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THE CHRONICLE OF HABITUAL OFFENDERS ACT AND ITS MECHANISM

Greshma Benny

Ph.D Research Scholar

Department of Historical Studies

Quaid-E-Millath Government College for Women (A)

Chennai- 600002

&

Dr.K.Vijaya

Associate Professor & Head

Department of Historical Studies

Quaid-E-Millath Government College for Women (A)

Chennai- 600002

Abstract: The term, Habitual offender means a person who frequently has been convicted of criminal behavior and is presumed to be a danger to society. The Criminal Tribes Act was first enacted in Madras in 1911 by which tribes committing criminal activities were categorized as criminal tribes and organised tribal criminality as a fact was recognized by the government. The Act has undergone various amendments in the subsequent years when the officials witnessed the slow progress in the working and in 1943 Madras Habitual Offenders Act came to effect. This article gives a narration of the background, provisions, working of the Act and also above the habitual offenders settlements. An attempt is also made to briefly highlight the impact of the Act on the denotified tribes.

Index Terms- Habitual Offender, Criminal Tribes, Settlements.

I. INTRODUCTION

The conception of communities socialized into criminality with its members plundering or robbing as a profession did not suddenly emerge in 1830s. The theme has a history with the inauguration of the company's judicial initiatives.ⁱ When the company began to rule the nation various judicial reforms were enacted which actually ruined the economical condition of the country. Due to the reorganization many lost their indigenous jobs. By the cause of forest law people were not allowed to enter the forest which afflicted hunters and other collection of minor forest produces of the forest dwellers. Kallar tribes were worked as Kavalkarars, they were the part of Poligar system but the East India Company abolished the system which made them out of work. Likewise the salt law has prohibited the making of salt by the people which stirred their livelihood. When these crowds lost their means of support had turned into violent militia. To control the situation various Criminal Tribes Act were enacted throughout India. The first Criminal Tribes Act, the Criminal Tribes Act of 1871, applied mostly in North India and in 1911 it was extended to Madras presidency. The Act went through several amendments and finally the Criminal Tribes Act 1924 in corporate all.

In 1938 representations were made to Government regarding the question of modifying the Criminal Tribes Act, 1924. A conference of officials was called up to decide about the methods to be adopted. As a result of the discussion, it was tentatively decided to repeal the Criminal Tribes Act of 1924 in its application to Madras province and to enact two other Acts in the place of 1924- one to bring restriction in the movement of certain criminal nomadic tribes who had not settled down permanently and the other to deal with the habitual offenders. It was subsequently considered by the advisors

of the Government and agreed for the amendment of the Criminal Tribes Act.ⁱⁱ In 1943 on the same day two Acts were enacted by his Excellency Governor viz., The Criminal Tribes (Madras Amendment) Act, 1943(Madras Act XXIX of 1943) and Madras Restriction of Habitual offenders Act, 1943 (Madras Act XXX of 1943). The first Act made extensive amendments to the Criminal Tribes Act of 1924 by making certain aspects rigid and some aspects flexible. The second Act provided for the application of the Criminal Tribes Act, 1924 and the rules made here was applicable to any habitual offender. The section 14, 15, 16 of Madras Restriction of Habitual offenders Act, 1943 has changed the term Criminal Tribes to Notified Tribe.ⁱⁱⁱ

In 1946, after the restoration of the ministry, several representations were received by Government urging for the repeal of Criminal Tribes Act 1924, in its application to Madras Province. The Government examined those representations and found out that the provisions of that act were so rigorous that its application to the members of tribe was more likely to make them hardened criminals than to reform them. The special provisions contained in the act were suitable for the unsettled tribes but not for the present situation, so it was unnecessary to keep alive the Criminal Tribes Act and other subsequently amended acts like Madras Restriction of Habitual offenders Act, 1943 were repealed.^{iv}

II. THE MADRAS RESTRICTION OF HABITUAL OFFENDERS ACT, 1948

The Madras Restriction of Habitual Offenders Act, 1948 which aimed to control the criminals who take crime as a profession. The Madras Restriction of Habitual Offenders Act 1948, came into force on 29th April 1948 and the rules framed were published in the fort St. George Gazette in English, Tamil, Telugu, Malayalam, Kannada and Hindustani languages. The bill got published in English on 5th March 1948 and in other languages on 16th March 1948.

