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Criminal branding of De-notified and Nomadic Tribes in Maharashtra

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Abstract:

The nomadic and de-notified tribes in India are facing different type of challenges and problems since centuries. They constitute more than 10 crore in the country and more than 2 crore in population in Maharashtra. There are 198 de-notified tribes and 313 Nomadic tribes in India. Since ages they are living under subhuman conditions due to the nomadic traditions without any ostensible means of livelihood. The large section of these tribes is known as 'Vimukta Jatis' ex-criminal tribes because, they were branded as criminal by birth under the criminal tribes act 1871, enacted by the British government. In spite of the repeal of the act in 1952, they are still treated as criminals by birth and subjected to harassment and persecution at the hands of the police and the state machinery. How they have been deprived of the status of Scheduled Tribes provided by the constitution due to certain historical circumstances and the act of omission and commission on part of the government and the society. This paper is an attempt to review the criminal branding of the NTs and DNTs in Maharashtra.

Keywords: De-notified tribes, Nomadic tribes, criminal branding,

Introduction:

The social category generally known as the de-notified and Nomadic tribes of India, some of them are included in the list of scheduled caste some others in the schedule tribe and quite a few in other backward classes. But there are many of these tribes which find place in none of the above. What is common to all is de-notified and nomadic tribes are branded as criminals. In the 19th Century the colonial government concluded that the pectoral nomads. The itinerant traders and other unsettled communities where different from the settled agriculturists fixed within domiciles. These wandering

communities could not be situated within preconceived slots- administrative, economic and social. They were therefore located as aberrant factors within a predictable and tractable human landscape and had to be controlled through the colonial legal and panel institutions for the maintenance of law and order. This was the background to the passage to 'The criminal tribe's act of 1871'. The criminal tribes Act 1871 was the start of a series of legislation on the same theme. Legal interventions in the vain came at regular intervals to fine-tune elaborate extend jurisdiction of the act in order to knit a finer mesh which would act as effective sieve for separating the criminal from the non criminal.

The Classificatory rate of designating with communities criminal was fairly broad based in the CTA. A tribe 'gang' or 'class' 'The alien government was taking no chances with the tiekey problem of nomenclature in case any erring community escaped the legal and panel dragnet. This was being preemptively wise before the targeted community (non literate and unacquainted such sophisticated legal devices to check their criminal tendencies) could muster enough legal leverage off to offer legal resistance two arbitrary penalties based on their precise cognition of the final distinction between castes, tribes, classes and the nature of their own embeddedness within a certain classificatory marker. In 1874 there was a quick review and another improvise was added in the Ac. The words 'tribe', 'gang' and 'class' shall be deemed to include any portion or members of the 'Tribe' 'gang' or 'class'. The CTA now included Bengal in its spread approximately around the same time, both the Bombay and Madras presidencies adapted the CTA for their own use in controlling 'criminal tribes' the Bombay presidency like, the United provinces where thuggi had become the subject of a colonial discourse on oriental criminality had also been in acquainted with the notion that the hereditary criminals belonging to 'tribes' were threat to law and order as early as 1827 there was a regulatory order passed in order to control them.

Objectives:

- To take review of the criminal branding of DTs and DNTs in Maharashtra.
- To understand the background behind the criminal branding of de-notified tribes.

Methodology:

This is a theoretical study and paper is prepared purely based on secondary data collected from different type of secondary sources.

In Maharashtra the 'Antrolkar Committee' looked at the question of the rehabilitation to the ex-criminal tribes who were de-notified in Maharashtra with effect from 13th August 1949. The CTA of 1924 ceased to applicable to them but the committee held that the habitual offenders restriction act should be made simpler and wider in scope in order to restrict all habitual offenders from ex-criminal tribes and also others as action on this few not notorious characters will enable other ex-criminals tribes to live peacefully in their localities. It is apparent that the committee over and above the stringent provisions of the Indian penal code section 75 chapters III. Had felt that the

need for the widening of the habitual offenders act which would separate from the really criminal from the de-notified communities, that the parameters of the analysis had not changed for the committee members is also revealed in the careful specifications of what should be the state attitude to members of these communities who persisted in their nefarious activities even though the government had given them the opposition options of clean and healthy living.

