
UNIT 28 COLONIAL FOREST POLICIES AND CRIMINAL TRIBES

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28.0 INTRODUCTION

The early Company rule in India tried to make use of the indigenous communities on the margins of the sedentary and settled agriculture in its programme of conquest and pacification. This was a tactic inherited from the practice of making use of fluid political arrangements by the pre-colonial polities like the Marathas. The recognition of the Bhil chiefs as rajas in return for a fixed tribute, establishment of a special Bhil Corps (1823) and a special police force of the Mewatis were part of this approach. The colonial State recognized the importance of forest and wasteland in the settlement of rural society. The disappearance of forest-cover in early 19th century was mostly due to cutting of forests for military or security reasons. Another reason was extension of cultivation under pressure so as to increase the revenue-resource base of the Raj. The colonial state favoured sedentary agriculture. Its main motive was to settle and discipline nomadic and pastoral communities and to wean or coerce tribal people from their traditional slash-and-burn agriculture or hunting-gathering life style. The systematic ecological warfare of the late 19th century, however, was chiefly a product of commercial needs and requirements. Although, indigenous elements in the form of merchant-cum-usurers were associated with the process, the institutional and ideological framework was specifically colonial. This institutional arrangement consisted of the Forest Acts and bureaucracy as well as the Criminal Tribes Acts and the settlements. We will trace the convergence of environmental, legal and social history in the next sub-sections of this Unit.

28.1 PRE-COLONIAL LEGACY

Alfred Crosby (1986) gave a notion of 'ecological imperialism.' According to the notion, a complex set of weeds, animals and diseases brought by the biological expansion and migrations from Europe destroyed the flora, fauna and human societies or the indigenous ecosystems of the New World. Basing themselves on this notion, Gadgil and Guha (1992) projected colonialism in India as an ecological watershed. According to them, although the Europeans could not create neo-Europes in India by decimating and devastating indigenous population and their natural resource-base but they did intervene and radically altered existing food producing systems and their ecological basis. Three basic elements of this unprecedented intervention in the ecological and social fabric of Indian society by colonialism, according to them, are:

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- (a) A shift from subsistence-oriented resource gathering and food-production to commercial production;
- (b) Destruction of cohesive local communities and their institutions and emergence of individualism in their place; and
- (c) Breakdown of a system of restraints on traditional resource-use due to development of markets as the focal points for organizing access to resources.

Richard H Grove (1998) has criticized this line of thinking as a belief in pre-colonial golden age of ecological balance and harmony.

According to him, exclusivist forms of state forest controls developed in pre-colonial states in South Asia, which saw rapid state-sponsored de-forestation. The control of state over forest-resources was gradually increasing in India since about 800 A.D. It was reinforced in Mughal period and received further impetus during the ascendancy of successor states. The Maratha state tried to acquire control over forests of the Western Ghats and to set-up plantations, both for shipbuilding and revenue. The states of Cochin and Travancore also exercised similar monopoly rights over forests. The Amirs of Sind adopted a policy of afforestation and forest protection during 1740-1840. This was meant to encourage development of their hunting reserves or *sikargahs*. However, the state control in pre-colonial times was limited to the extraction of certain plant and animal species or to the maintenance of hunting reserves. Sometimes state asserted control over certain specific products. For instance, Tipu Sultan asserted right of state over sandalwood, a valuable tree. Forest management and control was also crucial for military reasons in some cases especially for the defense of forts. Sometimes agrarian empires in the pre-colonial times cleared woodlands to augment land revenue resources in pre-colonial times. Although commercial and strategic compulsions initiated the process of forest clearance in pre-colonial periods, there were no sharp conflicts over control of forest-resources like the one that surfaced in the colonial period. In the pre-colonial period, even if there was no perfect ecological harmony, arable land was in abundance, state control was limited and a hierarchy of user-rights rather than an absolute notion of property in arable and forestland was prevalent.