According to the Madras Restriction of Habitual Offenders Act “Habitual Offender” means any person ^v

- (a) Who has committed not less than three non-bailable offence
- (b) Who has been ordered to give security for good behavior with reference to section 110 of the Code of Criminal Procedure, 1898.
- (c) Who by repute as established at a magisterial inquiry, that he/she is addicted to the commission of offences against the public peace or against property or is of such a character that it is necessary to impose restrictions on him/her under this Act.

III. PROVISIONS OF THE ACT

The notified offender has to intimate the authorities about his residence, if he/she has any plans to change the place of residence. Chief Commissioner has the powers to restrict his movement beyond specified areas and before restricting the movement he has to consider the following such as nature of the crime which the offender has committed and the suitability of the place and whether he could earn a livelihood in the restricted area. Any notified offender who intends to leave the house in which he is residing during the night between 10 p.m and 5 a.m in the morning to any other place or within the same village has to notify his departure and arrival, the route by which he intends to travel to the headman of the village or to the law and order sub inspector of police if he stays in town. They were allotted a pass which has the details of his journey.

Industrial, agricultural, and reformatory Settlements were established under the Act by which Chief Commissioner could dispatch the offenders to any of these settlements. Even the authorities could transfer them from one settlement to the other for their functionality. The management and supervision of settlements including discipline and conduct of the notified were placed with the authorities. The children of the habitual offenders who are of six years and below eighteen years of age were separated from their parents or guardians and placed in a certified school established under the Madras Children Act 1920 or either in an industrial, agricultural or reformatory School or other educational institutions for children established by the provincial government.

The Act entrusted the officials to have regular inspection to the residence of habitual offender. The officer to whom habitual offender report himself has to make suitable entries in the prescribed register. The identification roll should be produced for inspection whenever required by any magistrate, police officer, village headman or any other person who empowered by the district magistrate on behalf. If the notified lost his identification roll then he has to report immediately in the police station within whose limits he/she is staying. During this time a temporary permit is given in H1 form.A

police officer who is above the rank of Sub Inspector is deputed to maintain a register of all the habitual offenders in his district and should maintain a separate sheet for each habitual offender which must have the finger impressions in the form D and that has to be sent to finger print bureau. Ever summons or warrant issued by the magistrate shall be accompanied by a copy of the order made by the magistrate and it should be delivered by the officer to the arrested person.

IV. PENALTIES

Any notified offender who contravenes any of the provisions of this Act or any notification, rule or order shall be punishable:

- (a) On a first conviction, with imprisonment for a term which may extend to six months or with fine which may extend to two hundred rupees, or with both.
- (b) On a second or subsequent conviction, with imprisonment for a term which may extend one year, or with fine which may extend to five hundred rupees or with both

If the notified offender escapes from any settlement in which he has been placed, he may be arrested without warrant by any police officer, village headman or village watchman. If the offender is arrested he should be informed about the grounds of such arrest and should be produced before the nearest Magistrate within a period of twenty four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the Magistrate and the offender shall not be detained beyond the period.^{vi}

In the year 1949-1950, 3117 members had been notified under the Act.^{vii} In 1950-1951, 4498 number of people was notified.^{viii} During 1951-1952, 5268 members had registered so far under the act of which 4097 people were ex-nomadic tribe members. 300 among them belonged to wandering gang. In the year 1951 alone 770 persons had brought under Act.^{ix} In the year 1952-1953, 2025 were registered under the Act.^x For the year 1953-1954, 2808 members were registered out of which 1342 were ex-notified tribes had brought under the Act.^{xi}

V. SETTLEMENTS OF HABITUAL OFFENDERS

The number of settlements continued to be six at the beginning of the year 1948. They are: Aziz-nagar, Siddapuram, Sitanagaram, Chintaladevi, Bitragunta and Stuartpuram. The settlements at Bitragunta and Chintaladevi has abolished eventually.^{xii} Stuartpuram continued to be managed by Salvation Army and other settlements were managed by Government.

