ibid., Section 22(1), 22(2).

59. Ibid., Section 23(1), 23(2).

"Whoever, being a member of any tribe, gang or class, which has been declared criminal and having been convicted of any of the offences under the Indian penal code (in the schedule) shall thereafter be convicted of the same or any other offence specified in the said schedule, then he shall be punished, on such second conviction with a rigorous imprisonment for a term of not less than 7 years, and on a third conviction with transportation for life."

60. Ibid., Sections 16 and 17.

This was changed to fifteen in 1910 but the lower age limit remained the same.

61. Ibid., Section 4.

"If such tribe, gang or class has no fixed place of residence, the report shall state whether such tribe, gang or class follows any lawful occupation, and whether such occupation is, in the opinion of the local government, the real occupation of the tribe, gang or class, or a pretense for the purpose of facilitating the commission of crimes...."

gave the local government the right to locate any "unsettled" tribe in the area of the government's own choosing. The local governments could even deport a "settled" tribe from one area to another, if the earlier area was not considered suitable.⁶²

The Act of 1911 introduced the rule that all members of declared criminal tribes would have to be finger-printed at the nearest police station, so that the tracking down of an absconding criminal, of or absconders from the settlements, could become simpler. Another change was introduced by the 1911 Act, in terms of which declared criminal tribes were not compulsorily "settled" on lands allotted to them by the government. They were merely registered, subjected to surveillance and finger-printed, but the local government did not take the responsibility for providing for them.⁶³ The Act of 1924 merely consolidated all the amendments to the Act of 1871 made over the years.

The provisions of the Criminal Tribes Act were enforced with much zeal, but sometimes haphazardly. Registration was often done arbitrarily and without even ascertaining the whereabouts of the other members of a family, only the one who was present being registered. Such carelessness was

62. Ibid., Section 18.

63. C.T.A. of 1911, Section 12.

exemplified in a classic case of a woman, Jiwani, the wife of Phullo, a Sansiah, who had been registered in her village while her husband was in jail. After 8 years of imprisonment, Phullo was released, and made straight for the Sansiah settlement in Saharanpur, while the woman had to stay in the village where she was registered. The matter reached the authorities in due course, and after some deliberation, the conclusion was reached that there could be "no object in bringing the man into the settlement, or in keeping his wife there when he is in Saharanpur", and the woman was finally released from the settlement.⁶⁴

Sometimes even new rules sprang up just to accommodate administrative errors of the British officials. In the district of Kheri, Sahibgunj settlement some children who had attained 15 years of age were registered automatically as members of the criminal tribe without the knowledge of the officer on special duty, Mr. O'Donnelly, who had the final say in all matters regarding the criminal tribes. The officer on duty was informed ^{by him} that such a registration was illegal, because the legal age for registering was 18 years, but since the registration had already been done, it would be enough "to issue an order now to the Deputy Commissioner of Kheri to register all members of the gypsy tribe over the

64. F.No.268, 1910, March, Part-A, Police. Nos. 9-14.

age of fifteen years in the settlement."⁶⁵

Occasionally, even British officials felt that there was no need for such stringency while enforcing the provisions of the Criminal Tribes Act. I.T. Saunders was shocked that the Sansiahs had to respond to roll-calls eight times a day: "Eight times a day is a preposterous number, and I should say that two a day, one in daylight and one in the dark, at varying times, ought to be enough."⁶⁶

Underlying such enforcement of registration of the declared criminal tribes, their finger-prints taken scrupulously, constant surveillance and supervision, there was a worthy aim to reform them and after they had been turned into respectable, law-abiding people, to rehabilitate them into society. With this aim in view, the government had tried to settle the criminal tribes in villages or on zamindari estates or on the estates of the court of wards.

Alas for such good intentions, the government was forced to admit the ineffectiveness of such colonies or settlements which had tried to make "cultivators" out of "criminals". In 1911, the attempt to "settle" the tribes had to be given up. The new rule was to register the criminal tribes who were committing non-bailable offences,

65. Ibid.

66. Ibid., Prog. nos.1-5.

without giving them land for cultivation. Its advantage was that police surveillance could be just as effective as before, criminals could be arrested, and crimes controlled; in the case of wandering tribes police surveillance could keep their deprivations within limits, and all this without the bother of having to give them enough land for cultivation. Settlements or colonies were more expensive to maintain, because of the employment of chaukidars, watchmen, and the expense of providing ploughs, seeds and other cultivating equipments. Such help could only be extended if a tribe was willing to "settle" and to utilize the facilities granted fully. In case of those judged to be incorrigible criminals, all such government help was a waste of resources: simple registration and strict surveillance would solve the problem.

It was this method that was to become more and more popular with the government. By 1910, most of the settlements were run by the Salvation Army, and the United Provinces government had very little to do with them, except to help out occasionally with grants. And while the number of settlements and colonies under the control of the Salvation Army remained more or less constant, there was a rapid increase in the number of merely "registered" tribes and gangs. Such a rapid increase in these registered gangs and tribes seems to indicate that registration was becoming indiscriminate, as more and more "criminal" elements were

brought under the Act. The Criminal Tribes' Act was no longer being restricted to the control of 'hereditary' groups living beyond the pale of ordered society. Full advantage was now being taken of the broad sweep of the Act which covered "gangs" and "classes" too.

It needs only a cursory examination of the major points of the Acts to see how the colonial government had clamped a vice-like grip on the criminals (tribes, castes, or gangs). It also reveals quite plainly where the colonial situation diverged from the Western scene. Even while one does accept that in the Western countries also, there had been general prejudice and state legislation against the criminals and potential criminals (beggars, tramps, vagabonds, gypsies), at no time did the state control become so omnipotent. In the West, criminals were imprisoned only after the commission of crimes:⁶⁷ children were sent to the reformatories only

67. Foucault, op. cit.

"However, the two types of objectification that emerge with the project of penal reform are very different from one another:... The objectification of the criminal as outside the law, as natural man, is still only a potentiality.... The other, on the contrary, has had much more rapid and decisive effects in so far as it was linked more directly to the reorganization of the power to punish: codification, definition of offenders, the fixing of a scale of penalties, rules of procedure, definition of the role of magistrates." p.102. also, "The punishment must proceed from the crime; the law appears to be a necessity of things...." p.106.

after they were proved to have become juvenile delinquents; their parentage was not the reason behind their admission into the reformatories.⁶⁸ The legislation in the Western countries did not attempt to curb crime even before it had occurred. But in the colonial context, it was with this aim that the colonial government separated the children from their "criminal parents" so that the evil influence of the parents would not contaminate the children and turn them into criminals too. In case they had already learned the tricks of the trade, children from criminal tribes over four years of age could not seek admission in the reformatories meant for juvenile offenders of other castes and whose parents were not members of criminal tribes or castes. The "control" of crime seemed to be, for the government, an overriding priority, undiluted by more general human concerns, uninformed by a larger social vision. Though this apparently seems unjust, perhaps one should make allowances for the British administration which saw castes and caste bonds in all the communities in India.

The Western society was characterized by a relative "openness" and a "tradition of making the individual the locus both of ultimate value and of one's ultimate responsibility for oneself..." Contrasted to this tradition, then

68. Ibid. See p. 301 for reference to juvenile delinquents.

in principle, in prevailing beliefs - and in some measure in practice - of individuals breaking away from parental ties by one's own choice, was the Indian social organization where 'impersonal unified' codes did not exist. From this point of view, it was perhaps inevitable on the part of the Raj to hold the familial and caste ties of the 'criminal tribes and castes' suspect, and attempt to loosen, or break them by legal appliances to ensure security of the society.

As pointed out earlier, the Raj in United Provinces had discarded all pretence at reformation of the tribes when it found that because of paucity of resources reform and control could not work in harmony, therefore it concentrated only on "controlling" the criminal gangs, tribes and castes through "registration" so long as it was simple for it to pose as the deliverer of the Indian people by confining the criminal tribes to settlements, the government had done so; but soon the task of confining criminal tribes to settlements became too big for the available resources of men and money. Any move towards "reform" and "rehabilitation", needed large capital outlays on cultivating equipments, land a modicum of irrigation facilities, and so on.

The colonial government also did not accept that the wandering tribes or criminal castes had no experience

69. See S. Saberwal, op. cit., p. 33.

in cultivation. They generally were settled on unproductive, infertile land of the zamindari estates, or very often government waste land, with hardly any irrigation facilities.⁷⁰ They were, as a result, totally dependent on the vagaries of nature, and thus there was very little chance that these "settled" tribes could turn into successful cultivators. But these simple facts, though recognised and noted often enough by individual British officials, were never accepted by the government as a whole. In the official opinion, therefore, the failure of these projects of rehabilitation lay squarely on the laziness, dishonesty, and criminal propensities of the criminal tribes. The work of reform was therefore carried on desultorily, only a few tribes were settled while the government concentrated its energies on "control".⁷¹ There was a general concurrence amongst the administrators that since such experiments were inevitably failures, only a few tribes should be actually "settled".⁷²

70. Home Dept., Police A, Prog. Nos.136-152. Appendix I, 2.2.1906. From H.R.C. Harley, Deputy Commissioner of Gonda. To the Commissioner, Fyzabad Division. The report notes that the land was of very poor quality. From 1902, the land given near Tikri forests, where the soil was "...thin, light, infertile", and therefore difficult to cultivate. Moreover, the crops would be ravaged by wild animals. "I saw some fields which had been absolutely ruined by wild cattle... It is impossible to allow the Barwars arms, and it is trying them too highly to settle them in such lands."

71. It must be remembered that by 1910-11, the national movement had also started picking up and the colonial government must have had its hands full in keeping the "criminals" in check.

72. Evidence, pp.34 and 35.

VI

WHY DID THE CRIMINAL TRIBES
ACT REMAIN INEFFECTIVE

The criminal tribes Act failed to achieve its objective also because of the malfunctioning of the penal system itself. Report after report confirmed the corrupt practices of the police. Many administrators recognised the truth of these reports. In this situation, no amount of money could really have acted beneficially.

In 1890, a survey of the efficacy of the Criminal Tribes Act of 1871 revealed the low quality of the police force. The villagers were afraid to report any cases of crime, for fear of the ensuing trouble. Sometimes even for a crime involving only a few rupees, the police "had the unpleasant habit of staying on in the house of the sufferer to carry on investigations inspite of the time limit, at his expense". Occasionally, if a serious crime was reported, it was dismissed as "exaggerated" and not registered at all. It was not surprising that the police had developed the reputation of being rapacious.⁷³

The worst sufferers from police greed were the members of the registered criminal tribes and gangs. The police battered on them, for these criminals were helpless and totally in police hands, and had to meet its demands. Their

73. Evidence, p. 29,

restricted movements within the settlements, and their total dependence on the police for the grant of passes and other facilities was utilised by the latter to make unfair demands. The official opinion occasionally expressed sympathy for "the toad beneath the harrow", on whose

"point of view districts reports do not dwell; in many districts, if not in all, he is subjected to illegal and irritating disabilities by the chaukidars and the police and to discouragement by the zamindars who used to batten on his ill-gotten gains. He often has to pay from Re.1/- to Rs.2/- to the Muharrir when he comes to the police station to notify his intended absence from his residence,"⁷⁴

in order to get his pass. So many illegal extortions are made from these criminal tribes and castes that it did not take long for them to lose faith in the police and in the working of justice. A Criminal Tribes section Inspector commented on this loss of faith:

"...I can say that the Pasis have lost confidence in the police, and they say that whether they commit crimes or not, they are prosecuted under the preventive sections." (emphasis mine)⁷⁵

It was perhaps natural in such a situation that many settled tribes lost their fear of punishment. They were all aware that overstaying beyond the limits of the pass issued to them, or absconding without passes meant punishment,

74. F.No.416, 1919, operative for 1920 May, Police Part A. Prog. Nos.38-48.

75. F.No.320, 1912, March, Police Deptt.10-33,Prog.Nos.10-33.

varying with the number of previous convictions. Yet in Rae-Bareilly district, time and again they repeated such offences, and absconded for burglary, when they were close to starvation on the settlements, and accepted punishment upon their return to the settlement. Their stoical acceptance of punishment is reflected in the high rate of conviction. Some of them had been convicted even ten times. That most of these convictions occurred under Sections 109 and 110 of the Criminal Procedure Code, on grounds of suspicion, was justified by the authorities: they were 'compelled' to such "sweeping operations" under these sections because of "the rise in serious crime". The authorities felt convinced that no longer were the Pasis indulging in "simple house-breaking" (burglaries), but in "dacoity", though on their own admissions such dacoities could be classed as "simple burglaries" under section 457 of the Indian Penal Code, but for the presence of a larger number of burglars than four.⁷⁶ So, again the belief in the fearsome reputation of the Pasis was the creation of the authorities themselves."⁷⁷

Not only were the police responsible for hardening the attitude of the criminal tribes and settling them firmly on

76. Seizure of goods by a gang of four persons or more made it a dacoity: by a fewer number, a burglary, or house-breaking.

77. F.No.320, 1912, March. Police Deptt. Part A, Nos.10-33.

the path of crime; District Reports are full of the ways in which the zamindars of villages would utilize the services of the criminal tribes or castes. Most often a member of a criminal caste or tribe would be appointed village watchman. The system of the nomination of village watchman by the zamindar was thus most advantageous for him. Charles Joseph Alexander Hoskins,⁷⁸ the District Superintendent of Police, Meerut, and the Magistrate of Aligarh, Francis Lorraine Petre⁷⁹ were aware of the misuse of this right. Many suggestions were made which could by-pass the influence of the zamindar. But all those suggestions involved the employment of higher castes who would require higher pay. Moreover, these posts, having been occupied by the criminal tribes,⁸⁰ had become disreputable and "below" the higher castes.

It might have been argued that the employment of the criminal tribes in the posts of the village watchmen proved that the government scheme for the reform and rehabilitation of the "criminal tribes" was working, and that at least some of them were being inducted into a stable and respectable occupation. But unfortunately, such was not the case. Most

78. Evidence, p.83. Hoskins, Meerut: "Zamindars have too much influence. How that influence is worked depends on the zamindar. The pay of the chaukidar is too small for him to live on... He is the zamindar's man, and is obliged to assist him by menial service or villainly". Name of Magistrate: Civil List, 1916, p.558.

79. Evidence, pp.83-94 ff. Petre, Aligarh: "The Zemindar has the power to ruin a choukidar by making a case against him by false evidence." (Evidence, p.83) The chaukidar, was a menial employed by the Government, on a meagre pay who was upkept by the zemindar. He was responsible for reporting crime to the police station. (Evidence, pp.83-94 ff.)