28.2 THE FOREST ACTS AND ECOLOGICAL WARFARE

Large-scale commercial logging began in the 19th century. The demands of European entrepreneurs and the colonial state were much more extensive than the demands of earlier rulers. The contractors hewed many teak forests during 1800-1830 on the Western Ghats for the Bombay marine. Palmer & Company, a managing house based in Hyderabad, similarly logged in the Berars. The expansion of Coffee plantation in South after 1840 and of Tea plantation in Assam and the Bengal Hills further accelerated the process. By around 1860, commercial demands for timber were growing due to demand from shipbuilding, iron smelting and other industries. As a result of this Oak forests in Britain started vanishing. Therefore, there was great demand for Indian teak as it was the most durable of shipbuilding timbers. Construction of ships in Surat and on the Malabar Coast and export of teak-timber to meet the demands of the Royal Navy greatly stimulated the process of deforestation and denudation. The revenue orientation of colonial land policy also worked towards deforestation. Forests were seen as an obstacle to expansion of settled agriculture. Under the pressures of heavy land-revenue assessments especially on better soils, peasant cultivators moved into hills or onto poorer waste soils and cleared forests. The British, drawing on their experience of Ireland and Scotland took ecological warfare to new heights. There was a large-scale expansion of cultivable land due to 'clearings' of forests in Northern India after 1860. This led to a sharp decline in the fortunes of the extensive nomadic and pastoral economy of the plains.

The expansion of railways after 1850s was another main cause of commercial logging. European and indigenous private contractors made huge gains in the process of utilizing woods for commerce. Before the opening of Raniganj coalmines, railways used wood as fuel. The railways were using fuel wood in North Western Province even in 1880s. H.Cleghorn, in his work, *The Forests and Gardens of South India* (1860) described the impact of the railways especially in Melghat and North Arcot Hills. The pace of deforestation was correlated with the expansion of railways. The railways expanded from 1349 Kms in 1860 to 51,658 Kms in 1910. The demand for railway sleepers grew proportionately. Only three Indian timbers- teak, sal and deodar- were more suitable as sleepers. Sal and teak forests were available near railway lines in the Peninsular India and were worked in early years. However, subsequently deodar forests in the sub-Himalayan region of Kumaon and Garhwal were also utilized.

28.3 THE IMPERIAL FOREST DEPARTMENT AND FOREST ACTS

The policy of non-intervention and laissez faire gradually gave way to legitimate State intervention. The Scottish Surgeons like Alexander Gibson and Hugh Cleghorn, in the service of the East India Company, pointed the connection between denudation and droughts after 1837. Protection of forests was now seen as essential for maintaining water supplies and safeguarding agricultural prosperity. Some scholars see conservation, as a justification for the strategic and commercial interests of Empire while Richard Grove believes that a wider concern with agrarian prosperity and social stability was primarily responsible for this shift in the attitudes of the colonial officials. The role played by strategic and commercial needs of the Empire cannot be denied as the colonial administrators indicted traders and private capital in their accounts but the real brunt of state regulation and control was felt by small indigenous forest users like tribes practicing shifting cultivation. In particular, Kumri or shifting cultivation in Western Ghats, was held to be responsible for deforestation. Shifting cultivation was banned in Coorg in 1848 and restrictions were imposed on it in Belgaum in 1856. In 1847, Bombay Forest Department was established. By 1865, an Imperial Forest Department, with a formal bureaucratic all-India structure had been formed. A special executive post of forest officer was created and government's control over larger tracts of woodlands was established. This paved the way for exclusion of private capital as well as rural forest-users and shifting-cultivators from the forests.

Dietrich Brandis, a German botanist, was appointed the first Inspector- General of Forests. The Forest Act of 1865 initiated the process of establishing a legal mechanism to curtail the previously open access enjoyed by the rural communities. The colonial state, prior to Forest Act of 1865, recognized the customary rights of common property resources in forests. The Forest Acts of 1865 and 1878 asserted state monopoly over forest resources. The Forest Act of 1865 was passed to facilitate state's possession of those forests that were required for railway supplies. The pre-existing customary rights of rural people were left untouched. However, the powers of regulation and control were given to the forest officers. Prior to 1878, forest reserves area was limited and there were only 14,000 square miles of reserved forest for the whole of India. However, forest officers were asserting their powers even on non-zamindari private lands. In March 1868, teak, sal and shisham were declared protected species in the Central Province even if they grew on non-zamindari private lands.

