

LEGITIMIZING THE 'COOLIE': A STUDY OF BRITISH COLONIAL LAW AS A MEANS OF SUBJUGATION IN THE TEA GARDENS OF ASSAM, 1860-1900*

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Abstract: The tea industry of Assam is one of the most flourishing industries in the world owing to the hard manual labour of thousands of labourers who were originally recruited from various parts of the country. An attempt is made through this study to show how the identity of the numerous displaced migrants who were recruited from various parts of the country to work in the tea plantations of Assam was legitimized under the category 'coolie' by colonial law – a term which also indicated and legalized the position of the worker as a colonial subject. This might also help in understanding the condition of the worker in the post-independence period as well and their treatment by the Indian state as a citizen or a subject through the workings of law. The paper, therefore, tries to focus in highlighting the workings of law in a historical context as a formal means of subjugation, thus transforming a group of people from migrants to labour specific to the tea gardens of Assam.

Keywords: Assam, colonial law, coolie, tea plantations.

Introduction: Behind the glorious portrayal of Assam as a tourist destination owing to its large number of lush, green tea gardens, lies the paradoxical state of its numerous workers, mostly migrants from other parts of the country, who have made Assam tea a brand to reckon for the world over. The following snippets would provide a glimpse into their lives inside the plantations and the state in general:

... While the industry has progressed by leaps and bounds, the condition of the workers has remained almost the same for years, since the British brought their ancestors here to work in the plantations. The community suffers from illiteracy, poverty, poor health and lack of awareness, even as the disparity between them and the plantation executives is glaring[1].

Talking about the abusive behavior of a deceased planter called Mridul Bhattacharjee, a former worker named Minus Murari recalls:

Bhattacharjee was abusive and treated labourers like slaves, whipping and threatening to kill us whenever we spoke of labour rights.“Neither the government nor the tea tribe leaders provided any compensation for the dead or the injured,” rues Mainu Orang, president of Rani Chah Bagan Shramik Samabay Samiti[2].

What do the workers mean for political parties?

Political parties have wooed the voters of tea belt areas and despite having many representatives from the tea belts the agony of the workers are never healed... in many places of the tea belts, Central government schemes like Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) are not implemented properly. The workers are merely looked upon as vote banks by the political class....[3] Even the circulation of a gruesome video on youtube showing the public beating up some protesting

labourers and stripping a woman worker naked in the streets of Guwahati with the state police taking no action against the instigators of such violence simply because these workers were demanding for an ST status, have left me shocked and in doubt about the benevolent role of the state towards the large number of tea garden workers in Assam. The occurrences of such incidents makes one wonder whether the dilapidated condition of the tea garden labourer and their ignorance by the state even in the post-independence era is the continuation of a colonial legacy. To seek an answer to this question, it is pertinent to engage in a study of the colonial history of tea plantations in Assam, especially colonial law as law formed a legal framework within which the identity of a group or a community was determined and enabling the state to carry out a formal means of subjugation over those who occupied the lowest rungs of the economic ladder in a capitalist structure. As far as the colonial history of plantations is concerned, historians like H.A. Antrobus and Percival Griffiths confined their study to glorifying the trials and entrepreneurial achievements of the tea industry pioneers[4]-[5]. Scholars like Nitin Varma, Sharit Kumar Bhowmik, R.P. Behal and P.P. Mohapatra have covered various themes such as drink, vagaries of the Indenture system and changing patterns of relations of production in the post-independence period [6]-[7]-[8]. My effort, through this paper is to further contribute towards enriching the rich treasure of knowledge that covers the history of tea plantations in Assam and increase our knowledge about a community because of which the tea industry continues to flourish.

Methodology: The usage of both primary and secondary sources have been resorted to in order to give shape to this paper. The primary sources have been availed mainly from the National Archives of

India, New Delhi; Nehru Memorial Museum and Library, New Delhi and the Assam State Archives, Guwahati. The collection of data has been confined to British colonial documents associated with the districts of Darrang, Sibsagar and Lakhimpur of Assam from the period 1860 to 1900. An attempt is made to follow a thematic procedure in writing the paper instead of chronological.

A. Central Question: Given the harsh economic conditions of the migrant tea garden labourers in the numerous tea plantations of Assam and the continuing alienation of the community to the rights of enjoying a dignified life by both the public and the state in the post-independence era, it is important to trace the root of this problem to the colonial period as the recruitment of the tea garden labourers had begun during this phase of history.