Aziz-nagar settlement: This settlement was opened on the 22nd September 1913 to deal with the criminal tribe Veppurparayas, a notorious gang of criminals in the South Arcot district and it owes its name to the late M. Azizud-din Sahib Bahadur, Khan Bahadur, I.S.O. Agriculture was comparatively good in the Aziz nagar settlement. Different varieties of paddy was cultivated as an experimental measure to see which variety of paddy can withstand the alkaline nature of the soil and yield well. Kar, Samba and Navari were cultivated in wet lands where as Varagu and Coolam in dry lands. Some of the settlers were given land for cultivation. Six bulls were maintained in the government cost. Three industries weaving, carpentry, and leather were in the settlement each industry is in charge of a qualified maistry. Most of the settlers who own no land do coolie work in the lands during the sowing and harvest seasons and work in the industries during the off-season. The manufacture of dhurries for the police department was undertaken. In this settlement standardised articles of furniture such as almirahs, tables, record racks, stools etc are manufactured and stocked during April to December every year and sold to various government departments, local boards and to private and individual firms.

Chappals and sandals were manufactured and sold. Waste products of the leather industry were converted into compost manure and this was utilized in the government agricultural farm. All the three industries continued to work at profit providing employment to the settlers with an average income ranging from 10 annas to one rupee a day. During the year 1952-1953 1,709 pairs of sandals for the forest department, 4,900 pairs of sandals and 500 pairs of chappals for excise department and 61 pairs of sandals for port office were manufactured. General health of the settlers was satisfactory. The dispensary in the settlement was in charge of a civil assistant surgeon, who was assisted by a compounder, midwife and two nurses, one male and female.

Co-educational higher elementary school continued to function satisfactorily. In 1953-1954 there were six secondary grade and seven higher grade teachers and one sewing mistress. There is a rural library in the school for the benefit of the settlers and the pupils of the school. The notified tribe pupils studying in the school were given mid day meals, free supply of books, slates, note books, clothing, oil and soap etc. the pupil studied in VIII standard were taken for excursion to Pondicherry. After completing their education in VIII standard at Aziz nagar settlement they were gone for higher education, technical training, industrial courses and teachers training institutions outside the settlement. Grants for books, clothing and boarding was

sanctioned them. A Radio set has been installed at the cost of Rs.990 to provide recreative and educative entertainment to the settlers. Cooperative stores were established to cater the needs of the settlers and the staff. These stores supplied mid day meals to students in the local elementary school. A multipurpose society was formed with the help of the aid from the central government and all stores were merged with the society.^{xiii}

Siddapuramsettlement: The settlement was started in the year 1913 for the benefit of certain Donga Woddars who were employed by the public works department on the Siddapuram tank project in the Kurnool district. When the work was about to complete by 1918, government found it necessary to settle the gang as agriculturists and a block of forest land measuring 650 acres was set apart for the purpose in 1917. All the families were allocated lands for cultivation as a result the settlement was able to bring more land under cultivation. Paddy, Arica, Cholan, Sajja, Korra, Horsegarm, Redgram, Greengram, Castor seeds, Ginger and Chillies were cultivated. Agriculture has been the main occupation of the settlers other supplementary occupations taken by them were manual labour, hiring of carts, charcoal manufacture, collecting tamarind, and grinding stones etc. the women were engaged in making mats and grooms. They were unable to make sufficient earnings out of agriculture due to uncertain rains, inadequate water supply, lack of bulls and other agricultural implements. The industry did not attract the settlers much. The cloth manufacture was coarse which could not find a market and not able to withstand the competition of the better and cheaper mill cloth. The industry was therefore ceased.^{xiv}