The status of forests and woodlands as a common property resource became a matter of legal debate among colonial forest administrators. Sharp and conflicting viewpoints emerged in a conference of forest officers in 1874 that was called to examine the defects of the 1865 Act and suggest a new piece of legislation. The

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debate on the issue was framed within a specific discourse of property. This discourse celebrated proprietorship and as a result customary common property rights in pastures and woodlands, which were a negation of such notion of private property, were denied.

Three distinct strands of thinking manifested within the colonial bureaucracy on the question of customary common property rights. The first section, called 'annexationist' by Gadgil and Guha, wished for a total state control over all forest areas. They argued that all land, those were not cultivated by peasants belonged to the state. They further claimed that the so-called norms of community and access to forests were dependent on the sweet will of the rulers. They cited Tipu Sultan's edict banning the cutting of sandal wood trees. They asserted that only those rights of use, which were explicitly granted by the state, were to be accommodated and conceded. Baden-Powell and the then Secretary of the Agricultural Department, A.O.Hume took this position that state monopoly of forest and wasteland was an undisputed feature of 'Oriental' sovereignty and the colonial state by its 'right of conquest' inherited this monopoly right. The second prominent position mainly held by forest officials of Madras government, denied the legitimacy of any state intervention in the customary rights of use exercised by the rural communities. Intermediate position, represented by the Inspector-General of Forests, Dietrich Brandis and some other officials, held the view that the state had undisputable right in certain cases but favoured retention of customary rights of villagers to freely graze their cattle, cut wood, etc., subject to some restriction by the state. The passing of Indian Forest Act (1878) clearly resolved the question in favour of an 'annexationists' position. The imperatives of colonial economy, conquered subjects, commercial and strategic interests of Empire overshadowed and destroyed the customary rights of use of the rural communities.

The forests were classified into three categories as reserve forests, protected forests and village forests under the Forests Act (1878). The reserved forest consisted of compact and valuable areas, which would lend themselves to sustained exploitation. A complete state control extinguished private rights, transferred them somewhere else or in exceptional cases, allowed their limited exercise. The second category of protected forests was also under state control where rights of state and other users were recorded. However, state's control was strictly maintained by outlining detailed provisions for the reservation of particular tree species as and when they became commercially valuable, and for closing the forest whenever required to grazing and fuel-wood collection. Subsequently, with the rising commercial demand, many protected forests were converted into reserved forests. The Act also created a class of village forests but this option was hardly exercised over large parts of the sub-continent. The Act of 1878 also enlarged the scope of punitive sanction available to the forest administration, closely regulating the extraction and transit of forest produce and prescribing a detailed set of penalties for transgression of the Act. 'Protection' was meant to increase timber-productivity, which could be achieved only by eliminating trees and species that were not important commercially. The forest department made a distinction between 'superior' and 'inferior' species for this purpose. To manage such multi-species forests, cutting the 'inferior' varieties and planting 'superior' species in the 'blanks' increased proportion of 'superior' trees. Exclusion of livestock and prevention of fire were two main planks of the 'scientific management' by which forest officials manipulated cycles of renewal to selectively assist timber trees. It was only at the turn of the century that experience demonstrated that such strict exclusion of rural forest users did not increase timber productivity. It was found that grazing and fires did not necessarily affect timber trees. The forest officials towards the end of the 19th century adopted a flexible approach within overall framework of control.

Another important aspect of forest administration was that it generated surplus revenue consistently in the period 1870-1925. In other words, the administrative machinery was more than self-financed. This was made possible by the rising demands of the urban centres for fuel-wood, furniture, and building timber material and supply facilitated

by improved transport. In the 20th century, a variety of industrial uses of the forest produce such as resin, turpentine, essential oils and tanning material also increased the commercial value of the forests. The strategic value of India's forests was also realized in the World Wars when they supplied huge quantities of timber and bamboos to the timber branch of munition board.

28.4 IMPACT OF COLONIAL FOREST POLICY ON INDIGENOUS COMMUNITIES

The colonial Forest Acts had a number of ruinous consequences for many nomadic and pastoral communities and for people surviving on hunting gathering of forest produce and based on shifting cultivation. The Acts enforced an unnatural separation between agriculture and forests. Many of the customary rights exercised by rural and tribal people were abolished while the use of forests was determined according to the commercial priorities of the Empire. Grazing and shifting cultivation was banned. Such changes in the use of forests had very harmful effects on the daily life of the villagers. The pattern of local use and control gave way to state control.