See footnote 80 on next page.

often the zamindari influence was put to the wrong use, and the zamindar chose to fill his own coffers with the willing or unwilling help of these village watchmen for they had to cooperate willy-nilly with the zamindars because of their reputation and the control of the zamindars over them. Even if he refused, it was very easy to incriminate him by falsifying evidence. All these circumstances forced them to cooperate. Hoskins gave an instance where a chaukidar falsified evidence to shield some dacoits who were relations of the zamindar. Most of the British Officers in the Report confirmed the widespread powers of the zamindars, but agreed again that there was no getting round this system of nomination; even if higher castes agreed to occupy the post of watchman, at a higher pay, sooner or later they would succumb to the zamindar's offers of lucre. Here we have any instance, then of officials, aware of the problem, watching the system of surveillance actually perpetuating crime at the village and district level.⁸¹

There are other examples of zamindars exploiting the criminal tribes "settled" on their estates. Charles Denton Steel,⁸² the Judge, Aligarh, had the opportunity to study the Bauriahs who were settled on the estates of Mehdi Hasan:

80. Ernest Bruce Alexander (C.List 1916, p.428). Evidence, p. 95. Magistrate of Etawah reported that the better classes would not enlist, as the post of the chaukidar was thought to be occupied by Bhangis, and other criminal tribes.

81. Evidence.

82. Civil List, op.cit., p.685.

"I found that the Bauriahs held land of a most inferior description at rents which would be high even for a Jat or other good cultivators cultivating good land. These rents were, I was told, paid. The only conclusion one could come to was that Mehdi Hasan, in this manner, secured his share of the loot obtained by these people throughout India... it certainly tends to keep the tribe to thieving."83

While Judge Steel correctly concludes that the criminality of these tribes were not checked because of the greed of the zamindars, who were eager to rake in their share, he did not see the trap these criminal tribes were in.

While the police and the zamindar made demands on their thin resources, the government gave them very poor land to cultivate, and yet expected that they should pay the rents: at least some "settled" criminal tribes had no option but to turn to burglary.

VII

CONCLUSION

There was a systematic attempt on the part of colonial government to isolate a section of the population, and label it "criminal": witness the "Criminal Tribes Act", the "criminal tribes" settlements and colonies, and "Reformatories for the children of criminal tribes". Such a deliberate fostering of differences within Indian society points

83. Evidence, p.101.

to an official desire hold up the "criminal Tribes" and castes as an evil and contaminating influence, a completely isolated social set, ruled by different rules and regulations to be kept apart from even the ordinary criminals. This, possibly, bogey of the "criminal tribes" served to underscore for the Indians a sense of the lawful, safe administration of the British.

Implicit in the British attitude to these "criminal tribes and castes", though never explicitly mentioned, is an overbearing sense of contempt. It is noticeable in the slighting references to the tribes⁸⁴ and even an attempt to see them as the source of the "gypsy tribes of Europe". This engaging, though, farfetched theory, reflects the spirit of the early 20th century. General Booth Tucker of the

84. F.No.35, of 1909, Home police Department; L.M. Stubbs: Jan. 1929: On Mr. Cooke's report on the Haburahs: "They seem to be Yahoos of the most complete type, right down to throwing filth. The attempt to make them into cultivators should be given up and they should be allowed to follow their natural pursuits and live on the more or less constant supply of jackals, foxes, tortoises and lizards... Meanwhile there will be a saving as it will no longer be necessary to pay the rent of the land...". Yet the Magistrate says in 1909 that "...no takavi loans are outstanding against the Haburahs... the settlement gets Rs.100/per annum from the government and the District Boards contributed 50/- and the balance is earned by the Haburahs themselves. No money is left with them... The crop having been cut, half is left with the Haburahs for maintenance and the other half sold... the Haburah's rent is paid for them to the zamindar's and out of the money in hand their houses are repaired, and purchases of clothing, seed etc. made for them... At the end of the year any unexpended balance is recredited in the accounts and recorded as 'takavi'.

Salvation Army was confident that

"There can be no doubt that the gypsies of Europe are descended from these criminal tribes... the habits of these people do not vary much among themselves to the present day, and anyone who has seen the European gypsy in his wild state will have no difficulty in appreciating and understanding the lives of these wandering out castes."⁸⁵

The General's assumption that transportation⁸⁶ of the incorrigible criminals, preferably to "some remote island in the Andamans, was the only answer to their intransigence fits well with the contemptuously dismissive attitude of the colonial administrators towards the "Tribes".⁸⁷

85. F.No.413, 1910, Dec. Police. Prog. Nos.40-41.

86. Home Department, Police A, Prog. Nos.136-152, Simla Records I, 1909.

The deportation to the Andamans, as recommended by Booth-Tucker, was not only just a contemptuous dismissal of "criminal tribes". It was "necessary" to have a settlement to the Andamans for "...action of this kind would have an excellent effect, firstly by removing the most dangerous and hardened of these criminal types, and secondly, by deterring others from following in their foot-steps". This is heartily endorsed by H.H. Risley, who states - "This strikes me as an excellent idea... In the Andamans, the people deported could be put on a separate island from which they could not get away." Furthermore, the government was confident that "There is not likely to be any opposition to such a measure on the part of the public, who constantly ask for immunity from the deprivations of these modern Ishmaelites." Also F.No.323, 1925. Home Political.

87. Ibid, Home Deptt., Police, Prog.Nos.136-152.

What stands out as the prime cause for the creation of the category we have been discussing, however, is that the "settled" tribes, the "registered" tribes, the colonies and settlements represented 'control' over a wandering body of people over whom the government could exert no control in normal circumstances;⁸⁸ this is why the "criminal tribes" remained an obsession with the government till well into the 1930's.

88. (Feb. 1909). F.No.135, 1909, Home Police Deptt., March, Part 4, Prog. Nos.1-5. J.P. Hewett remarked: "We have many calls for money but I doubt whether we have any more urgent than the one which appears to give hope of converting these criminal tribes into law-abiding citizens" in a reply to the Salvation Army request for monetary grants.

CHAPTER II

DISCUSSION AND IMPLEMENTATION OF THE ACT

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I

A DISCUSSION OF
THE C.T. ACT

This chapter will discuss how crime committed by the criminal tribes was sought to be controlled by the Government. When the Criminal Tribes Act was still a Bill, the policy enunciated by the British Government was very clear. It was evident that the Bill was bound to become a law; but from the correspondence, and many reports given by the district superintendants, magistrates and others, there seemed to be some doubt about the wisdom, or the necessity of passing such a law. While many dyed-in-the-world colonial administrators felt that there was no alternative to the Criminal Tribes Bill, others felt otherwise.

Long before its passage, the district administration had been armed with heavy legislative powers which were considered perfectly adequate for the task of restricting the Criminal Tribes. Thuggis and Buddhuks, far more violent and deadly than the "criminal tribes", had been controlled and actually smashed, their leaders sent to prison and other gang members put under restraint. "Apart from the special measures taken to suppress Thaggi and Dakaiti, the control

and reformation of wandering and criminal tribes and gangs had always been an object of concern to the Indian Government."¹ There had long been strict rules regarding the Criminal Tribes which were finally codified under the Act of 1871. If needed, the District Magistrate could call on the special powers (under Regulation XXII of 1793, Section 10) to curb depredations of the 'criminal tribes'. Even the actual commission of such crimes was not necessary to have them put under restraint.

"...the darogahs of police are directed to apprehend all... vagrants or suspected persons, and send them to the Magistrate; and the magistrate, in default of their giving security, was directed to employ them on roads, or other public works until he is satisfied from their deportment in his custody or other circumstances, that they will take to honest livelihood, and if a vagrant absconds from this custody, he is to be sent to prison with hard labour for six months."²

The Report found that the previous ad hoc application of stringent laws by the Magistrates had been more effective than the Act itself. Imprisonment for the Criminal Tribes, even though there was a substitute of rigorous for

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1. Appendix XII. Note on the Criminal Tribes and the Working of the Criminal Tribes Act, 1891: Report of the Committee to Enquire into Certain Questions connected with Police Administration of North Western Provinces and Oudh. W.Kaye (Edited).
 2. Ibid., p.1. (This is a sum-up of the measures pre-dating the Criminal Tribes Act of 1871 in the Report edited by M. Kaye in 1891.)

simple imprisonment for them in 1872, had no visible effect on them. They were protected in their own area by the zamindars "who shared in the spoils", and in case they were arrested, the families were looked after. The Report cites the examples of the Maghiya Doms³ of Gorakhpur and Barwars of Gonda,⁴ who were not deterred from stealing even though they suffered frequent imprisonment. The law was, therefore, not very effective in dealing with them. It was thought in hindsight that "ordinary law, if worked effectively, would be sufficient without the introduction of the Criminal Tribes Act..."⁵

One can roughly date the increase in the criminality of these tribes from the Report. The complete absence of any instructions, or even reference to the correct method of dealing with criminal tribes from the Appendix to Report

3. F.No.134, 1909, September, Part A, Police, Prog. Nos. 24-26. Report op. cit. "The Doms are a tribe of low mental type, aboriginal to Gorakhpur and the neighbouring districts of Bengal... like savages they are creatures of impulse, devoid of power of application, prone to drink, impure in their habits, with loose family ties and scarcely any social organization, and always miserably poor... The Maghiya Dom's occupation is begging, burglary and theft; to which the women add prostitution.

"...They had no fixed residences, but led a gipsy life, hiding and skulking in the forests..." p.22.

4. Ibid., pp.15-18.
1896, Judicial, Home Department Index, Part B, Prog. Nos.44-49.

5. Report, op. cit., p.1.

of the Committee on Prison Discipline, 1838 seems to imply that they were not considered such a serious threat to law and order. Yet in 1871 the Criminal Tribes Act was passed. This again seems to imply a close coorelation of increased criminality with the Mutiny of 1857, for the sepoy, finding themselves at loose ends, had gone to swell the ranks of the wandering criminal tribes.⁶

It also must not be forgotten that the 1860's, and the 1870's, right down to the 1890's were years of mild or severe famines.⁷ Some district or other anyway always faced some shortage of food due to natural calamities, or epidemics, or the failure of the monsoons. Anyway, to the police, "it soon was very obvious that the law required to be supplemented by a system of surveillance, and informal surveillance began, which was more or less rigorous according to the character and views of the Magistrates and Police superintendants enforcing it."⁸ Occasionally, such surveillance

6. The armies of the rebel native rulers were disbanded and the sepoy were turned loose to roam the countryside at will. An incubation period of five to ten years can perhaps be granted to them to surface as a law and order problem to the Raj. For example, the Sunnyasees were thought to be a source of sedition in the countryside. (See Chap.I) Instead of the much-rumoured 'chappatis', they were supposed to carry all seditious materials within 'Salgram Thakurs', which were actually 'small white stones'. Home Dept. Index, 1870, 10th September, Judicial, Prog. Nos.9-20.

7. Not all the years: Appendix I shows the years 1860-1875.

8. Report:W. Kaye (edited).

was so effective that the tribes ran the risk of starvation because they had no means of subsistence other than theft.

The Criminal Tribes Act was therefore thought in 1890 to be ineffectual (how ineffectual, will be taken up later in this chapter with case studies), but this conclusion was the result of hindsight. What was the official opinion before the Criminal Tribes Act was passed?

There was a conviction among the British officials that crime was a 'caste' occupation of these criminal tribes, and therefore "it was their religion to commit crime."⁹ But while some officials like Major W. Nembhard, the Commissioner of East Berar, felt that "the proposed enactment (was) a step in the right direction...", his concluding remark pointed to the existence of a rival position at odds with his own:

"...the measures suggested therein are almost too practical and sound for the bill to become a law without formidable opposition from the school that believes that India and England should be governed on precisely the same principle..."¹⁰

Giving Major Nembhard company in the view that all the criminal tribes were absolutely irreclaimable and an Act like the Criminal Tribes Act was a dire necessity, were many officials from all over the country. Inspector

9. Home Dept., Judicial Sept. 10, 1870, Prog. Nos. 9-20.

10. Ibid., Judicial, 1870. Report from W. Nembhard, Commissioner of East Berar.

General of Police, (N.W. Provinces), Mayne,¹¹ felt the need for "special legislation... for their conversion and suppression", for these criminal "fraternities are of such ancient creation, their numbers so vast, the country over which their depredations so extensive, (and) their organization so complete..." that there was no second method. The Inspector General of Police of Hyderabad (Assigned Districts)¹² echoed his opinions: "...the passing of the Act... would be most beneficial, and would be a great boon to the peaceably disposed portion of the community."

While quite a number of such reports applauded the proposal as welcome relief, others felt that there were very few wandering criminal tribes of professional criminals, and their entry into any district meant an alert in the police force; they were always under very strict surveillance in the villages they entered. Many District Commissioners and the Magistrates felt that such an Act would be too "stringent" and would place too much power in the hands of the police which would "most certainly lead to abuse,"¹³ and the law would sooner or later turn

11. Ibid. Judicial, 1870. From Mayne to R. Simon, Secretary to the Government of India, Home Dept., May 1870.

12. Ibid., Judicial 1870. From Lieutenant C.T. Lane, Inspector General of Police, To First Assistant Resident, Hyderabad, 29th April, 1870.

13. Ibid., Judicial 1870.

into an "engine ^{of} extortion", with the criminal tribes as its objects.

These officials were aware in 1870 that the criminal tribes were not entirely blameable for the crimes they committed. The loot was shared with the zamindars, the village chaukidars and also the corrupt police. These officials were also aware of the "petty" nature of these crimes.¹⁴ The Sonorias had earned a bad reputation as thieves; so had the Kunjars; but petty thieving at fairs and the like apart, they did not indulge in more serious crimes. There was even an awareness of their economic distress. Their harshest critics admitted that they would generally be driven into a district in search of food and labour because of the scarcity of food in their own.¹⁵ Yet, in spite of the knowledge of their poverty, the conviction that they were criminals because of the dictates of caste occupations remained unshaken. The proposal for their reformation from an evil way of life in settlements and colonies, therefore, met with the whole-hearted approval of these officials.

14. Ibid., Judicial 1870. Captain K.J.C. Mackenzie, Asstt. Commissioner, Bassein District, To the Commissioner of West Berar. He mentions quite a number of names of 'criminal tribes' who were hereditary addicted to thieving - Kalekarees, Kunjars (sic. Kanjars), Mang Garories (sic. Mang Garodis), Pardees and Banjarees (sic. Banjaras) and says of them: "The Banjaras (sic.) are not all bad, but where bad Tandahs exist, they are undoubtedly parties who usually undertake great cattle-lifting highway robberies or dacoities. The others named are throughout bad, and are those who commit all the housebreaking and petty crimes."