As soon as a person belonging to any community and particularly to the ex-criminal tribes is produced before a magistrate for the second offence under IPC against property and person he should be handed over to experts in psychoanalysis, criminology and allied Sciences to examine him. The result of such examination should be informed to the magistrate who thereafter should proceed to pass judgment on such accused. There is no attempt to even examine the vicious social conditions, which had perpetuated a certain way of life for which partially, if not wholly, align laws and mainstream Indigenous prejudices can be held responsible. This attitude of the committee reinforces the critique this report posits namely inherently prejudices pertaining to mainstream moral and ethical codes are embedded even within individuals anxious to redress fundamental inequity and injustice under which whole communities have suffered. The habitual offenders act moreover because it shifted emphasis from communities to the individual 'hardened criminal' would possibly feel free to eliminate all attempt to educate and reform children, as The criminal tribes act of 1871 had originally purported to do. As we have said education and reform were no longer seen as state concerns by 1911, As there were other calls on the limited spread of government funds especially pinch Penny colonial governments. In this respect the habitual offenders act looked retrogradely with the CTA by omitting all semblances of rehabilitation and focusing exclusively on legal repression. What also is important in this context is that the Antrolikar committee report had addressed the issue of rehabilitation of de-notified community only in Maharashtra. Education had been given top priority but only primary education. The report categorically stated that special elaborate suggestions about secondary and higher education have not been made as the question of the same will not arise for a number of years. For the time being with think facilities given to them as backward classes will be sufficient.

Further the de-notified communities all 28 of them enumerated in The criminal tribes act enquiry committee report of 1939 have been classified according to their supposed ethnic origins whether they are indeed nomadic tribes or merely fall under the rubric of 'backward classes' thus repeating the colonial ethnographic stereotype. Such discursive ascriptions of ethnicity came packaged with graded privileges and opportunities, thereby containing the seeds of further injustice and perpetuating potentially explosive political condition for demands and counter demands of different ethnic groupings.

After more than 50 years after the Antrolikar committee outlined the necessary conditions for

the de-notified tribes to be established socially and politically their situation in Maharashtra has actually slipped further towards unrelieved darkness. The recommendations of the Antrolkar committee were never carried by the state government. Though there were two blind spots regarding notions of criminality and legal action. The recommendations were certainly a step in the right direction. Police oppression and indifferences of the mainstream to their fate have together condemned more than 6 million people to a life of terror, fear and deprivation, not just of food and shelter but of all human dignity. They have been denied citizenship on their own soil.

As even the most preliminary overview of the present situation of the de-notified communities will overwhelmingly demonstrate, here are people who have been stripped of all the constitutional privileges that even a prisoner in India is guaranteed. More specifically, the fundamental rights of a citizen seem to have been created only to be contravened with regard to the de-notified communities. Article 19 and 21 if read with article 39A guarantees freedom of expression and right to life that cover a wide range of rights per trial release on personal bond (without surety) when the person concerned is indigent, speedy trials for offenders and especially child offenders, no delay in bringing into a trial, all indigent offenders who cannot afford, legal representatives should be helped by the state. Right to livelihood, prisoners should not be tortured and under trial prisoners cannot be detained without charges or kept in jail for a period exceeding the maximum prison term award. Article 22 of the Constitution giving protection against arrest and detention, specifies the conditions of arrest and detention in police lockups.

Conclusion:

Directive Principles part 3 of the Constitution; article 45 directs the state to provide free and compulsory education for children, till they attain 14 years of the age. While article 46 part III, directs the state to promote the educational and economic interests of Scheduled castes Scheduled tribe and other weaker sections. However such high sounding words cannot be upheld in any court of law in India. How arguable this problem is can be seen ironically in a report published during the 1930s of the settlements in Maharashtra, where under the controlled laboratory environment of fear, discipline and some incentive of monetary returns the program of the compulsory education of children did function.

References:

1. Nomadic and Criminal Tribes, the Criminal Tribes Enquiry Committee Recommendations
2. The Criminal Tribes Act (Bombay)-1939
3. Kaka Kalekar Commission Recommendations (for 830 most backwards castes and tribes)- 1955
4. Mandal Commission (A dissent note by L.R. Naik, a member of Mandal Commission)
5. The Criminal Tribes of India - Sociological Bulletin (Kapadia K.M.) -1952.

6. Criminal Tribes of India, [http://www.ambedkar.org/jamanadas / Criminal Tribes.htm](http://www.ambedkar.org/jamanadas/CriminalTribes.htm) Kharat, S. 2003.
7. Bhatkya Vimukta Jamati va Tyanche Prashna (In Marathi). Pune: Sugava Publication, Khupkar, D. 2012.
8. Nomadic and De-notified Tribes: The Status of Education. Mukht-Saad, pp. 17–21 Lalitha, V and Gandhi, M. 2001.
9. Vimuktayan: Maharashtraatil Vimukta Jamati- Ek Chikitsak Abhyas (In Marathi). Yeshawantrao Chavan Pratisthan, Mumbai
10. Marshal, T.H. 1950, Citizenship and Social Classes, Cambridge. Pal Sing, B. 2010.
11. https://nhrc.nic.in/sites/default/files/CRS_HR_Status_denotified_Nomadic_Communities_Delhi_Gujarat_Maharashtra_20042018.pdf