State reservation of forests affected the ecology as certain plant species like Oak and Terminalia were replaced by commercially useful species of teak, pine and deodar. The former types were quite useful for indigenous communities as fuel, fodder, manure, and small timber while the latter served the commercial interests of the colonial state. The colonial administration disapproved shifting cultivation or Jhum and forced many tribal communities to adopt sedentary agriculture as the colonial officials believed that revenue generating potential of settled agriculture was more. For instance, frenetic attempts were made in 1860s to wean away the Baigas of Mandla, Balaghat and Bilaspur area of the Central Provinces from shifting cultivation. The discrediting of the traditional subsistence mode of livelihood of the rural and tribal people also meant devaluation of traditional conservation methods or indigenous wisdom about the forests and their ecology. The Forest Act of 1878 excluded a range of activities of indigenous hunters especially of the underprivileged groups belonging to low caste and tribal communities. At the same time, the colonial bureaucracy institutionalized hunting or *shikar* as an organized 'sport' for maintaining the physical fitness and leadership qualities of white *sahibs*. It became not only a form of amusement but also affirmed their status as racially distinct elite. Even the selection of wild carnivorous animal species to be eliminated was culturally informed as such errant and dangerous species were compared to human outlaws.

The impact of colonial forest policy, on the indigenous social groups, however, was not uniform. For instance, private forests of malguzars and zamindars constituted about 20% total land area in the Central Province and there was a triangular contest between the colonial state, revenue right holders and their tenants over forest use rights. Colonial state's redefinition of property rights brought large tracts of cultivable waste under the control of Forest Department and became a key factor in the colonization of the land. The control and power of colonial bureaucracy also strengthened agrestic serfdom and practice of *begar* (unpaid free labour) in many areas inhabited by tribal communities. Associated with increasing penetration of market forces was intrusion of indigenous capital (merchant-cum-usurer) into forest areas. The settlers from plains entered areas inhabited by tribal groups secured by proprietary rights and forms of debt-recovery alien to such indigenous communities. As a result of all these social and economic changes, conflicts and confrontations over forest and pasture lands, over the exercise of customary rights by local social groups became frequent. A variety of forms of resistance including migration, defiance of forest laws, legal assertion of their rights to open *fituris* or rebellion were adopted by the indigenous communities to articulate their grievances against the partnership of colonial state and money-lender-traders.

28.5 PACIFYING THE INTERNAL FRONTIERS

The colonial state paid special attention to the mechanism of social control and pacification of internal frontiers. Control and distribution of forest and cultivable waste and extension of arable was part of their policy to contain the 'unruly elements' such as Pindaris (erstwhile irregular cavalry soldiers in the service of the Maratha polity) and other nomadic groups. Forests were seen in the eyes of colonial officials as the abode of robbers, lawless squatters. They drew up on their experience of break-up of common tenurial systems of Ireland and the Scottish highlands to push back forest frontier and achieve political stability by wiping out unstable concentration of power on the fringes of settled agriculture. They discontinued with the earlier practice of not assessing forest and cultivable waste and promoted sedentary agriculture. The colonial authorities attempted to settle and discipline groups such as the Gujars, Bhattis, Rangar Rajputs and Meos, who moved around with their cattle, extracting 'protection rent' as they moved. From the very beginning, the colonial state used surveillance and mechanism of social control and defined certain social groups as beyond the bound of civility. This criterion was applied to entire castes and communities. W.H.Sleeman's *The Ramaseeana or the Vocabulary of Thug Literature*, exemplified this process of depicting certain groups as barbaric. In 1835, a special Thagi and Dacoity Department was set up to investigate and punish gang robberies and murders. Subsequently, a large number of people, groups, communities and tribes were stigmatized as 'the criminal tribes'. The legal language of the colonial officials was used against a wide variety of marginal groups who did not conform to pattern of settled agriculture and wage labour, especially nomadic, pastoral communities and forest -dwelling tribes.