15. Ibid., Judicial, 1870. Sonorias had arrived in Bundelkhand, and being asked the reason for their arrival, answered: "They sought food, for there was none left in

But while these tribes carried their reputations before them - that Sonorias were "notorious thieves", or Banjaras were "no doubt a criminal and predatory class", while some others were "more beggars than notorious as forming a criminal class - such statements find little support in these reports. Many British officials felt that the crime rate of the criminal tribes were not as alarming as alleged, and hence, a separate law with heavier penalties for minor offences was unnecessary.

The Report of R.P. Jenkins, the Commissioner of the Patna Division,¹⁶ was important in this context. Though Patna, as a major trading centre, was frequented by many 'criminal' tribes, for example, the Domes, the Rajwars, Darees, Mooshahurs and others who furnished Patna with its criminals, "they were not addicted to crime by any traditional necessity" and hence no special legislation was required for them. Many, in fact, of these tribes were "impelled towards crime because of extreme poverty," as with the Rajwars, in the 1860's. But they were weaned from their criminal habits since public works were opened in most of this district, and there was a demand for labour.

contd...

their own provinces, and they had also heard that there was a good demand for labour."

16. Ibid., Judicial, 1870. R.P. Jenkins, to Secy of the Government of Bengal.

Other than these supposedly "criminal tribes", there were no other "organised bands of such men as far as this district is concerned."¹⁷

The Aheriyas and the Bahabahs, both categorized as criminal tribes in the schedule attached to the Report, were generally employed as hunters. They were settled, possessed houses and occasionally worked as agricultural labourers. The Banjaras were traditional dealers in cattle and grain, and were definitely not the "predatory class" they were alleged to be. Even the Nuths and Ghoshees, "notorious" for their criminality, operated "on a small scale, and [did] not cause trouble."¹⁸

But may be the reason behind their notoriety was not so much Governmental prejudice, as the hostility and fear of the ordinary people of India. The Maghiya Domes, for example, were not only of a very low caste and petty thieves, they also had 'filthy habits' - they ate verminous food, lived in dirty hovels, and all this made them obnoxious to the

17. Ibid.

18. Ibid., Judicial, 1870. Mr. A.V. Palmer, Magistrate of Patna Division, therefore felt that the Penal Code (Section 40, Chap.XIX, and Section 101) was sufficient for handling these tribes. He even disagreed on the provisions in the Draft Act and stated that the police and the Magistrates "are unfit to be entrusted with the plenary powers suggested in the Draft Act."

Hindu villagers. Some tribal occupations like the Bedinis' trade in herbs and roots of plants, or the selling of drugs by Sonorias had made them suspect in the eyes of the people, who associated them with black magic and witchcraft - and hence thought them capable of any crime.

The fear of the people, and the very real habit these tribes and castes had of lifting loose, stray property from the villages, from the fields (grains), theft of cattle, horses, goats, pigs and other livestock convinced the Government of their criminal character. Furthermore, because of their poverty, members of such tribes were caught thieving with monotonous regularity; and since in one district some of these tribes lived on pilfering alone, the district administration could not be blamed for thinking they were criminals by caste. Indeed "criminal tribes" of one district could be "settled, respectable citizens" in another; a whole tribe or caste was never unsettled as a whole, only parts of it, scattered throughout the districts, were so unsettled. The Criminal Tribes Act of 1871 overlooked this, but the 1897, amendment provided for a "part" of a class, tribe or gang being criminal indicating that the government had become aware of the criminality of only small groups within a particular tribe or "caste".

But while admittedly these "criminal tribes and castes" were indulging in petty theft, in order to subsist, had their

depredations become so awesome as to need separate laws and harsher penalties to check them? On the officials' own confession, these tribes seldom became violent; cheating, house-breaking, and dacoities were the really common crimes. Murder was very seldom reported. Only the Buddhuks¹⁹ were professional stranglers, strangling their victims before robbing them. The 'wandering' tribes, who were actually carrier traders, like the Banjaras (North-west Provinces and Oudh), Yanadis, the Koraveras, or the Lumbadis (the last three mentioned belonged to the Madras Presidency) did have a bad reputation. They used to bring goods for sale through the ill-frequented forest or other routes where ordinary traders feared to travel; but with the growth of well-laid roads and railways, the carrier-traders lost this advantage to the other traders, and their economic condition deteriorated rapidly.

Yet such 'wandering tribes' were likely to suffer the most with the adoption of the Act. Hearn²⁰, Inspector General of Police, Madras, points out that these "wandering-

19. Ibid., Judicial, 1870. From Lieutenant Colonel A.H. Paterson, Inspector General of Police, Lower Province. To Secretary of Bengal Government 20th May, 1870. He had given an account of the Criminal Tribes, i.e. the Maghiya Domes, Rajwars, Bedyas, Aheers, Nutts, Bowreaahs, Budducks (sic. Buddhuks).

20. Ibid., Judicial, 1870. From Major C.S. Hearn, Inspector General of Police, Madras. To the Chief Secretary to Government of Fort St. George, 19th May, 1870.

tribes" were not "exclusively criminal", and any restrictions placed on their movements "would mean also interference in their legitimate occupation of carrying - they might be incited to a greater degree of organised crime which are more dreaded by the people, and are far more dangerous than supplementary criminal depredations of a company of carriers." Major Hearn, while listing the Criminal Tribes, also said of the Yanadis, another carrier-trader tribe, that though they are a 'singular' and 'outcaste' race, they are employed, and are not "purely predatory" and "the loss of their services would be felt as a serious inconvenience by the trading public in the interior of the country..." It would not be very wise to impose the Criminal Tribe Act on them, for the "Gipsy carriers will not settle down to the plough and the sickle..."²¹

Even though these carrier-traders, were not fully criminal, only supplementing their incomes through crimes, they were considered to be amongst the worst "criminal tribes". Even so, Major Hearn admits that they were "only occasionally bandits."²² Since the carrier traders have been described as the really criminal wandering tribes, an analysis of their crime statistics is essential, together with the regions they

21. Ibid.

22. Ibid.

frequented during their trading expeditions (and which can therefore also be taken as the areas of their depredations). The Banjaras of the North-western Provinces and Oudh have already been discussed (see Chap.I). So now Madras Presidency, specially the South-east region frequented by the Lambadis^{and} Koravers will be studied.

Most trading was in salt. The tribes would travel up or down to the salt-pans in the Eastern Ghats (near Ganjam or Vishakhapatnam), collect salt, and either move north (in the case of Banjaras) or south (Lumbadis). During these periodic trips to the saltpans, "the heaviest dacoities in the Bellary, Kurnool and the Kistna Districts" were committed by these tribes (Lumbadis, Koravers), "who were usually armed on these occasions... (and were) every-ready to commit crime." Apparently they would choose the thickly forested routes lying between the princely state of Hyderabad and the Madras Presidency; it was simpler from there to escape to the other territory after a crime in one territory. The villagers of such districts "dread(ed) and detest(ed) them."²³

Even with so much against them, Major C.S. Hearn felt that their crime-rate was diminishing gradually. Not only this, as compared to the highly settled district of South Arcot, the crime-figures were lower in the districts of

23. Ibid., Judicial, 1870, Hearn, 19th May.

Bellary, Kurnool, Nellore, Kistna and Godaveri where the Criminal Tribes were present in large number. Moreover, the fall in the total number of crimes in these five districts was steeper than the fall in crime in South Arcot, a district not frequented by the itinerant 'criminal tribes,' and where all the crimes were committed by the locals.

Bellary district was frequented by the Lumbadis, Kurnool - a "frontier district" - was the haunt of Yerlelas and Koravers, Nellore was the home of the Yerlelas and Yehadis, while Kistna and Godaveri were visited by the Yanadis and Lumbadis. As mentioned earlier, these visits were directed to the saltpans near Ganjam and Vishakapatnam. In the years 1864-1869, with the exception of 1866, a famine year, a trend in crime can be seen clearly, which makes one doubt the validity of the widespread beliefs. Excepting the high number of crimes in the year 1865, preceding the famine year, and 1867, the post-famine year, the drop in the total number of crimes is clear. (See Table 1)²⁴

While the "civilized" district of South Arcot in 1869 has a dacoity total of 75, the total for all five districts is only 70; this later has dropped spectacularly from 328 in five years. Another pattern can be observed from this table: in the five districts house-breakings are more frequent

24. Ibid.

Table 1: House-breaking and Dacoities, 1864-1869

Districts	1864	1865	1867	1868	1869
<u>House-breakings:</u>					
Bellary	476	415	418	289	254
Kurnool	540	609	303	357	254
Nellore	592	501	330	310	315
Kistna	780	721	403	345	269
Godaveri	414	442	242	269	233
Total (of the above districts)	2,802	2,688	1,696	1,570	1,325
South Arcot	442	403	457	288	269
<u>Dacoities:</u>					
Bellary	135	104	70	48	32
Kurnool	81	27	15	27	16
Nellore	64	20	8	6	2
Kistna	3	24	7	11	12
Godaveri	46	12	3	9	8
Total (of the above districts)	328	187	103	101	70
South Arcot	81	28	72	62	75

than in South Arcot; yet dacoities (except in Bellary and Kurnool) are far less frequent than in South Arcot.²⁵

25. From the 1901 Census (Imperial Gazetteer), p.130.

Population in these districts:

Godaveri	2,301,759	Kurnool	872,055
Kistna	2,154,803	Bellary	947,214
Nellore	1,496,987	South Arcot	2,349,894

An obvious conclusion is that petty thefts are far commoner than serious crime among criminal tribes. Furthermore, if one analyses Table 1, one is struck by an important fact: the 'house-breaking' figures, when seen over the period 1864-1869, register a marked fall in all the five districts. Bellary goes down from 476 to 254; Kurnool, Nellore, Kistna and Godaveri districts registered falls of (1864/1869) 540/250, 592/315, 780/269 and 414/233. Even in dacoity figures, the fall is noticeable, with the exception of Kistna district which registered a rise to 12 dacoities in 1869 from 3 in 1864. However Bellary (1864/1869) registered a fall 135/32; so did Kurnool, Nellore and Godaveri - the figures came down from 81/16, 64/2 and 46/8 respectively. 1870 was the year for the consideration of the C.T. Act: paradoxically, we see that by 1869, crime figures were actually declining at a faster rate than the crime figures for South Arcot; the housebreaking figures were reduced to half (442/269) but the dacoity figures remained more or less level - 81/75. Neither figures registered so striking a fall as in the five districts.

In United Provinces, too, like in the Madras Presidency, one can observe a similar trend towards commission of petty crimes, while serious crimes were avoided as far as possible by Criminal Tribes. The district of Moradabad in 1890 recorded 431 attempts at housbreaking, 690 cases without theft, a number of cases where property worth less than

Rs.5/- was stolen, and only 248 cases where loss of over Rs.5/- were reported, out of a total number of 1,844 cases.²⁶

The table (see Appendix-I) showing the numbers of prisoners in jail in 6 states, Madras (Column I), Bombay (Column II), Bengal (Column III), North Western Provinces (Column IV), Punjab (Column V) and Oudh (Column VI) also bears out the high rate of petty crime prevalent in the North-Western Provinces and the District of Oudh, together with the other states from the years 1860 to 1875. If both columns A and B of all the States are examined together, then a marked disparity in the number of prisoners in the beginning of the year (Col.A) and the end of the year (Col.B) can be observed. This disparity has two implications: either the disparity indicated that lighter sentences had been awarded to the prisoners for serious offences, (which was highly unlikely) or it meant that the number of petty thefts had increased while graver crimes had declined. This would explain the fact that the jail population was perceptibly smaller at the end of the year due to lighter sentences for lighter crimes.²⁷

26. See Appendix II for the data of petty thefts, house-breaking without thefts.

27. Another disparity, however, remains unexplained. At the end of the year the jail population, according to the above logic, is reduced, but the sudden pick-up of the jail population at the beginning of the next year remains inexplicable. E.g. in Column VI, Oudh, in 1871, Sub-column B, the number is 7,312, while in 1872, Sub-column A, the number is 14,330.

For example in Col. III, showing Bengal State, the year 1865 tabulates (see Table) 17,619 prisoners, a number considerably higher than the preceding five years 1860-1865 (g meaning a famine year). In the same column, in 1874, Bengal showed the highest number of prisoners in the beginning of the year, as well as at the end of the year, because of another famine year. In the North Western Provinces (Col. IV), 1873, 1874 and 1875, similar high figures are noticed, though for different reasons. (See 'k' under Index in Appendix I). Furthermore, one sees the close correlation between scarce years and the numbers increasing in the jails. This can also be seen in the table (Appendix III)

The figures for the years 1869-1876 are given, which show the steady increase in the daily number of people convicted with the fall of availability of chittals of wheat for a rupee. Col. I shows in January 410 chittals of wheat available for a rupee, and the number of the daily convicted to be 6,900. In September, when the availability of wheat falls to only 280, the number of daily convicted rises to 8,200.

The Criminal Tribes Act aimed at the control of petty thefts and petty crimes, as seen in the amendment to section 401 of the Penal Code:

"Whosoever, being a member of any proclaimed Criminal Tribe, or wandering, or other gang of persons, associated for the purpose of habitually committing theft, or robbery, and

27a. Another disparity remains unexplained. The sudden pick-up of the jail population at the beginning of the next year from the figures of the previous year, remains inexplicable. (Appendix I)

not being a gang of thugs or dakaits is found in any place whether public or private, under such circumstances as to satisfy the Court before which he is brought that he was about to commit or aid in the commission of theft and robbery, or was waiting for an opportunity to commit theft or robbery, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to a fine."²⁸ (emphasis mine)

It is evident that legal weight was directed to the prevention of theft, housebreaking, and the like since such offences were mushrooming throughout the provinces. All the Criminal Tribes legislation - the 1871 Act and the amendments of 1897,²⁹ 1911 and 1924 - aimed at this growing threat to private property. These Acts aimed at restricting the movement of the criminal tribes, so that they would cease to "wander" throughout the country. Their movements would be controlled, and the possibility of crime reduced. Even the undeclared "tribes" or "associations", considered suspect by local governments, were kept under strict surveillance.

II

THE FUNCTIONING OF THE ACT AT GROUND LEVEL

How did the colonial government implement the Criminal Tribes Act of 1871? Detailed examination of case studies is

28. Report, op. cit., p.104.

29. Even a part of a 'tribe' could be declared "criminal".

essential to demonstrate the actual working of the Act. Reports, extremely detailed and with a wealth of information, were prepared on these settlements, to check on the progress of the government in reforming (at the best) or even controlling (at the worst) these tribes. If the government failed to achieve neither, the settlement was considered a failure.³⁰

a. The Barwars of Gonda in United Provinces were not considered to be "violent" or "dangerous" criminals. They stole only during the day-time, and that too, trifles at fairs, but they were finally declared to be a "criminal tribe" because of the representations of Bengal. "The criminality of the tribe was fully proved by the fact that no less than 200 Barwars had been convicted in Bengal between December 1879 and December 1881, and that out of 1,267 adult males in the tribe, 727 had been convicted at different times of offences against property. The proclamation was made on 1st July, 1884. In 1883, the total population of the

30. Report, op. cit., p.7. The settlement of Bauriahs at Bidauli did not work out, since these criminal tribes remained cultivators only in name, while they continued to commit crimes, and hence it was dissolved.

