

Criminal Tribes and the Debates on Criminal Law

Criminal Tribes Act, 1871: The Construction of an Indian Criminal

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The British instituted a piece of legislation, the Criminal Tribes Act (CTA) in 1871. The purpose of the Act had been to suppress "hereditary criminal" sections of Indian society. CTA was first applied to Northern India and in 1911 a revised version was applied to the whole of British India. A total of about 200 communities were affected by this law. Today's denotified communities are the ones who were covered by this act and were later denotified by Pandit Nehru in 1952, when this Act was scrapped, being considered by Panditji to be a blot on the lawbook.

The late 19th century had been a particularly hard period for the policy maker in British India, with economic depression, unemployment, strikes and growing political radicalism. Poverty, alcoholism, illhealth (and crime) had not disappeared in England inspite of decades of social legislation. There was great temptation for believing - preferably supported with scientific proof - that crime was a hereditary trait, and called for **measures to re-engineer society on biological, rather than social or political bases.**

The pseudo-science of Eugenics seemed to provide an explanation, among many other issues, to the problem of rising crime and poverty. Indian criminality was linked to the introduction of the railways, the new forest policy, repeated famines and so on. The administrative rationale was that with the introduction of certain policies designed to raise revenue, some communities had irrevocably lost their means of livelihood. How else could they live except by committing crime, especially if there was no property to support them?

The relationship between itinerant and sedentary communities has become increasingly problematic in modern times. The more the itinerant communities get marginalised to the main sphere of society because of transformative processes, the more they become suspect from the point of view of the sedentary society they interact with. In real terms, their increasing marginality simply compounds the already existing prejudices against them. In Europe, gypsies became gradually marginalised to the established system with the processes of industrialisation. In India, it was the colonial revenue policies which destroyed the itinerant communities' earlier trading practises.

The plethora of new legislation that the British introduced created new 'criminals' all the time. These were either people ignorant of the new laws, or those wilfully defiant of the ones which encroached on their traditional rights - for instance, forest laws. There were a number of communities who did not know the newly imposed forest laws under which they were forbidden to collect honey, bamboo leaves, or medicinal herbs which they used to barter with the villagers. They continued to do so, partly in ignorance, partly thinking this to be their hereditary right. The large number of new laws on common pastures for grazing of cattle similarly turned whole communities into criminal tribes by the British administration because they continued to graze their cattle.

It is worth pointing out here that there was the additional input into notions of criminality by the then developing discipline of anthropometry and anthropology as well. These disciplines in India addressed themselves to the study of particular sections of the Indian population, mostly indigenous 'tribal' communities and itinerant groups, and contributed in a very substantial way to the conceptual outline of a criminal in the popular mind. By focusing on bizarre or exotic ritual aspects of the social lives of such communities, and at the same time also on their differential anthropometric measurements, these disciplines managed to draw the fine line between a civilised and barbaric individual.

Hence, the many strands from science, myth, religion, official ethnography which went into a definition of a criminal need to be explored in detail and documented.