28.6 THE CRIMINAL TRIBES ACTS AND BRANDING OF INDIGENOUS COMMUNITIES

A wide variety of ideological elements converged in the making of 'criminal tribe' ideology. The Brahmin subordinates of British officials were always apprehensive of nomadic and wandering groups outside the institution of caste. The British tradition also associated forests with crimes and outlaws. The hereditary-based theory of crimes that was popularized in Europe by Cesare Lombroso perceived the criminal man as a separate species with specific hereditary and anatomical features. This belief in the professional and hereditary character of crime was commonly prevailing among the colonial administrators of 19th century. The Criminal Tribes Act (1871) provided for registration of all or any member of such tribes who were notified as 'criminal tribes.' The registered members had to report themselves to the local police authority at fixed interval of time and notify their place of residence or any intended change of residence. Any contraventions of these legal provisions invited severe punitive measures.

The construction of entire caste and communities by the British officials as 'criminal' was part of a larger discourse in which caste and community determined the occupational as well as social and moral profile of all its members. The 'criminal tribes' were branded simultaneously as typical and deviant. The Criminal Tribes Act (1871) listed over 150 tribes as 'criminal.' Most of these belonged to marginalized social groups outside settled domesticity. The colonial state defined these groups as criminal by reference to their caste identity and a legal characterization that rendered crime as an in-born trait of such selected communities. Such communities could not lay any claims to the protection and impartiality of law. Their criminality was represented as an inheritance and a profession, inextricably linked to their forefathers.

Even before the passing of Criminal Tribes Act (1871), colonial authorities adopted similar modes of surveillance. A Superintendent of Thugi and Dacoity Department referred to a 'predatory tribe' of Bawarias especially in the lower Doab region. Kanjars and Sansis were also treated in the same manner. Attempts were made by police and judicial authorities to register all Sansis, Harnis and Bawarias. Thanedars or head-constables were required to take security from village headmen where these tribes resided and were to be held responsible for reporting on their movements. Gradually attributes generally given to the Thugs such as cruelty and violence were also ascribed to such groups. The authorities at district administration level, especially Magistrates, in Punjab and North Western Provinces maintained that the provisions of Indian Penal Code and the Code of Criminal Procedure were inadequate to suppress their criminal activities. Therefore, they emphasized special surveillance measures to deal with this peculiar and hereditary nature of their criminality. They were to be treated like wild dangerous animals- to be watched, tamed and hunted up. The chief mechanism of control was to start from the maintenance of their record and by maintaining a check on their mobility.

The Criminal Tribes Act of 1871 instituted a special set of laws, rules and procedures for dealing with the 'criminal classes'. The members of these classes and tribes were denied a right to appeal in an ordinary court of law. The Act was similar to the Habitual Criminal Act passed in England in the late 19th Century to exercise discipline and control over the criminal sections of the working class in order to construct moral subjects. Subsequently, a distinction was made between honest, industrious section of the working class and vagrant, criminal, dangerous elements and a need for institutional segregation of the later was stressed in the period 1860-75 in England. The legal enactment put restrictions on the movement of the members of 'criminal tribes' and provision of a regular attendance gave powers to the village patels and local police officials. They used such provisions to harass and exact forced labour from the members of such communities. Even when the repressive strategy was supplemented by a strategy of reclamation or reform, officials highlighted the failure of re-settling such tribes in terms of stereotype attitudes. It was claimed that the members of these communities were unwilling to accept hard moral life of domesticity. This attitude tended to reinforce the stereotype of innate criminality of such tribes. The Amended Criminal Tribes Act (1908) provided for settling of convicted members of tribes in special settlements, to mould and reform them by enforcing work habits under the control of special settlement officers. These settlements acted as sanctified prisons providing captive labour at miserable wages and harsh working conditions to a number of factories, state forests and public works departments. The basic assumption of colonial sociology was that hereditary circumscribed communities that moved from place to place and shifted their identities committed most of the crimes. Such assumptions and enactments of the colonial state were in accord with the values of indigenous landed magnates and their notion of social order.