Also see 1909, Home Police Dept., -March, Part A, Prog. Nos.1-5. But the settlement of the Haburahs continued even though the 'cultivators' never learnt to cultivate. The Government grumbled at the expense of the settlement, but the thought of dissolving the settlement was never considered, because petty crimes were under control. F.No.35.

Barwars settled in the District of Gonda was 3,925, counting all males, females and children, in 46 villages in the settlement. The settlement started on a rather optimistic note, the local authorities confident of a "speedy success", for "the Barwars of Gonda are said to be Kurmis by caste, and capable of becoming good agriculturists."³¹ But the low population figures³² do not indicate a healthy social settlement; the number of absconders from the settlement also indicate the same conclusion, for in 1891 there were 190 absconders, which increased to 301 in 1895-96, while in 1905, the number of absconders rose to 542. (The number of Barwars here meaning only the Barwars in the settlement.)

The cause for absconding as shown by Harley³³ was most of them had been given insufficient or no land; and the low outturn of crops, inadequate for themselves and their families, "compelled them to abscond..." But the administration dismissed this reason: "This is a paltry excuse; they

31. Report, op. cit., Appendix, p.15.

32. Home Index, Judicial, 1896, Part B, Prog. Nos.44-49. The figures for the years 1895 to 1896. In 1895, the population of the Barwars was 4,126 and the number of villages had increased from 46 to 50. In 1896, the population fell to 4,067. Therefore only 142 people more in the settlement in twelve years. F.No.136-152, Home Department Index, Police, Part A. Appendix I, 2nd February, 1906. From H.R.C. Harley, Deputy Commissioner of Gonda. In 1905, population was 4,170. Only an increase of 103, in ten years, or an increase of .01%.

33. Ibid., F.No.136-152, 1909, Appendix.

can... eke out a livelihood by daily labour on the railway and in the Government forests. The truth is that these people have a natural aversion to labour of any kind, and an incredible preference for making their living by predatory expeditions...." Yet one wonders that despite previous convictions and due punishment that had been meted out, what compelled the tribals to abscond repeatedly.³⁴ Harley, in 1905, did admit that the "conditions in the settlement were far from satisfactory"³⁵ and that he "was compelled to admit that the plea of the absconders... i.e. they were driven to it by the inability to obtain any means of livelihood in their villages... was justified...." - Harley discovered that the Barwars hardly had enough land to support themselves, let alone their families, "nor was there sufficient demand for labour in their villages to enable the landless to eke out an existence."³⁶

34. Op. cit. Home Department, 1896, Nos.44-49. Number of absconders for the first, second, third, fourth and fifth times being 54, 64, 91, 49 and 3 respectively. It should be noted that second and third time absconders were numerically larger than first-time absconders. This seems to suggest that (a) the prospects of a better livelihood were better outside the settlement rather than inside and (b) the second and third time absconders had lost the natural fear of punishment of the first-time offenders.

35. Op. cit., 1909, F.Nos.136-152, Appendix.

36. Ibid.

Another, though not a novel cause was that, even cultivation was not possible in 1896, because of famine conditions in the district. While the total number of cultivators stood at 2,665, registering a slight increase from 1895, this increase was limited to women and children only. The number of men actually decreased from the previous year's total by 126. Even the total area of cultivation fell from 3,308 bighas 16 biswas to 3,282 bighas 5 biswas.³⁷

At one point in the report the Deputy Commissioner explains this in the cultivating area: "...it is not at all surprising that the Barwars are presenting relinquishment (giving up the lands allotted to them) in crowds, as after several bad seasons all tenants throughout the district are doing so." But in the same report he returns to a more hostile stance: "It must be admitted that harvests have been bad for the last two years; but this is not the main cause for the failure of Barwar cultivation."³⁸ In a tone of high indignation, the Commissioner ascribes the cause for failure to their refusal to cultivate government waste land. He even dismisses the request of the Barwars to be given land allotment nearer their homes because those lands were being cultivated by "careful tenants" and it was not to be expected

37. Op. cit., 1896, Nos.44-49. See Table in Appendix IV.

38. Ibid., Nos.44-49. The Deputy Commissioner.

that the zamindar would eject them to make room for the Barwars, "a lazy set of criminals, who allow the land to deteriorate by bad cultivation, and give great trouble in paying their rent."³⁹

But Harley's report does substantiate the truth of the "excuse" of the Barwars. One needed "no elaborate statistics of produce to demonstrate that 1,747 acres (or 5263.5 bighas), most of it of moderate quality, situated in one of the poorest parts of the district, will not suffice - after making deduction for the rent to support a community that numbers in all 4,170" in 1905. Nor could the Barwars seek employment outside the settlement, for that would mean severe penalties.⁴⁰

The land was not only insufficient for the needs of the Barwars, it was unequally distributed among them. Some of the Barwar villages had ample land (all the Barwars inhabitants in these villages had more than one bigha of land per head for cultivation). The rents were low, and the tenants were protected from the oppression ^{of} the landlords, while in years of scarcity, they could always fall back on government aid. Many had never been convicted of any crime and the children were not taught thieving from a tender age. In

39. Ibid., 1896, Nos.44-49.

40. Op. cit., 1909, Nos.136-152, Appendix.

the villages like Bankati, Jitapur, Shahpur, Bhorahu, Deorahna, Bankasia or Kuluha, there were hardly any Barwars undergoing prison sentence. Significantly, the village with the highest man:land ratio, 1.63 bighas per head had no inhabitant undergoing a prison sentence. In the other villages, land was totally inadequate;⁴¹ and these supplied most of the "irreclaimable criminals". This demonstrated the link between land and crime. Land would generally make its way into the "hands of the stay-at-home, non-criminal Barwars". In Khiria, "a notoriously criminal village" out of the 41 bighas given for 161 Barwars, no less than 22 bighas were in the hands of only 2 men whose families accounted for 24 Barwars, leaving 19 bighas for the remaining 137. Kaurandi Dayal had 8 bighas and 61 Biswas, and only one Barwar family held all the land. (See Table 2 below)

Table 2: Man:Land Relationship

(Villages in which land distribution adequate)				
Name of Village	No. of Barmars	Area of land in bighas	Area per head	No. under sentence in jail
{ Bankati				
Surajbali Singh	207	234	1.13	1
Jitapur	130	132	1.28	2
Shahpur	130	183	1.40	5
Bhorahu	197	202	1.02	4
Deorahna	19	31	1.63	None
{ Bankasia				
Shioratan Siggh	132	159	1.20	"
Kuluha	79	98	1.24	"

contd...

41. In the villages of Dulhapur, Tura Basti, Bankasia, Sohans or Khiria, the land:man ratio worked out to less than, in the cases of Tura Basti and Khiria, far less than one bigha of land per head.

Table 2...contd...

<u>Village</u>	<u>Barwars</u>	<u>land</u>	<u>Area</u>	<u>No.</u>
	(Villages where land wholly insufficient)			
Dulhapur	407	323	.79	29
Tura Basti	183	23	.12	11
{Bankasia				
{Naurang Singh	113	62	.54	12
Sohans	114	64	.56	10
Khiria	161	41	.25	16

To top it all, the lands given to the Barwars were "very poor in quality". From 1902 onwards, they were given land near the Tikri Forest where the soil was thin, light and very infertile. Moreover, whatever was planted was ruined by wind animals.⁴²

The only other occupational opening left to the Barwars was apprenticeships in the factories in Fatehgarh or other nearby districts. 28 apprentices were sent to Messrs. Cooper, Allen and Co., 12 more to Muir Mills Co., while only 3 were apprenticed to the Fatehgarh reformatory. But soon this avenue was closed too, for the Barwars soon discovered that they were paid lower wages because their work was unskilled and that factory discipline was very irksome.⁴³ Given all this, no wonder the Barwar settlement could not be a success.

42. Op. cit., 1909, Nos.136-152. Appendix .

43. Op. cit., 1896, Nos.44-49.

b. The Sansiahs were proclaimed as a criminal tribe on the 17th of December, 1889.⁴⁴ "Incorrigible criminals", "pests", or "nuisance" - such are the epithets used for them. The Inspector of Agra, O'Brien, suggested in 1890 that the children of these Sansiahs should be packed off to reformatories or industrial schools while the Sansiahs themselves could be deported to an island or some colony.⁴⁵

In June 1890, the total registered Sansiah population of the Sultanpur settlement stood at 1,709; by April 1896, this figure had plummeted to 1,528, while the number of absconders rose from year to year - 821 on 1st April 1895, 850 in 1896. Only 44 were engaged in agriculture in 1894-95, and 26 the next year. These Sansiahs (i.e. the cultivators) held only 29 bighas of land.⁴⁶ The settlement at Sultanpur was admitted to be a dismal failure. Since its inception⁴⁷ in

44. Report: W. Kaye, pp.18-19. (No continual series for the Sansiahs because of an insufficiency of data).

45. Evidence, p.101.

46. 1896, Judicial, Part B Nos.44-49.

47. F.No.78 of 1909, Deptt. Part A, Prog. Nos.22 and 23, (Sept.) on the question of the retention of the Sansiah colony at Sahibgunj at Kheri, before which the children of the Sansiahs had been in a reformatory in Fatehgarh, while the Sansiahs had been put into a temporary settlement in Fatehgarh.

1889, it had tried to separate the children from their "criminal" parents by placing them in the Fatehgarh Reformatory. Sir Anthony Mac Donell (Officer on Special Duty) visited the settlement in December 1895, and found that the settlement "in all its essentials... was a prison".⁴⁸ By 1896, the authorities of the settlement faced mass absconding, which they were powerless to prevent. The Sansiahs were highly dissatisfied with the arrangements and gave a petition to the Lieutenant Governor, informing him of the "...hardships they suffered, more especially in regard to their religious and ceremonial duties, and the marriage of their children..."⁴⁹; they even convinced him of the justice of their complaints. Finally, approximately 490 Sansiahs were transferred in May 1896, to the Kheri settlement. This settlement was frequented by outside Sansiahs, who turned out to be actually a mixture of Nuths, Bhatus and other tribes, not Sansiahs at all.⁵⁰ Thus from 1897 onwards, these outside Sansiahs were forbidden to enter the settlement.

The settlement was "squalid, comfortless and uncared for" in appearance. Moreover, the management was very harsh,

48. Ibid., 1909, Nos.22 and 23.

49. Ibid., 1909, Nos.22 and 23.

50. Ibid., 1909, Nos.22 and 23.

and hated by the 'criminal tribe'. The settlement had become self-supporting before the famine, and the population had nearly doubled, but the famine of 1907 "...checked and even set back the growing prosperity..." and "...has even discouraged the people... to become self-sufficient." They had actually become "demoralized" because of the famine dole they received, and flatly refused to do any work. An officer complained, "...an attempt to make them take to famine labour... resulted in a temporary stampede..."⁵¹

Nevertheless, the government could congratulate itself on the successful containment of criminality. While there were numerous convictions for absence without leave, absconding or overstaying of leave, there "were very few convictions for crime against property" (emphasis mine). And the government did congratulate itself: "On the whole, given the bad management and the bad effect of the famine [the] result [is] not bad because a criminal tribe, dumped with nothing in the middle of the jungle, has attained a certain amount of property, and has managed to live on the proceeds of honest labour, though [they] were almost certain to return to their evil ways when supervision and restrictions removed." Even though they were "...helpless, and still hanker (ed) after freedom...", "the men there (in the Sahibgunj Kheri-

51. Ibid., 1909, Nos.22 and 23.

settlement) were under practically complete control. They are turbulent at times; many are still restive under discipline, but speaking generally, they are well in hand....⁵²

The colonial government insisted on these criminal tribes' conversion into cultivators, resisting any other ideas for their livelihood and rehabilitation. One British official rejected the idea that the Sansiahs of the Sahibgunj and other settlements (Bijholi, Jagdeopur and Baranagar) be trained in dairy-farming:

"...the proposal to encourage dairy-farming among Sansiahs appears to me quite useless. They would only steal the milk and pasture the cattle on other people's crops. Also, I do not think that any Hindu, or even a Muhammedan would touch dairy produce made by a Sansiah.... They are a filthy tribe."⁵³

Other than the "tame" Sansiahs at Sahibgunj, these Sansiahs spelt nothing but trouble for the other three settlements. As the same official puts it:

"They are inveterate thieves, and would steal others' crops from threshing floors and add them to their own poor outturn of crops".

More opinions of this sort can be quoted:

"They are perfect pests, and it is a great pity that they are ever let out of jail. Any Sansiah ought, from the mere fact of

52. Ibid., 1909, Nos. 22 and 23.

53. F.NO. 268, 1910, August, Police Deptt., Part A, Prog. Nos. 1-5.

being a Sansiah, to be entitled to transportation for life."⁵⁴

Thus again, the Sansiah settlements, excepting the Sahibgunj settlement which were under "control", were not successful either in preventing crime, or in rehabilitating these criminal tribes.

c. The Haburahs were "the pest of the neighbourhoods which they frequent; continually pilfering, robbing standing crops, attacking carts and passengers along the roads; committing robberies and even dakaities."⁵⁵ But even though the Haburahs were "proclaimed" in 1875, the proceedings against them under the Criminal Tribes Act, were singularly futile.