B. Objectives:

- 1) To see colonial law as a formal means of subjugation and colonization in a peripheral region such as Assam which was situated far away from the central authority where tea plantations provided the political space for its intensification.
- 2) How the identity of the migrant worker as 'coolie' (a product of modernity) was legitimized by the workings of colonial law.
- 3) To understand how colonial law entrenched the differences between the 'civilized' and the 'uncivilized', protected the former from the latter or the 'modern' from the 'primitive' within the confines of the tea plantation.

Analysis And Interpretation: The failure to bind the surrounding hill tribes and local inhabitants of the region into a 'time-work-discipline' regime in the confines of newly created plantations during the early part of the nineteenth century made the colonial state and its planter community resort to other options. Their quest to find the 'suitable coolie' for the numerous tea plantations of Assam made them resort to recruiting displaced tribal groups such as Gonds, Konds, Kharias, Santhals, Mundas and Kols (to name a few) from regions such as Bihar, Orissa, West Bengal and parts of Madhya Pradesh, United Provinces and as far as Madras.

It needs to be noted here that plantations in Assam were a product of the colonial state. Therefore, a study of the natives who were brought to work in these colonial capitalist ventures of the state needs to be studied in the context of their treatment as colonial subjects. One cannot help but notice the comfortable and spontaneous tone in which plantations get compared to jails by a colonial official: ...in both there is a fluctuating population confined to a limited space and placed under similar conditions : as in a jail sentences expire and new prisoners are

received, so also in a plantation do contracts determine and new recruits join. The method of calculation, therefore, which is appropriate to a jail would seem also applicable to a plantation [emphasis in italics are mine] [9].

Here, the comparison of plantations to jails helps in understanding the extension of the idea of the colony, government control, colonial perception and treatment of the migrant laboring community of the tea gardens. The position of the migrant coolie within the environment of the plantations as a colonial subject needs to be seen as being imposed by terms and conditions created by labour contract agreements designed and supported by the mechanism of law.

In order to enable the smooth working of his plantations, Section 121 of Act VII (Bengal Code) of 1873 enabled the employer to complain the absence of the labourer from his work in front of a magistrate. The means of dealing with desertions provided by law allowed a certificate of release to a labourer on the determination of his contract according to Section 138 of Act VII (Bengal Code) of 1873 [10]. However, in the proposed amendment of the Act, in order to remove any impediments to free emigration into the province, the inspector of labourers was required to enquire and endorse the days of absence on the contract, unless the labourer agreed to forfeit four annas for each day of absence. He/she could be further rigorously imprisoned for a term not exceeding fourteen days and if the absence from the garden extended to twenty days in two consecutive months, the period of imprisonment could be extended to a month. According to the proposed changes, the deserter may be arrested without warrant and taken to the nearest police-station provided that he/she was not found in the service of another employer. Section 135 was newly inserted in the Act to provide punishments for habitual drunkenness and disregard for sanitary regulations too.

Official documentation from Britain to the Government in India suggested that all re-engagements of the labourers was required to be registered before a magistrate or an inspector in order to reduce the rates of desertions [11]. It also suggested that any other additions to the requirements of the law should be made for the repression of this serious and increasing evil[12]. The intrusion of colonial law and strengthening of it in the space of the garden also needs to be placed in the context of increasing number of plantations and hence, at the same time, indication of the consolidation of British rule in the fringes of its empire. The increase in the number of tea plantations in the region required the enforcement of strict

control and discipline given the high incidents of desertion by the migrant labour force. These acts of desertion by the labour community from the confines of the tea garden were often treated with criminalized representations as riots and unlawful assembly [13]. The creation of the notion of uncivil behavior by colonized subjects naturally eased the task of the colonial state to create a primitive among the natives. Such categorization of a certain section of the population, more so, by criminalizing their behaviour or actions can be seen as arising from the need to place oneself at a pedestal higher than the so-called 'primitive' and from where a weaving of knowledge emanates in a manner that sees other communities from a perspective that looked backwards.