28.7 LAW VS. CUSTOM DEBATE

The British ruled over India by their 'right of conquest'. The colonial state used law as the most important source of constituting its legitimacy. The appropriation of revenue, forest and natural resources was not arbitrary, unjustified exaction as was the case under 'oriental' pre-colonial despotic rule but as a legal right of the state. The colonial state itself was projected as a firm and impartial law-providing authority that respected 'universal principles of jurisprudence'. Law making, however, was an ideological enterprise and as an alien power, the colonial state could not completely ignore the existing legal norms and customs based on rank, status and gender. The colonial rule monopolized legitimate violence and used it as a sole prerogative of the state in its pacification drive. It, however, also used rhetoric of reconciliation with "laws and customs of people". For instance, if the indigenous penology punished

crimes according to the caste status of a criminal, the colonial state also recognized caste hierarchy. Concessions were made to 'rank and respectability and to the patriarchal authority of husband over wife and of master over servant. The high caste and rank people were exempted from religious oath in the courts of the Company. The colonial state exhibited ambivalence towards the principle of equality before law. It stemmed from negotiation of the colonial state with the existing customs. Many of the customary practices were re-ordered by the colonial state to suit its law and civil authority. The colonial state exercised its discretion in selectively retaining such customs and practices. For instance, in case of 'criminal tribe' this offence was traced and deduced from membership of a 'criminal community', but the powerful land-owning elites who were also often knit into indigenous systems of power and patronage with these same communities, were not made target of such special laws.

Veena Oldenburg (2002) has shown how the codification of 'custom' as adjudicable law in the Punjab countryside led to an erasure of women's voices and customs. According to her, in the pre-colonial customs, women had been co-parceners in the agricultural produce with their male counterparts as they engaged in sowing, weeding, harvesting, threshing and other agricultural works. However, colonial legal arrangements privileged male tillers of the soil and made them sole proprietors of the lands and its produce. In the pre-colonial society, the transmitted customary practices were negotiated and contested by men and women. These fluid customs were converted into written, fixed, judiciable and enforceable corpus of law. They were elicited only from men and customary law and its colonial legal rendition was only a high caste male reading of the principles of clan, caste, tribal organization and societal norms.

28.8 SUMMARY

In this unit we have seen how the forest policies of the colonial state and branding of certain communities by it marginalized nomadic and pastoralist people and devalued their mode of living. The colonial policies were driven by the commercial needs and requirements. They harmed the existing customary practices and rights of common people in the common property resources especially in woodlands and pastures. The colonial state also stigmatized certain communities as criminal by birth in order to maintain a rigid social-control over the mobile elements of the society. Law was an important tool of the colonial authorities for subjugating people and resources of the indigenous society in a legitimate manner. The colonial state, however, could not completely ignore the existing customs, legal norms and power arrangements within the indigenous society. It selectively used and retained practices relating to social rank, status and gender, thus privileging the upper caste male practices. In the process, it marginalized the lower caste people, the nomadic and pastoral communities outside settled agrarian economy and women. The mechanism of social control reinforced the grand alliance of alien colonial authority and indigenous powerful upper castes and classes.

28.9 GLOSSARY

'Annexationist' Forest Policy	:	A strand in thinking of colonial officials that favoured total control of state over forests and wanted to abolish existing customary rights of the indigenous communities.
'Criminal Tribes'	:	Branding of certain communities as 'criminals' by birth.
Common Property Resources	:	Resources that are managed and used by community collectively.

Customary Rights	:	Certain rights sanctioned by popular customs of the people.	Colonial Forest Policies and Criminal Tribes
Ecological Imperialism	:	A set of weeds, animals and diseases brought by the biological expansion and migrations from Europe destroyed the indigenous ecosystems of the colonies.	
Ecological Warfare	:	The process of destruction of ecosystems due to intrusion of commercial interests.	
Kumri/ Zhum/ Slash-and-burn Agriculture Shifting Cultivation	:	Shifting cultivation practiced by tribal communities.	
Pacification Drive	:	Attempt to disarm and control people.	

28.10 EXERCISES

- 1) Describe the various positions taken by the British officials in formulating forest policy.
- 2) What was the impact of colonial forest policy on the indigenous communities?
- 3) List the main provisions of the Criminal Tribes Act(1871).