The first settlement of the Haburahs⁵⁶ was in Etah district, where they were permanently settled. They had to cultivate land for their subsistence, after the usual pattern of the settlements. But they would generally supplement their subsistence by mendicancy and crime. The settlement spread over 4 villages, one of which was completely evacuated by 40 Haburahs who absconded in 1881-82. However, in 1883 a new gang of Haburahs, who were not the

54. F.No.268, 1910, August, Police Deptt., Part A, Nos.1-5.

55. Report, op. cit., p.11: July 1889. Report of the Inspector General of Police.

56. Ibid., p.11.

"specially criminal sort", arrived and were settled there. This gang of a comparatively harmless character, such as had never been intended to be proclaimed, were brought under the Criminal Tribes' Act rules in Etah.⁵⁷

The settlement in Moradabad was located in a village called Navada; the Report had good findings, "where crimes were concerned, the results have been good, but petty crimes have not been checked." Mr. Thomas, the District Superintendent, was struck by the physical condition of these Haburahs, and felt that "these wretched Haburahs" were in a "condition of semi-starvation and destitution;...It seems to me to be an illegal restraint and small benefit accruing from it."⁵⁸ There were only 17 adults in this particular settlement. These Haburahs were completely dependent on government aid to continue at least to be known as cultivators. The famine year of 1890 practically crippled the settlement: the rabi crops were destroyed, their houses were broken; the Haburahs "cheeled" grass and somehow earned their subsistence.⁵⁹

With a few grants thrown in every now and then, in 1891, in 1894, and in 1895 when the Magistrate thought

57. Ibid., pp.11-12.

58. Evidence.

59. Op. cit., F.No.35, April, 1909, Prog.Nos.1-5, 7-9, 1-3.

"...if the grant is not made the Haburahs will cease to be cultivators", at other times, too, the government acceded to the request for grants; so the settlement could at least hobble along, even if it could not become self-sufficient. While one officer felt that the "Newada settlement" was "more satisfactory than others", the general opinion expressed the contrary view (and in the most picturesque language!). L.M. Stubbs, an official, in January 1909, remarked - "Mr. Crooke's report on the Haburah settlement is interesting but depressing reading."⁶⁰ Though the settlement was never very successful, the Haburah colony had a low crime rate, and was thus considered to be worthwhile by the officials. If the crime rates proved to be consistently high, together with non-proficiency in cultivation, the attitude of the administration changed. A case study of the Bauriahs reflect this.

d. The Bauriahs had proved to be extremely difficult to control.⁶¹ The settlement was on the Bijauli estates of Mehdi Hasan, who wanted to cultivate his waste land with the aid of these "criminal tribes"; he also secretly incited these tribes to commit crimes so that he could also have a share. But the Bauriahs were not officially under the

60. Ibid.

61. Report, op. cit., pp.2-7.

Criminal Tribes Act at this time (1865): quite fed up with Mehdi Hasan's oppression, many of them fled from the estate, while others complained of the zamindar's rapacity.

The Bauriahs were formally declared to be a criminal tribe in 1873. From 1875, the total registered population of 993 declined quite rapidly, and in 1879 there were only 791 Bauriahs left. The ones that remained needed Bidauli as a convenient place to stay and use as their headquarters. While some would stay with the women and make a pretence of agriculture, the adult males of the community would go away on long trips for nefarious purposes. Finally the government realised that this particular settlement was completely without purpose, other than providing the tribe state aid for the perpetuation of criminality. The Lieutenant Governor advised: "...we should allow the people at Bidauli to seek their fortune elsewhere."⁶² and the Government of India concurred with this view. The settlement was dissolved in 1879.

III

CRIMINAL TRIBES FAIL TO BECOME CULTIVATORS

In all the government aided settlements, controlled, led and supervised by the local governments, there was a

62. Ibid., Appendix, p.7.

rigorous work-schedule followed, which presented the alternative of either working and earning their subsistence, or facing starvation within the confines of the settlement. To infuse enthusiasm into the confined "criminal tribes," there was state aid in the form of government waste land (generally infertile), or the wasteland of some zamindar who manipulated the services of these criminal tribes for his own profit. But naturally such forced efforts at change did not succeed. Rarely did a settled criminal tribe turn into successful agriculturists.

The laziness and the lack of will to work on the part of the criminal tribes were blamed for these failures. In the Report, 1890, there was a recommendation for a harsher working environment⁶³ if the project to turn these tribes into agriculturists was to succeed at all:

"Agriculture is a difficult and precarious profession, more difficult to learn and more unsuccessful to depend upon. To expect that tribes untrained to labour and impatient of control, will take to agriculture at once and earn a living by it, is rather a chimerical hope... merely to supply them with land, seed and stock is ineffectual, they will only learn agriculture when it is taught under the same restraints and compulsion as those by handicrafts are taught within the four walls of a jail."⁶⁴

63. Jail discipline seemed to be the panacea for a social ill like crime.

64. Report, op. cit., pp.104-5.

Why was there such a deep desire on the part of the government to settle a loose, unsettled population as agriculturists? It could not be the government expected these tribes to become very productive immediately, or even after a short period, and thus enhance the revenue yield. Perhaps the government sought to infuse in these people the 'work ethos' of the West, hoping to transform them from useless vagabonds into a rural work force.⁶⁵

Yet the government's plans for its objective left much to be desired. All the Criminal Tribes Acts, with their rigid rules and regulations, and the coercive penal system, which threatened prompt penalties for stepping out of line, were all external forces trying to control only the 'bodies' of the 'criminal tribes'.⁶⁶ Missing was

65. The colonial government did not desire to see the Criminal Tribes as anything but respectable cultivators. In the conversation between Lord Morley, the Secretary of State, and General Booth-Tucker, Lord Morley was insistent that the criminal tribes "...should as far as possible remain in their villages, and not be drawn into large centres, and into factory life..."

F.No.413, 1910, Dec./Police, Prog. Nos.40 & 41. This anxiety of the colonial government might be traced to the rising national movement in all major and some minor cities. The government might have left wary in adding another dimension to the growing problem of nationalism, in the shape of an increased crime rate because of these criminal tribes.

66. M. Foucault, op. cit. "...even when they use 'lenient' methods involving confinement or correction, it is always the body that is at issue - the body and its forces, their utility and their docility, their distribution and their submission." p.25.

the necessary element of persuasion needed to achieve even a modicum of control over these tribes. So long as there was no mental acceptance of a set of rules, constant punishment could only restrain the infringement until the moment of administrative laxity. It was first necessary to indoctrinate these criminal classes with a sense of right and wrong from the administrative viewpoint, before enforcing such rules at the point of a gun.

From this angle, the Salvation Army's approach to the problem was more realistic. Its officers realised the futility of forcing these "criminal tribes" to become something they had no desire to be. They, therefore, tried to understand these tribes, and what kind of work could be acceptable to them. For example, they discovered that the Haburahs had a "...natural liking for pastoral pursuits as distinct from agriculture..."⁶⁷ General Booth-Tucker also felt that the Bhatas were too fine a race physically and mentally, who did not "whine and cringe"^(emphasis mine) like Haburahs, to be ruined by a wrong policy like the Haburahs had been.⁶⁸

The Salvation Army evolved a business-like method to deal with them. Dom women were given work which they could do - spin, weave; as a result, there was an industrial

67. F.No.35, 1909, April, Part A, Prog. Nos.7-9.

68. Ibid., 1909, Nos.7-9.

development in the Gorakhpur settlement of the Doms.⁶⁹
 The number of looms increased to 17, eight worked by women. Since the settlements managed by the Army looked like places of work, not prisons, and because in these settlements, useful trades were taught, the Doms were eager to come.

The Salvation Army prevented any relapse into crime by these "criminal tribes" by undertaking to find a market for their products. "The cloth spun by these criminal classes were sold and the proceeds from the sale were put into a fund for the payment of wages and purchase of additional supplies of yarn. Thus criminal tribes settlements under the Salvation Army became a profit-generating business. The Salvation Army became so successful at the management of these settlements that the government in United Provinces entrusted almost all the settlements to its care, and turned its attention to the growing number of crimes in the country.

IV

THE OUTCOME OF THE CRIMINAL TRIBES ACT

In the early twentieth century, the tight official separation of the criminals of the criminal tribes from

69. F.No.413, 1910, *op. cit.*
 F.No.134/1909/Police Dept., Sept., Part A, Nos.24-26.

those of higher castes, began to break down. The government could no longer pretend that criminal elements from the social mainstream could be controlled easily, provided simply whole communities suspected of being irrevocably criminal were isolated. Elimination of crime could not be by branding a social unit as a "criminal tribe" and segregating it in a settlement. Now many instances of "mixed-gang" robberies and daktaities were occurring, and the government found its well-ordered world breaking down.

Even a few years earlier, "very heavy daktaities" in Rae Bareilly would have meant that some "criminal tribe," may be the Pasis was responsible for them. But in 1912-13, the government could no longer close its eyes to the fact that the Thakurs, the Brahmins and other high castes were increasingly participating in crime. The report observes a phenomenon which would become increasingly frequent: "...the habit of the Pasis has affected the Thakurs and other castes to a limited extent..."⁷⁰

The government was forced to think of crime as committed by "gangs" of three, four or perhaps more persons, but no longer by "hordes of predatory tribes" which have infested India for centuries. There were still officials who believed that the criminal tribe members, like the Pasis

70. F.No.320, 1912, March, Police Deptt., Part A, Nos-10-33.

in Rae Bareilly were supplying the leadership in these gang dakaities, but increasingly even this belief of the colonial administrators broke down. In United Provinces, many mixed 'gangs' were proclaimed as "criminal tribes", but very often these did not involve more than 7-8 members. This new variety of criminals was no longer put into a "settlement", but was simply "registered", 'finger-printed' and put under stern surveillance in the very village where the gang was staying.

In 1913, a mixed gang of 13 persons was proclaimed in Mainpuri,⁷¹ called the Nagla Bhuri; two more fixed gangs were proclaimed in Bara Banki⁷² one called the 'Patan Din', the other called the 'Mathura' gangs in Sitapur district. Both the Patan Din and the Mathura gangs had a fair share of Brahmins, Thakurs, Jats, Pasis, Murrao, etc., and even Muhammedans. In 1913 four "mixed gangs" were declared as criminal tribes; in 1915 and 1918 also there were similar proclamations of gangs. (See Appendix V for such proclamations.)

Such indiscriminate application of the Criminal Tribes Act that the government was trying to make so with administrative categories, devised 25 years earlier, in a vastly

71. F.No.158-91, 1913 December, Police Part A, Nos.38-46. (Manipuri gang).

72. F.No.158-65 of 1913, Police, Part A, Nos.1-9 (Patan Din gang).

altered situation. There had earlier been a general policy which dealt with normal crime, or crimes not committed by inveterate criminals; at another level there was another policy clamped down on entire communities which were supposed to have been brought up in 'vice' and were thought to be virtually irredeemable. These were the criminal elements, who had to be 'controlled' and 'rehabilitated'.

But the "mixed gangs" intermingled people of high and low castes, normal criminals and the incorrigible criminals. To them, too, the colonial government responded with the categories ready to hand: the 'mixed gangs' achieved the status of "criminal tribes", one long reserved for only "a wild, vagrant population".

CHAPTER III
FOREST POLICY AND THE TRIBES



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I

ASSUMPTION OF STATE CONTROL OVER FOREST AREAS

This chapter deals with a mode of control over a natural resource in colonial India. Any form of control over resource bases seeks to subjugate and/or manipulate the base for advantage to the controller. This is clearly observable in the functioning of the British colonial administration. Different controlling devices were clamped on the available resources in India, and were exercised rigorously. These systems of control were backed by legal and penal systems, making the colonial control difficult to avoid even in the remotest areas.

The control over the management of the environment is seen especially concerning the renewable resources like trees, shrubs, pasture, soil, water and wildlife which could be utilized on a sustained-yield basis. We shall also examine how the thrust of such a policy can affect the dwellers in and around the forests. While one cannot state with certainty the exact ratio of private to common property in natural resources, clearly in India, the shared "usufructory rights" over common lands, or forests etc. were more preponderant before the British laws on "private" and "common property" penetrated the economy. The British

brought in more than the ideas, laws and institutions. They brought in the administrative capacity for wide ranging delimitations, essential for "delimiting" what was private and what was not and making good such delimitation.

Extensive common property provided the resource-base for a non-market economy. Moreover, it made freely available to forest dwelling people a whole range of necessary resources, like commonly available wood, shrubs etc. for cooking and heating; mud, bamboo palm-leaves and timber for housing; grass and undergrowth for animal fodder; and a variety of fruits, vegetables, and other jungle produce as food. Thus, basic energy, food and housing requirements could be met largely outside the market. This dependency on the free common property resources was naturally the greatest in tribal areas.

Sumit Sarkar¹ has affirmed the great importance of the forests as a source of free-resource availability - "Forest rights have been particularly important in our country with its peculiar coexistence of food-gathering, shifting cultivation ('podu', or 'jhum' cultivation) and settled agriculture."

1. Essay from A Critique of Colonial India, "Primitive Rebellion and Modern Nationalism: A Note on Forest Satyagraha in the Non-Cooperation Movements", p.78.

When these common property rights in forest produce and in land, were curtailed by the creation "of reserved forests" and "protected forests" what could the effect be?

State control over natural resources like minerals, oils, etc. did not affect the forest dwellers as much as the state's usurpation of the common rights over forest produce; henceforth one would have to pay for most primary resources which had been free earlier. Since most of these forest dwellers functioned in a primitive economy, and did not produce any commodities for exchange, any interference with their economy, like the ban on using forest produce, could affect their livelihood drastically. In this context, the forest people lived at the marginal, finely balanced subsistence level; slight fluctuations in the economy could change their life-style drastically.² Further, one could suggest that the forest policy of the colonial government disrupting the order of the previous usufructory economy upset its precarious balance. Such

2. Here it must be said that all the colonial ethnographers like W. Crooke, (*The Tribes and Castes of the North Western India*, 1896), H.H. Risley (*Tribes and Castes of Bengal*) and bureaucrats in the police like M. Kennedy stated in common that the majority of these tribes were very poor, for example, the Agriyas (vol.I, W. Crooke) who existed on the outskirts of the forests, "in convenient proximity". p.12.

These people were primarily iron-smelters and forgers, and therefore dependent on charcoal, which could only be available from the forests. However, though "the actual price which the iron fetches in the market is high, the profits made from the native merchants (Mahajan) and the immense disproportion between the time and

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disruption contributed in times of scarcity, to the crime rate at the lowest rung of the Indian society, where the line between "crime" and "clean and honest livelihood" was almost non-existent.