The general health of the settlers was fair. Malaria was common in the settlement as it was situated near the malaria tract. Due to the timely vaccination conducted by the officers of the health department were able to control the pandemic. Anti malarial operations were conducted in the settlement. The rural dispensary was in charge of a L.M.P assisted by a midwife and a ward boy. The equipments in the dispensaries of Chintaladevi when it was closed down were transferred to the dispensary at Siddhapuram settlement. Schools at Siddhapuram had six standards till 1949. The sixth standard had abolished in June 1950 due to lack of student. In 1950-1951 two notified boys and one girl studied in the board high schools in Atmakur and Kurnool.

Stuartpuramsettlement: This was essentially an agricultural settlement started by the instance of Salvation Army to work as an auxiliary to the Sitanagaram settlement. Employment was a problem at Sitanagaram settlement and the Salvation Army founded the new settlement with the intention of placing well-behaved members of Sitanagaram. In 1949, out of 700 families in the settlement 600 families were allotted lands. There was no government agricultural farm in Stuartpuram. The settlers were mainly employed in Indian leaf Tobacco Development Company Limited, Chirala other than that they were also engaged in mat making, rope-making, and basket making etc. the other way to sustain their life was to work in romper drainage scheme under taken by the Public Works Department.

The settlement had cases of Smallpox mostly children's got affected. Rural medical practitioner was in charge of the rural dispensary with a mid wife and ward boy to assist him. The subsidies of the rural medical practitioners and midwives were enhanced from rupees 600 to 780 per annum for medical practitioners and for midwives from rupees 360 to 480 per annum. As of 1950, 25 children of the settlement studied in high school outside and 3 went training in midwifery. Financial position and general conduct of the settlers were satisfactory. Since it was decided to close down in 1950 to convert it into a free colony no further developmental works was drawn up.^{xv}

Sitanagaramsettlement: The settlement was situated in Gutur district established by the Salvation Army in 1913. All the settlers were engaged either in agriculture or in manual labour to earn their livelihood. Such as coolie work in quarries, breaking stones, goat rearing, poultry rearing, shoe making, employed as watchman and in ferry, motor launches etc across Krishna. Cholan and Hemp were the main crops apart from this turmeric, horse gram, red gram, maize, and ground nut were also grown in small scale. Though the crops were well cultivated they were affected with the cyclone and floods in the Krishna river. Two bulls were maintained in government agriculture farm. Their economic condition was satisfactory. There was one Tenant's Cooperative Society in the settlement which was closed on 20th October 1952. The general health of the settlement satisfactory but it had cases of cholera. It has an ayurvedic rural dispensary in charge of an L.I.M assisted by a midwife and a ward boy. Schools in settlement had standard till six. In the year 1949-1950 five pupils of Sitanagaram studied outside. One in Andhra Christian college Guntur, two in high schools and two in mid wifery training course. Notified school children's got free mid day meals, books, clothing, soap and oil etc. rewards were also granted to the bright students.^{xvi}

VI. AMENDMENTS TO THE MADRAS RESTRICTION OF HABITUAL OFFENDERS ACT, 1948

The new amendments were made in 1955 to review the case in order to consider whether it is necessary to continue the restrictions imposed on notified under the act to treat them as a habitual offender. In the case, if a notified offender is old, sick or if he is not capable of committing crime and if he has continued to have a satisfactory conduct of behavior for a period of three years after he was released from jail, then the District Magistrate could cancel his notification. It is required to get a report from the Superintendent of Police and he may be released from the settlement. For example H.O No. 611 M.D.O. Koradoriyana S/o. Koravisvah of palamathi village pattukottai, Thanjavur district permanently discharged from the Aziz nagar settlement on 28-12-1959. According to the rule 37 of 1948 as he was suffering from

blindness and could not able to do any work to earn his livelihood so he was sent to his village. ^{xvii}

VII. IMPACT OF THE HABITUAL OFFENDERS ACT

Habitual offender's crimes were considered as cognizable crimes by which a police officer may arrest a person without warrant. In such cases, the police officer can take immediate action on receipt of a complaint or of credible information. ^{xviii} Due of this provision many people who were against the British officials has been wiped out from the scene. They were arrested and kept in jails.