The long spell of years of scarcity and famine in the latter half of the 19th century also contributed to the sudden burgeoning of crime.⁴ These hard years added to the

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labour expended and the outturn, both combine to leave the unfortunate Agariya in a miserable state of poverty." (p.13) Moreover, their dependency on the forests was undoubted, for Crooke notes that "The native iron is specially valued for tools, etc., but with the diminution of jungle its manufacture will probably soon disappear." (p.13)

The Kanjars (derivation from the Sanskrit word Kanana-chara or, people who roamed the forests, p.136) were, according to W. Crooke, heavily reliant on forest produce (pp.150-51). Though they were a tribe, they catered to the village inhabitants, and thus held caste occupations too. They, too, were poor. (pp.50-51)

3. These terms are generally used in official terminology.
4. Report of the Jail Conference. See Appendix 1. It shows a steady increase in the rise of jail population. It is true that indicators of crime, like statistics, jail population, can show higher figures because of more efficient administration. But in Appendix I, it can be noticed that in 1869, when there was much scarcity all over the province, the number of jail population in the beginning of the year was 43,063, in col.IV, N.W.D. While in 1874, in the beginning of the year there were 37,170 prisoners due to the special working of Sections 504 and 506 of the Criminal Procedure Code. Yet for the same year, the jail population in the 1874, was higher in the beginning of the year 39,744, since it was a famine year in Bengal (Col.III). Thus one can perhaps say that certain administrative steps could increase the number of prisoners, famines, and other natural disasters were no less responsible for swelling the jail population.

pressure from the Forest Department taking over the forest tracts; together these issued partially in "crimes against property". The date itself of the passing of the first Criminal Tribes Act - 1871 - is significant. Although the bureaucrats had complained bitterly of the Thugs,⁵ Pindarees,⁵ and other castes and groups of robbers and thieves in 1840s and 1850s, they had been suppressed. Official correspondence proudly claimed to have reformed the erstwhile Thug chiefs. Yet, 1860s onwards the government found it impossible to cope with the epidemic of crime throughout India, though this is not to say or imply that crime was committed after 1860s only for economic reasons.

II

EFFECTS OF THE FOREST POLICY

Forest resources were considered very important by the colonial government since they were renewable and were

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5. Sher Singh Sher, The Sansis of Punjab, pp.241-42.
 "...the English began to tackle the crime of thuggee after the battle of Seringaparam in 1799...
 In 1828, William Bentinck... took up the... suppression of crime... The active operations of the thuggee and dacoity department covered a period of six years, and two thousand thugs were arrested...
 The operation went on up to 1853 when thuggee was eradicated. W.H. Sleeman wrote: "The system is destroyed, the profession is ruined... The craft and mystery of thuggee will no longer be handed down from father to son."
6. Ibid., p.243. "The Pindaris were annihilated by 1870."

essential for many industries, for railways, and were an important source of fuel besides. As B.H. Baden Powell emphasized, "...Forests constitute a store-house or rather, a growing stock of materials which are practically indispensable... and... for which no complete substitute can be found."⁷ Such a varied source of raw materials and forest produce was invaluable to the government, and it was inevitable that it should wish to tap it to its own advantage.

Baden Powell, while talking of the inevitability of assumption of state rights over "...areas... capable of yielding value" states, however, that though forests were so valuable, state rights were not assumed immediately over them, nor were all the forest tracts immediately taken over by the government. No definite policy was spelt out from the beginning regarding the appropriation of forest resources. It was more a gradual realisation of the forest wealth in India, its vast potentials and its utility value. However, the explicit assumption of Baden-Powell is that land, including all the forest tracts, belonged to the British government. Until it chose to claim it, the people "encroached and settled on it as they pleased..." but "Gradually the government realized the value of its waste lands and rules

7. B.H. Baden-Powell, Forest Law, 1893, 'Introduction,' p.1.

began to be made for their disposal, by lease or sale to cultivators. But still a long time elapsed before the government of India conceived the idea of definitely setting apart large areas of such land to form village and public or state forests."⁸

Moreover, in this view, the people had no rights over the forest tracts other than what the state chose to give them. Where tribes could settle in or around the forested tracts, forests were liable to be misused, for the tribals' ignorance made it impossible for them to comprehend that unless forests were "managed" and "preserved", the forests "would deteriorate and cease to be of use...." Therefore every care had to be taken so that the forest areas could be "increased and improved". In India, the Forest Department was reasonably certain that people had been made to understand that "appropriation of forest wealth without any rights" was unlawful but still there was a "lingering feeling in the minds of the ignorant... that forests are somehow free to anyone to do what he likes in or with."⁹

The Reserve Forests were divided into various classes. Customary rights were either restricted, qualified or not permitted to be exercised, according to the class of the

8. Ibid., p.3.

9. Ibid., p.2.

Reserve forests. There were three classes of reserve forests, first, second, and third. The first kind was wholly under Government control, and did not permit any customary right other than the rights granted by the Forest Department. The second, protected forests, had trees and other forest produce marked out for government. The Forest Department could exercise privileges here like banning customary rights, but by and large forest dwellers could have access to forest produce and so could other village inhabitants, who did not possess customary rights. The third category, though under nominal governmental control, belonged more or less to the public as public or village forests; but even these had particular species of trees marked out for governmental use. Furthermore, these categories of forests could be changed by the Forest Department at will, to the convenience of the government.

Moreover, the British government prided itself on not being unduly harsh on those who depended on forest produce. There were a number of rules inserted in the Forest Acts, presumably to protect the interests of the people. Therefore, before any forest tract was declared to be "reserved", there was a period of notification given, so that anyone who had any rights to the forest produce, pasturing, etc. could put forward his claims. Section 5 of the Forest Act of 1878, however, made it impossible for anyone to claim such a right after a lapse of three months from the issue

of the notice.¹⁰ Besides, rights so granted could not be invoked for "public purposes",¹⁰ i.e. for the use of groups or tribes, but could only be claimed on an individual basis. In this manner, even though the Government procedure for appropriating forest land was legal, one could suggest that the introduction of such a clause¹¹ loaded it against the forest people. Furthermore the clause providing for the 'notification' to be published "in the language of the country, in every town and village...", together with a time-frame within which one had to claim rights to forest produce, did not augur well for them.¹² Granted that there could be verbal proclamations of such notifications, one has to keep in mind the language of the Act which does not specify such a method of notification:¹³

"...fixing a period of not less than three months from the date of such proclamation, and requiring any person claiming any

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10. Section 5 of the Forest Act: "During the interval between the publication of such notification, and the date fixed by the notification... no right shall be acquired in or over the land comprised in such notification, except by succession or under a grant or contract in writing made or entered into by or on behalf of Government or some person /not persons or group of persons/ in whom such right was vested..." (emphasis mine)
11. Ibid.
12. Ibid., Section 6.
13. Ibid., Section 6c.

right... to present to such officer within such period a written notice specifying, or to appear before him and state, the nature of such right and the amount and particulars of the compensation..."

If the tribes' isolation is kept in mind, it seems rather unlikely that such a notification would reach them in time or that they would grasp its legal implications.

The following all-India figures seen over a period of 40 years reveal the extent of exploitation of the forest resources (see table-1).

Table-1:

Yearly average	Revenue (milli- ons)	Surplus (milli- ons)	Percentage of column 3 to column 2
1	2	3	4
1869-70 to 1873-74	5.6	1.7	30
1879-80 to 1883-84	8.8	3.2	36
1889-90 to 1893-94	15.9	7.3	46
1899-1900 to 1903-04	19.7	8.4	43
1909-10 to 1913-14	29.6	13.2	45
1919-20 to 1928-29	55.2	18.5	34

Source: E.P. Stebbing, Forests of India, vol.III, p.620.

Inspite of an asymmetrical increase in the surplus, that there is a general increase in the forest revenue is visible in the percentage of column 3 to column 4. Thus there is

a rise in the real exploitation rate though it is negligible (30-34). But in actual figures the rise does seem spectacular. In 1869-70 to 1873-74, the surplus in millions was 1.7 which rose to 18.5. There was a corresponding increase in the forest area.¹⁴

But in this general increase in the exploitation of forest resources where did the forest dwellers or village inhabitants, who were greatly dependent upon forest stand,

Traditionally, the forest dwellers had not owned the forests, but had merely enjoyed customary rights over the produce. The land, including the forest tracts, had belonged to the King. Likewise, the zamindars had collected taxes from the people¹⁵ without owning the land. The British government, as rulers, saw that the same custom determined the rights of both the forest dwellers and the zamindars; but the zamindars were retained as "revenue collectors", since they were lower level rulers and therefore remained in the same administrative and economic slot as before. Their retention helped the government, too, since it simplified the procedure of revenue collection; but in the second case, the customary right to forest produce was taken away from the village inhabitants and tribals. The forests had

14. From 3,413 square miles in April 1881, there was an increase to 13,518 square miles in 1903-04, in the total Reserve and Protected Forest Area. Administrative Reports of N.W.P. and Oudh in 1880-81 and 1903-04.

15. Bipan Chandra, Modern India, p.103.

vast potential as resources, and since the tribals living in such forest tracts had no comparable rulers like the zaminders, they were not co-opted into the administration; and these forest tracts were appropriated by the government.

The British administrators were hardly unaware of the absence of the concept of private property amongst the forest dwellers. There was sufficient sociological and anthropological data, prepared by British ethnographers concerning the communal possession of property among tribals, and also their customary rights to forest produce; but the Raj could not afford to lose its grip over the forest resources. To do the government justice, the administrators were aware of the forest dwellers and of their resentment towards the Forest Laws, and had no intention of interfering more than they could help in the life-style of the tribals the Madras Government hoped piously for

"as little as possible interference with the local customs of the villagers who have a very strong public opinion in regard to the persons who are entitled to enjoy the pasturage and fuel supply of the waste lands appertaining to the village."¹⁶

Inspite of this avowal of non-interference ⁱⁿ tribal rights to forest produce formed a big part of a hot debate. Mr. Amery, an official, talked about the distinction between

16. Revenue and Agriculture, Forest Branch, October 1895, F.No.4, Prog. Nos.5-6.

rights and privileges, meant "...those concessions of lawful authority which in the one case cannot and in the other may be withdrawn without the consent of the parties enjoying them..."¹⁷ In this context, Mr. Amery talks of the Bhil, "who enjoyed common rights of property in the Satpuras". While prepared to assist in the preservation of this "interesting race", Mr. Amery was not prepared to grant them untrammelled privileges in the forests:

"The right of conquest is the strongest of all rights - it is a right against which there is no appeal - but ...the British... would be unworthy of their present position in India if they did not administer the affairs of the region in such a manner as to elevate these interesting people in the social scale to an extent which will amply compensate them for the loss of independence, but, like the rest of the people of this vast empire, they must contribute their quota... towards the cost of a good government."¹⁸ (emphasis mine)

It would be "desirable to maintain a very considerable forest area.... But I would have no sentimentality treating them..." and the Bhils would "not get a stick" from the reserved forest "without payment".¹⁹ Mr. Amery also sums up the attitude of the Government of India towards forest resources:

17. Mr. Amery, "On Forest Rights", Report on the Proceeds Forest Conference, Simla, 1875, p.27.

18. Ibid., p.28.

19. Ibid., p.28.

"With the exception of the Sundarbans, I believe there is not a Forest in any province under the Government of India in which the public at large may cut a stick without sanction."²⁰

Mr. Amery's recommendation was:

"...the abrogation of all alienable forest rights on the ground that they are individual monopolies of state property whose holders contribute no quota to the state revenue..."

while inalienable rights are narrowed down to "...those expressly specified in Settlement Records."²¹ Furthermore, "...it shall be left entirely to the discretion of the Forest Department to determine what forest should be thrown open to grazing..."²²

The rules for the registration of grazing rights in the Lalitpur forests,²³ Jhansi district, were strict. The pasturage rates were raised in 1909 in this district from 4 annas per buffalo to 8 annas per buffalo and from 1 anna per cow, bull or horse to 5 annas per cow, bull or horse. The rates were raised partially to discourage the Banjaras, who were professional cattle-breeders, from grazing their cattle in the Lalitpur forests; and partly because the new

20. Ibid., p.28.

21. Ibid., p.27.

22. Ibid., p.28.

23. Forest Department, January 1909, Part A, F.No.202, Prog. Nos.12-23.

rates were perfectly justifiable; according to an officer: only the "necessary cattle", (i.e. "all animals really required to carry on the agriculture") were lightly taxed. The government ^{felt} cheated since the villagers had kept "large number of animals for sale and ghi-making".

"I consider it only fair that they should pay something for them ghi-making profits practically escape taxation... [in] the Lalitpur forest settlement... in many villages near the forests the annual value of the ghi exported was anything upto 5 times the total annual revenue of the villages."²⁴ Many forests are even closed to grazing, e.g. the Lalitpur forests in Jhansi district.²⁵ An official complained to his superior that there was a considerable loss of revenue, from grazing fees in the Central Provinces, and actually proposed a hike in grazing dues.²⁶ However the forest-dwellers had had access to forest produce throughout history. So even if they had no official sanction to the forest produce, they still used them; the forest law of 1878 had to take notice of this fact. In fact, sections

24. Forest Dept., Part A, F.No.202, 1909, January, Prog. Nos. 12-23.

25. Forest Dept., F.No.195, 1908, January, Govt. of United Provinces.

26. Dept. of Revenue and Agriculture, Forest Branch, 1895, December, F.No.177, Prog.Nos.12-14, Part A. From Denzil Ibbetson, officiating secy. to the Govt. of India, Commissioner of the Central Provinces.

6-16 in the Forest Act of 1878 is devoted to practices that were common to forest dwellers and villagers, e.g. 'podu' cultivation, grazing, water resources, the use of forest produce, etc.

Governmental usurpation of forest resources and the abrogation of customary rights made forest offences rise sharply between 1873 and 1881. Thus from 371 persons implicated in forest offences out of whom 276²⁷ were convicted in 1873-74, the figures rose to 1,008 persons implicated out of whom 824 were convicted in 1880-81.²⁸

By 1902, there was no longer any tabulation of individual offenders, but instead a tally of cases involving one or more persons. Thus in 1901-02,²⁹ there were 834 cases; in 1902-03³⁰ 742 cases; in 1903-04³¹ 1,387. In Pilibhit,

"the people... are particularly hostile to forest protection; in order to stop incendiaryism, the Government has been compelled to suspend the rights enjoyed by the inhabitants of the villages most concerned."³²

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27. North Western Provinces/^{and Oudh} Administrative Report, 1873-74, pp.169-72.
28. Ibid., 1880-81, pp.139-47.
29. Ibid., 1902-03 (figures for previous year included), pp.29ff.
30. Ibid., 1902-03, pp.29 ff.
31. Ibid., 1903-04, p.150.
32. Ibid., 1902-03, p.30.