Crime is not a result of inherited faculty but there are times when inheritance can be areason. But if a parent is criminal that doesn't mean the other members of the family are also criminals. Taking the whole family to settlements is like punishing the entire family which can't be considered as a fair act. Madras high court has once quoted that "1000 culprits can escape, but one innocent person should not be punished" that was not the case with the Act.

The act has controlled the criminals to an extend but it had not completely brought down the crimes taken place in Madras for example an article which appeared in Viduthalai dated 11-4-1956 on has reported about the increase of crimes in Madras city. The occurrences of stabbing, pocket picking, murders and robberies has shown that there is better safety in villages. Day house breaking have become very common in Gandhi Nagar, Thyagarayonagar, Shenoyanagar, City Improvement Trust Nagar and other places. A fifteen year old daughter of high way police official was robbed of her gold chain while returning home bus passenger's pockets were picketed everyday. Shops were burgled in George Town and mount road.

On this background a home for habitual offenders was requested in Kodambakkam or Virugambakkam with 200persons to start with and at the cost of 2lakhs a year. The commissioner of the police after consultation with the director of the Harijan Welfare in the matter reported that there 646 acres of waste land in Siruvachur village, Atur taluk in Salem district but this project was cancelled no further actions were taken The only settlement functioned was Aziz nagar settlement at South Arcot district. All other settlements were stopped by the time. If the crime was increasing then why the settlements were closed so the purpose of settlements could not meet the desired ends.

Many of the settlers in the settlement including the habitual offenders and those who have no homes, land, or honest means of livelihood were anxiously awaiting the repeal of the Criminal Tribes Act excepting as a result of the repeal their unconditional release from the settlements. Some of the settlers even refused to undertake cultivation work in the settlements. The detention of the settlers in the settlements under the new Habitual Offenders Act is likely to cause some disappointment to many of them especially the habitual offenders who were waiting for an opportunity to go out of the settlements for the main object of reverting to crime. ^{xix} When the settlements were taken cared by Salvation Army the settlers faced the issues of forcible conversion to Christianity.

The idea of reformatory settlements was not only reforming the offenders but also to get a labour force for their development projects. Taking the criminal tribes into matter they had their own indigenous occupations which their ancestor's has handed over but when they came to the settlements they were forced to do jobs which given by the government officials. The products like sandals and chappals were manufactured in these settlements and sold to the police and other Governmental departments. It was mainly meant for the needs of the government alone. Prior to 1954, the settlement was under the control of the police department. In 1953, director of Harijan Welfare suggested that the control of the settlement might be transferred to him as the police department was not fit for reforming the criminal tribes.

VIII. CONCLUSION

Madras Restriction of Habitual Offenders Act of 1943 was able to control criminals who took crime as their profession to a great extent. The Act has pros and cons. Through the settlements established for the notified played an important role in reviving the criminals and to give them a scope for livelihood. The British official has also arrested many innocent people in the particular criminal tribes without proper enquiry and has denied the right to notified to know about the reasons of their arrest. Even now the people of particular tribes are suffering for being branded as criminal tribes after decades. This has to be changed to get a meaningful life for the people who were into these particular races without their knowledge. Various forums like Fact-Finding the Documentation and Advocacy (FFDA) raised the issues of treatment of tribes on the basis of their origin and birth. Despite of the appointment of various successive commissions to examine the situation only limited changes was brought to communities but even the denotified tribes face racial discriminations by the authorities as well as the society in general. Since protecting fundamental rights is a moral obligation of the state it is the duty of a citizen of a country to help these communities to come forward to avail the privileges enshrined in the Indian constitution.

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