The Administrative Reports (1902-03, 1903-04, 1904-05) all mention breach of rules - grazing rights were violated; "...the rules as to grazing are so wilfully disregarded that the conservator has ordered prosecution in all the cases."³³ The great prevalence of illicit grazing in the two forest zones of Bahraich and Gonda was evident in the numbers of cattle being impounded: 8,543 in 1905-06³⁴; and 10,507 in 1906-07³⁵. The Administrative Reports of both the years - 1903-04 and 1904-05 - unfortunately noted a reduction in grazing grounds. Occasionally, grazing grounds would be closed due to over-grazing, but no alternative grazing ground would be provided in most cases, leading to over-grazing on the meadow used by the villagers and forest-dwellers.³⁶ Forest rules were broken, forest offences increased: the forest dwellers and peasants became restive. The tightening of the British Government on the forest resources, and the dissatisfaction it aroused is commented upon by many historians, e.g. Sumit Sarkar³⁷, Hardiman³⁸

33. Ibid., 1903-04, p.28.

34. Ibid., 1905-06, p.24.

35. Ibid., 1906-07, p.27.

36. Forest Deptt., 1909, September, F.No.120, Prog. Nos.22-26, Part A; also Forest Deptt., 1916, F.No.111.

37. Sarkar's Popular Movements and 'Middle Class' Leadership in Late Colonial India has said: "For millenia (and by no means India alone) the virgin forest has provided a variety of 'free goods' for the rural poor..." and thus "the ban on shifting cultivation was particularly

and D. Arnold.³⁹

In order to increase its revenue, the Government sought to widen its control over the forest resources. An example of this can be seen in the inclusion of the 'palm tree' in 1890, after it had been excluded by the Forest Act of 1878. This move had very far-reaching effects. For the Abkari Laws prevented the forest dwellers and villagers from manufacturing toddy (tadi) on their own; henceforth they would be forced to buy their drinks from licensed liquor shops. The rigour of enforcing the Abkari rights varied from presidency to presidency, district to district;⁴⁰ yet, the general

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disastrous for tribals and poor peasants in forest areas..." (p.11) "Nor was the alienation of a purely economic and material kind. The sudden clamping-down of restrictions on the use of or even entry into 'reserved' forests rudely disrupted deep-rooted and profoundly evocative cultural pattern."

38. David Hardiman's Coming of the Devi analyses the vital role toddy played in the lives of the Adivasis of South Gujrat, (pp.99-127) which they used to make themselves. But "the British disliked the existing system of liquor manufacture and sale as it provided an opportunity for widespread evasion of revenue." (p.110) He also showed the disastrous effects the Abakari Law of 1878 had on the adivasis of South Gujrat.
39. David Arnold's "Dacoity and Rural Crime in Madras, 1860-1940", Journal of Peasant Studies, 6, 2, Jan., 1979, pp.145-9, is an excellent study of the correlation between years of scarcity or famine and food riots, dacoity and thefts.
40. David Hardiman's Coming of the Devi, analyses how important toddy was to the Adivasis of Gujarat, pp.104-9.

idea behind the prevention of village-based manufacture of liquor was to tap another lucrative source of revenue by levying excise. In the Reserved and Protected Forests, many things integral to the tribal way of life were banned; activities like clearing forest tracts for whatever purpose, kindling fire in the forest, allowing cattle to graze there, felling or damaging trees, hunting, and other similar appropriation of forest produce crimes became punishable by law. (See Appendix VI for the clauses delimiting forest rights.) Even rights in the forests were inalienable and could not be bartered or sold; such rights were for individual use only. As necessary forest produce had been forbidden to forest dwellers and villagers alike, for example, fruits, roots, firewood etc., forest offences were all too easily committed. A. Bhowmick takes up the Lodhas of Bengal, who turned criminal partly because they could not get free entry into the forest.⁴¹

With the built-in-mechanism of an additional and parallel criminal law with its own procedures, sanctions and punishments within the Forest Acts (a forest officer could arrest without a warrant if he thought that the person was committing an offence pertaining to forests) any transgressions could be dealt with.⁴² In 1875, it was suggested

41. A. Bhowmick, Some Aspects of Indian Anthropology, p.125.

42. Forest Act, 1878. See Appendix.

that the Forest Department should have penalties and rewards quite distinct from the Penal Code.⁴³

The Forest Acts, by curtailing many activities, rights and privileges, and by giving to the government the right to declare any forest tract as the property of the government, was helping to create a crisis at the level of the lowest strata of society. The money economy, introduced by the British rule, penetrated the forest tracts before long.

With the takeover of the government of these forest tracts, inevitably an external agency was introduced which became the prime beneficiary of the government's policy. For, with the only exception of unclassified forests, which were in any case of poor quality, all the timber that was removed was auctioned to contractors. These contractors generally paid a lump-sum for the whole produce. Sometimes they even paid a royalty to the purchasers along with the lump-sum, in order to induce them to remove timber of poor quality as well as good quality. Bamboos, too, were auctioned off to the contractors. Grass and other minor products were farmed out to the contractors over defined areas. The tribals of the forests, village inhabitants⁴⁴ and even the

43. Horsley's, "The Khandesh Satpura Forests and their Bheel inhabitants", Forest Conference, 1875, op. cit.

44. Imperial Gazetteer of India, vol.XXIV, Travancore to Zira, p.197.

settled criminal tribes⁴⁵ provided the Forest Department with labour. Here one can observe how changes were transforming the tribals and rural economy; no longer would they have the privileges of grazing their cattle free of cost, and taking fodder for them from the forests. Grazing could only be permitted at certain rates.⁴⁶ Unfortunately, while being cast out of their own milieu, these forest dwellers found no cushioning effect in the larger society they were slung into.

The people who actually owned rights and privileges, i.e. those who could establish or demonstrate their customary rights to the forest produce continued to get a supply of fuel and other produce at privileged rate or free of cost. However, to do the Forest administration justice, during famines, or in hard years (poor crops, scanty rainfall etc.), the people were entitled to get supplies of fuel-wood or other forest produce at reduced rates, or even free.⁴⁷

45. Barwars were expected to work on the government forests. Forest officials oppressed and exploited the criminal tribes, who were forced to provide free labour. Home Judicial, 1896, August, Nos.44-49, Part B; David Hardiman, Coming of the Devi, mentions the exploitation of tribals by the Forest officials.

46. Imperial Gazetteer of India; op. cit., pp.197-98.

47. Ibid., p.199.

There was even some kind of provision for the people who owned no rights to the forests or its produce, yet needed such produce in small quantities for personal consumption. The purchasers at auctions were directed to sell some of the produce to the local consumers who needed it. These purchasers and contractors were obviously persons with money, though it is difficult to generalize them all as belonging to the money-lending class. Whether such directions were carried out with promptitude is rather doubtful. In this context, perhaps a mention of the Bhils, a forest tribe of Madhya Pradesh, would not be inappropriate. The Bhils of the Satpura Hills in Khandesh were sufferers of the effects of the Forest Policy. They were not designated as 'criminal tribes' in official reports, but they were known as dangerous, without having respect for the law. With regard to the Bhils, the question of their rights and privileges to forest produce became quite acute. The Bhils had a naturally turbulent nature and "were famous throughout Western India for their skill in tracking wild animals..."⁴⁸ But before General Outram had cowed them into submission, the Bhils had been "in a chronic state of rebellion. From time to time, under the leadership of various chiefs they had descended to the plains of Tapti, looted villages and had carried the spoils back to the fastnesses of the

48. Mr. Horsley, "Khandesh Satpura Forests and Their Bheel Inhabitants" in Forest Conference, 1875, p.25 ff.

Satpura."⁴⁹ The plunder of the Bhils was dreaded by the villagers so much that many actually left the villages, for the Bhils considered it their right to impose a "tax upon all persons passing through the country of their occupation." It was often necessary to send troops after them, and keep up a guerilla warfare with them for months together. Though they had become more friendly towards the European officers, "their relations with the Forest Department, especially where their colonies lie the thickest," undoubtedly "lacked in cordiality." Possibly the unpopularity of the Bhils with the forest department was because the latter felt that "a wandering wood-cutting population is a very wasteful one, doing an amount of damage disproportionate to the actual cost of their livelihood." The only way out of this difficulty was to turn them into agriculturists, and thereby to enable them to live in less space. "If they would only take up agriculture, combined let us say... with... cattle breeding, 200 acres would go as far as 2,000, or even more..."

Efforts were made annually

"to bring about this desirable result; bullocks are being brought by the government... and lent to them to plough their land. Seed is bought and given to them on condition of repayment. All such measures, however, take time to bear fruit and the Bheel still clings to his wood-cutting..."⁵⁰

49. Ibid., p.25.

50. Ibid., p.25.

Mr. Horsley admitted that the claims of the Forest Department on the timber of the Satpuras (in great demand on the plains of Khandesh) were difficult crosses for the Bhils to bear. Till the happy day the Bhils would finally be turned into "agriculturists", he conceded that they had a right to the forest produce (timber, etc.). "The Satpura forests are the great source of wood-supply to the plains of Khandesh. The Bhils living in that area have a right to make a livelihood by supplying some of that wood."⁵¹ But the working of the Forest Department just required anyone to pay a small fee and cut the timber which was not reserved for the government.

"Thus a sowcar, living in the plains of Khandesh, miles away from the Satpuras, can send up a dozen carts with his servants and cut and carry off the wood he wants without consulting or employing Bheels or paying them anything."⁵²

It might be asked why the Bhils also could not do the same; but, handicapped by extreme poverty, they could not afford a cart but could only "carry one small log at a time on their heads"⁵³ down to the plains; therefore they could not sell wood in the plains regularly. What irritated them no end was that a man living far away from their village could

51. Ibid., p.25.

52. Ibid.

53. Ibid.

actually take away wood from near their villages, without their making any profit themselves. They were also being ousted from the local markets by the men who commanded capital in the shape of bullocks, carts and money.

The inroads of the money economy were becoming growingly disastrous for these forest tribes. The tribal society got more and more indebted to the money lending class. This indebtedness of the tribals to the money lender happened in all cases where the tribals were in a position for the money lender to establish a hold over them. - i.e. if the tribals were peasants or landless labourers and dependent on the money-lenders for loans.⁵⁴ Or as in this case, the fact that Bhils lived in a forest was sufficient for them to feel the heavy hand of the sowcar, who appropriated the forest produce without giving any cut to the tribals.

The grip of the sowcars on the Bhils had been observed by the officials.⁵⁵ But to them the only solution to the problem lay in the Bhils abandoning their tribal occupation of wood-cutting and becoming cultivators. It was even suggested that the Bhils, since they were expert trackers, could be turned into forest rangers, and they could run the Forest Department as "rangers"; while the Forest Department

54. David Hardiman, Coming of the Devi, Chap.II, pp.177-88.

55. Horsley, Forest Conference, op. cit.

would run practically free of cost.⁵⁶ These hopes turned out to be misplaced.

The Bhils believed themselves to be the masters of the forest and they often protested against the forest department by setting the forest on fire.⁵⁷ There was also a long history of Bhil uprisings, the last major one, in December 1914, being set off by a rumour that the British were being defeated by the Germans in Europe.⁵⁸

Another similar, rather militant reaction to the forest policy, and the inroads of the money-lenders, came from the Mahadeo Kolis of Bombay Presidency. They were a constant "source of anxiety to the police", and occupied the rather inaccessible Sahyadri Range, and thus lived in a naturally fortified area, as the police used to find to their cost. They were not ordinarily thieves or burglars.

He is a source of trouble and anxiety only when he takes to outlawry, and then he takes to dacoity, robbery, grievous hurt and sometimes murder. In the matter of criminal tendencies, Kolis bear a strong resemblance to Bhils."⁵⁹

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56. Ibid. Amery, "On Forest Rights". "...as civilization spreads its meshes around them, creating the sense of new wants, they might take service in the government forests... and prove a very high type of forest subordinates." p.28
57. David Hardiman, op. cit., p.181, citing from Report by G.E. Majoribanks, 3 July 1911, BA, R.D., 1911, vol.120, Com. 1113.
58. Ibid., p.181.
59. M. Kennedy, Criminal Classes in India, p.93.

The other Kolis were generally sympathetic to the outlaws either through fear, or because of a conviction that such outlaws acted as a deterrent to the rapaciousness of money-lenders and that an "effective check" was "imposed on the movements and demands of the money-lending class."⁶⁰ Such 'checks' were generally violently vindictive.⁶¹ Moreover, the Koli outlaws 'campaign against forest officials'⁶² also earned them a lot of goodwill, which generally took the shape of active cooperation.⁶³

60. Ibid., p.95.

61. Ibid. "When the object of a gang is to wreak vengeance on some usurious moneylender, it will enter the village, usually by night, burn his books, take such jewellery and clothes as it can lay hands on..." p.94

62. "The forest peons who have to travel about alone in the jungle behave better generally and are less zealous in the discharge of their duties." p.95.

63. "...the great majority of the class regard a proclaimed leader and his gang as heroes, sympathise with them in the campaign against moneylenders, forest officials, etc., aid them to evade the police, and will, if need be, feed and harbour them. Hence outlawry thrives, as everything operates against the forces of the State, and in favour of the criminals." p.95. The Kolis' cooperation also took other forms: "Every Koli is an 'informer' for the gang; every hill is a signal station and every village sends its messenger; and in the ghat country a Koli will do thirty miles while a policeman is doing ten, into the wilds and fastnesses with the latest news regarding the movements of the police." p.95.

The Mahadeo Kolis certainly bore a startling resemblance to E.J. Hobsbawm's perception of 'social bandits'.⁶⁴ The Kolis were "...the symptoms of crisis and tension in their society..."⁶⁵, their programme was "the defence or restoration of the traditional order of things, as it should be..."⁶⁶ and also "they right wrongs, they correct and avenge cases of injustice,"⁶⁷ an essential feature of social banditry. Moreover, the Kolis evoked sympathy and support of the rest of the peasant society, without which social banditry could not flourish.

Another forest tribe which faced problems were the Kanjars, who were "an aggregate of vagrant tribes of a gypsy character found throughout the Province." They were a typical jungle tribe:

"Their natural home is the forest, where they subsist by hunting wolves, hares and any kind of animal they can catch or kill, by gathering such roots and vegetable products as require no cultivation, and by extracting juice from the palm-tree, and which, after it has become fermented, is the favourite beverage of almost all the wandering and low-caste tribes of India."⁶⁸

64. E.J. Hobsbawm, Bandits, 1985.

65. Ibid., p.24.

66. Ibid., p.26.

67. Ibid., p.26.

68. W. Crooke, Tribes and Castes of the North Western India, vol.III, p.136.

Not all the Kanjars were distributed throughout the forest tracts in the United Provinces, but some lived on the outskirts of the forests, within easy reach of village. Though termed to be a 'forest tribe', by 1870, the Kanjars were known as desperate criminals, almost synonymous with Buddhuks or a Sonoria:

"When a man tells you he is a Buddhuk, or a Kunjur (sic. Kanjar), or a Sonoria, he tells you he is an offender against the law, has been ever since the beginning, and will be so to the end..."⁶⁹ A forest tribe had become a criminal one, and their criminality was seen not as a recent development, but an integral to their tribal lives and culture.

Thus the "criminality" of the forest tribes, and even villager inhabitants nearby could be attributed in part to the desperate seeking by uprooted population for means of subsistence.

69. Ibid., p.150.

CONCLUSION

CONCLUSION

This study examines "criminal tribes" in the light of the colonial perception of them. It does not go into the question of whether the adjective "criminal" was merited or not. Rather, its focus is on the "criminal tribes" as the British saw them.

Within this limited framework, then, the study considers a few issues. First, following Foucault, it reviews the treatment meted out to similar vagrant groups in early modern France. While there were laws and penalties for such groups in the West, similar laws in colonial India underwent a mutation: thus a law like the Criminal Tribes Act of India could be enacted to hold at bay a particular class of people whom the Government suspected. Thus the "criminal tribes" were segregated in trying to pre-empt crime. There was careful official documentation of their movements, habits, social status etc. for better knowledge of them, which, it was hoped, would facilitate better control.

The study tries to see, too, how the general population viewed them - and the legal restraints imposed on them. These "criminal tribes" and "castes" were held in widespread social disapprobation: the restrictions imposed on them met with approval. Made ostensibly for the security of the people, such legal restrictions appear to have enhanced the legitimacy

of the British Government in the eyes of the people.

Since these "criminal tribes" were famed for their lawlessness, there is an attempt to gauge the extent of their deprivations. From the available sources, it can perhaps be said that their crimes were essentially petty - and seldom violent. A few case studies of the Barwars, Sansiahs, Haburahs and Bauriahs have been examined to show that the Government's aim to turn these "criminal tribes" into cultivators by confining them in settlements miscarried. They could not be reformed only by coercion. Such attempts by the Raj only resulted in mass absconding. The Salvation Army's approach towards the settlements of these "criminal tribes" provides a contrast; it tried to provide the "criminal tribes" with work that suited their interests and these settlements actually became profit-generating. However, since there was paucity of Government land and resources for these Salvation Army "settlements", their number did not increase.

On the other hand, by the 1920s, declaration of gangs of mixed castes or tribes, occasionally involving just three to four persons as "criminal" increased. In this development, one can perhaps see the breakdown of the former colonial distinction between the criminals from the general population, as against those belonging to "criminal tribes" and "castes". Yet, the Criminal Tribes Act was not abandoned. Instead it was stretched to cover gangs which did not resemble

"vagrant tribes".

The study then focusses on the Forest and Abkari Laws, and suggests that perhaps the state policy was in part responsible for creating distress amongst those who had earlier had access to those natural resources. The state, therefore, contributed in part towards an increasing crime rate. This dissertation was necessarily limited in scope. However, in a limited time-frame and with equally limited source-material, it tries to examine a category "criminal tribe" as perceived by the Raj, and attempts to follow the swing of the colonial policy, as the Criminal Tribes Act became more heterogenous in its social reference.

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APPENDICES

APPENDIX-I

JAIL POPULATION AT THE BEGINNING OF THE YEAR
AND END OF THE YEAR

Year	Madras I		Bombay II		Bengal III		N.W.F. IV		Punjab V		Oudh VI	
	1	2	1	2	1	2	1	2	1	2	1	2
1860				3,290c		14,517		15,947h		10,504		2,025
1861				2,452c		14,593		16,576i		10,525		3,498
1862				3,488c		16,006		15,589		10,306		4,825
1863				4,124d		15,951		16,016		9,424		5,190
1864				3,947e		16,280		15,939		9,893		5,814
1865			18,461f	6,403f		17,619g	29,148	15,593		10,758	11,407	5,599
1866			15,612	5,661		20,555	31,074	15,562		10,181	11,006	6,499
1867			14,690	6,105		17,272	29,350	14,624		10,335	9,882	6,491
1868			14,365	6,176		18,375	33,880	16,694		11,984	9,643	6,841
1869	12,962	9,209	12,219	6,428	32,793	17,169	43,063j	19,162		12,028	9,320	6,241
1870	10,794	9,012	12,857	6,848	27,253	16,329	27,233	16,523	19,619	12,566	10,417	6,174
1871	10,427	8,804	12,936	6,863	27,999	16,254	24,223	15,672	20,527	13,003	13,993	7,312
1872	11,637	8,780	13,885	6,744	33,035	18,311	28,587	17,467	18,914	12,199	14,330	8,543
1873	12,700	9,211	13,966	7,834	35,480	19,210	33,739k	19,998k	21,919	14,104	12,535	8,008
1874	14,454	9,394	13,604	7,946	39,744g	19,855g	37,170k	22,106k	21,437	14,273	12,535	8,008
1875	15,170	9,510	16,191	8,429	37,674	19,695	35,575k	22,012k	19,985	13,298	11,319	7,394

Note: 1 denotes 'Jail population at the beginning of the year';
2 denotes 'Jail population at the end of the year'.

INDEX: a - Exclusive of subsidiary jails; b - Exclusive of subsidiary jails;
c - Figures for Bombay only; d - Bombay, Sind and Aden; e - Bombay and Aden;
f - Bombay, Sind and Aden; g - Famine year; h - Scarcity towards the latter part of the year;
i - Severe famine in greater part of the province;
j - Much scarcity all over the province grain prices riding high;
k - Increase to some extent due to the workings of sections 504 and 506 of the Criminal Procedure Code.

Source: Report of the Indian Jail Conference 1877 (pp.16 & 17).

APPENDIX-II

NUMBER OF PETTY CRIMES REGISTERED

I	II	III	IV	V	VI
Year	Number of cases where property below Rs.5/- stolen	Number of cases where property above Rs.5/- stolen	Number of cases without theft	Attempts at the offence	Total number of cases reported
1888	169	209	269	394	1,041
1889	355	262	550	368	1,535
1890	452	248	690	431	1,821

Source: Evidence Recorded by the Committee Appointed by Government, to Enquire into Certain Questions Connected with Police Administration of the North Western Provinces and Oudh, 1890, p.31.

APPENDIX-III

JAIL POPULATION : FOOD AVAILABILITY

BENGAL PRESIDENCY																
Month	1869 I		1870 II		1871 III		1872 IV		1873 V		1874 VI		1875 VII		1876 VIII	
	1	2	1	2	1	2	1	2	1	2	1	2	1	2	1	2
Jan.	410	6,900	350	7,500	470	6,300	470	6,300	330	7,700	250	8,500	310	7,900	370	7,300
Feb.	400	7,100	380	7,200	470	6,300	440	6,600	330	7,700	250	8,500	320	7,800	380	7,200
Mar.	400	7,000	410	6,900	480	6,200	420	6,800	340	7,600	250	8,500	320	7,800	420	6,800
Apr.	390	7,100	430	6,700	480	6,200	420	6,800	320	7,800	240	8,600	330	7,700	410	6,900
May	380	7,200	430	6,700	480	6,200	430	6,700	320	8,000	250	8,500	340	7,600	410	6,900
Jun.	370	7,300	430	6,700	480	6,200	410	6,900	300	8,000	250	8,500	340	7,600	400	7,000
Jul.	340	7,600	440	6,600	480	6,200	380	7,200	280	8,200	250	8,500	330	7,700	400	7,000
Aug.	320	7,800	450	6,500	480	6,200	340	7,600	250	8,500	260	8,400	330	7,700	400	7,000
Sep.	280	8,200	450	6,500	470	6,300	300	8,000	210	8,900	260	8,400	330	7,700		
Oct.	290	8,100	450	6,500	470	6,300	300	8,000	200	9,000	270	8,300	320	7,800		
Nov.	310	7,900	460	6,400	460	6,400	310	7,900	210	8,900	280	8,200	330	7,700		
Dec.	330	7,700	460	6,400	470	6,300	320	7,800	230	8,700	290	8,100	350	7,500		

Note: 1 denotes 'Chittals of Wheat per rupee';
 2 denotes 'Daily number of convicted criminals in jail'.

Source: Report of the Indian Jail Conference, Assembled in Calcutta, Jan.-March - 1877.

APPENDIX-IV

BARWARS

Falsi Years	I Cultivation				II Total Population					III Land Area		
	Men	Women	Boys	Girls	Men	Women	Boys	Girls	Total	Bighas	Biswa	Biswania
1891 1298	754	1,179	485	466	1,683	1,508	592	578	4,360	3,154	4	12
1892 1299	703	1,030	433	470	1,692	1,492	603	635	4,423	2,971	5	1
1893 1300	788	1,031	393	394	1,562	1,466	551	542	4,121	3,063	11	-
1894 1301	816	1,053	414	406	1,581	1,479	545	540	4,145	3,339	5	-
1896 1302	735	1,063	412	411	1,570	1,469	543	529	4,111	3,308	16	-
1896 1303	609	1,094	478	484	1,504	1,412	573	575	4,064	3,282	5	-

Source: p.37 of the File 1896, Judicial, Part B Prog Nos.44-49.

APPENDIX-V
PROCLAMATION OF MIXED GANGS.

(a) Ibid. The gang leaders of the Mainpuri gang, in all only 18 male adults, in 1909, lived in the Nagla Bhuri village, and all had a very bad reputation. Actually Nagla Bhuri was not quite a village, but a hamlet of Pisapura, and the latter belonged to Rani Kisori Saheba, who was the zamindar of this village. (Details from the 'Village Crime note-book') while Bhawani Pershad was her karinda. All the land, except for the 'mourasi' land which belonged to the residents of Nagla Bhuri, was taken from them by the karinda in 1913, and "this has become a great source of annoyance", presumably to the residents of Nagla Dhuri and the police expected the possibility of "a quarrel some day with serious consequences". But in 1913, "after consultation with the authorities in Mainpuri district," the gang was proclaimed a Criminal Tribe.

(b) F.No.158-86, 1913 May, Nos.33-42. Proclamation of Lodhs of village Madaripur Kalan.

(c) F.No.158-82, 1913, April, Part A, Prog. Nos.1-9. Police Proclamation of the Borsai Pasis of the Gonda district under C.T. Act, from W.S. Harris, C.I.E., Ins. Gen. of Police, U.P. To Secy. U. Prov. (Feb. 1917).

(d) F.No.158-18 of 1913, Police Deptt., March. Part A, Nos.15-18, From A.W.Richardson, Ins. Gen. of Police. To Secy. to the Govt. of the U.P.

"The registration of all males over 15 years" of the following - Bhars, Mallahs of Agra, Aligarh and Mirzapur, Chain Chamars of Jaunpur, the Pasis, Mewatis and Gujars.

(e) F.No.158-10 of 1913, Jan. Part A, Nos.28-31, the Badaks of Muttra, Shahjahanpur, Budaon, Kheri were proclaimed - all males over 15, "who are no longer active criminals... whether or not they have developed criminal propensities.

(f) F.No.158-81 of 1913, Police, March, Part A, Nos-28-28. Proclamation of Khatiks of the Gonda U. Prov. district under the C.T. Act.

(g) F.No.158-87, Police Deptt. October, Part A, Nos-1-9. A gang of 5 Ahirs proclaimed under C.T.A. (The Hon'ble Mr. W.S. Marris, C.I.E., Inspector General of Police to Secy. to United Provinces Govt.

(h) F.No.158-43 of 1913 (1917) Police Deptt. June Part A. Proclaimed by S.P. O'Donnell, Secy. to Govt., United Provinces.

(i) F.No.654/1924, No.1. Proclamation of a mixed gang of criminals called Bamrauli Katara, Agra district; out of ten members, six were Jats, two were Brahmins, while one each came from Kumhar and Dhobi classes, respectively.

(j) F.No.654/1926, S.No.1, Police Deptt. No.434. The proclamation under the C.T. Act of a mixed gang of criminals of the Benares district, led by Ram Prasad Chamar. The gang consisted of Rishan and Jangal Chamars, Munnilal and Pudan, both Kunbis, and Raghunath, who was a Brahmin!

FOREST : APPENDIX VI

Act of 1878:

Section I: Tree includes bamboos, stumps and brushwood.

Timber includes trees and bamboos when they have fallen or have been felled, and all wood, whether cut up, or fashioned, or hollowed out, for cart wheels, mortars, canoes or other purposes or not.

Forest produce includes the following when found in, or brought from, a forest, that is to say, minerals, (including limestone and laterite, surface-soil, timber, grass, peat, canes, creepers, reeds, leaves, moss, flowers, fruits, roots, juice, catechu, bark, honey, wax, lac, caoutchouc, gum, wood-oil, grass-oil, resin, varnish, silk-worms and cocoons, shells, skins, tusks, bones and horn.

Cattle includes elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids.

Act of 1890:

Section I: Tree includes palms, bamboos, stumps, brushwood and canes.

b(1) The following when found in or brought from, a forest, that is to say,

i) trees and leaves, flowers and fruits, and all other parts or produce not herein before mentioned of trees. (emphasis)

(The other forest produce has been tabulated in the Forest Act, 1878.)

Sec. 29 of Forest Act 1878:

The local Government may from time to time, by notification in the local official Gazette -

- a) declare any class of trees in a protected forest, or any trees in any such forest, to be reserved from a date fixed by such notification;
- b) declare that a portion of such forest be closed for such term not exceeding twenty years as the local Government thinks fit, and that the rights of private persons (if any) over such portion shall be suspended during such term;
- c) prohibit, from a date fixed as aforesaid, the quarrying of stone, or the burning of lime or charcoal, or the collection or subjection to any manufacturing process, or removal, of any forest produce, in any such forest, and the breaking up or clearing for cultivation, for building, for herding cattle or for any other purpose in any such forest (which makes manufacture of toddy illegal).

30. The Collector or Deputy Commissioner of the district shall cause a translation into the language of the district, of every notification issued under section 29, to be fixed in a conspicuous place in every town and village

in the neighbourhood of the forest comprised in the notification.

31. Power to make rules for protected forests; (which was accessible to the public).
- a) the cutting, ~~sowing~~, conversion and removal of trees and timber, and the collection, manufacture and removal of forest produce from protected forest.
 - b) the granting of licenses to the inhabitants of towns and villages in the vicinity of protected forests to take trees, timber or other forest produce for their own use, and the production and return of such licenses by such persons; (emphasis mine)
 - d) the payments... to be made by the persons mentioned in clauses (b) and (c) (the same procedure by traders, mentioned in clause (c)) of this section, for permission to cut such trees, or to collect and remove such timber or other forest produce;
 - e) the other payments, (if any) to be made by them in respect of such trees, timber and produce...
32. Any person who commits the following offences (all offences not mentioned)
- a) fells, girdles, lops, taps, or burns any tree or strips of bark or leaves from..., reserved under Section 29.
 - b) quarries any stone or burns any lime or orchard, or collects, subjects to any manufacturing process , or

removes, any forest produce;

c) contrary to any prohibition under section 29, breaks up or clears for cultivation or any other purpose any land in any protected forest;

d) sets fire to such forest, or kindles a fire without taking all possible precautions...

e) permits cattle to damage any such tree;

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

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