If on one hand, the government desired a compulsory registration of all re-engagements before a magistrate or an inspector, then on the other hand, the planters expressed the extreme inconvenience that would arise out of the need to make registration of such re-engagements compulsory. Their hesitation arose from the fact that a large proportion of the labour force were either time-expired coolies or those working without any agreement at all [14]. This difference in opinion between Government officials and planters regarding the degree of law enforcement determined the extent to which the idea of the primitive was to be enforced and the ways in which each desired to establish its own authority in the shaping of such an identity.

The government's desire to enforce the compulsory registration of re-engagements to prevent desertions can be probably seen as arising from the need to keep alive the supply of labour and preventing any shortage. Take for instance:

...the government of India has no present intention of attempting to lessen the evil by any other means than the improvement of communications between Bengal and Assam, which will necessarily facilitate the ingress of labour [15].

The intention was probably to prevent desertions by opening the land more intensely to other regions and increasing the number of subjects by a more intimate association with Bengal. Therefore, the issue of desertions does not only become an issue regarding the plantations but of the state at large. In fact, the term 'emigrant' in colonial official sources meant a native of India, of the age of 16 years and above, who proceeded to emigrate while the term 'labourer' meant any labourer who had made a contract under Section 3 of the Labour Districts Emigration Act of 1881. Hence, the term 'labourer' itself was carved out and endorsed by the mechanism of colonial law. The legality of his/her position defined by his/her position of being employed/engaged in physical activity even

after a labourer deserted and was found in the service of another employer, a gratifying revelation to enable the subject to escape arrest despite the desertion. The act of desertion and its criminalization, thus, gets nullified when the labourer returns to being a subject, his/her legal position crafted within the parameters of an immigration act approved by law [16]. The fitness/unfitness antipodalas were created not just by an examination of the coolies' adjustability with the climate of Assam but also by their ability to abide and be moulded by law. Some of its rules and provisions were altered or newly proposed in order to enable the functioning of colonialism to suit the economic compulsions of capital in a frontier region such as Assam. Michel Foucault's study of prisons in his highly acclaimed *Discipline and Punish* highlights the transformations in the forms of punishment between 1750 and 1850 as becoming more repressive under the garb of discipline. Such stringency of law according to E.P. Thompson was an expression of class relations [17]. Manifested in the idea of the prison or other forms of discipline was a glimpse into a world which according to Anand A. Yang regimented people into industrious, conforming and self-regulating individuals [18]. The onslaught of industrialization began producing sections of population that represented extreme economic polarities of the rich and the poor. Numbers played a crucial role in determining the primitive from the non-primitive. As the number of the poor began rising and their presence felt more prominent not just in early modern Europe as shown by Yang [19], but also in the newly acquired colonies, colonial anxiety and more so, that of the bourgeoisie deemed it essential to regulate their existence to prevent the poor from impeding the position of the rich capitalist bourgeoisie. It also contributed in keeping the distinctions between the rich and the poor intact as the continuation of an imperialist capitalist structure was highly dependent on the existence of a large number of the poor so that colonialism could be represented as 'benevolence' to improve the lot of the poor as in the case of coolies produced for the numerous tea plantations of Assam.

What better way to assert the pre-modern nature of the coolie, be it native or emigrant, when the need to be treated as one comes from the primitive itself when they entered into agreements with the hope of getting some kind of 'advances' or 'bonuses' under labour contract laws such as one under the Workman's Breach of Contract Act XIII of 1859:

.....Of the advance above received Rs._ to be deducted by monthly instalments from my pay, and the remaining Rs.16 to stand as a conditional advance. On my working the full 730 days above agreed, I am to receive full pay and the conditional will then be as a

gift to me. But if by laziness or carelessness I neglect to fulfill my term of service as above written, or whilst still my time is unserved I abscond anywhere, I can then be punished according to the rules of the Criminal Laws.

I further agree that for as many days as I neglect to serve out my time, I will pay four annas per day as compensation...If I fail in paying up, I can be sued in the Civil Courts for the full amount.

Witness—

(Sd.) NOOMULL DUFFADAR

„ MOTHI.

„ BISTOORAM [20].

In many cases, the labourers were unable to repay back these 'advances' and the inability to do so was assumed to be a criminal offence for which the worker could be sentenced to rigorous imprisonment or hard labour. This resulted in the worker entering into a bondage of indebtedness which ultimately compelled the worker to enter into a renewal of these contracts, leaving him/her with the only option if he/she had to buy their freedom through. The above example portrayed as coming from the worker himself indicated that the worker was forcefully thrown into a condition where he was bound to negotiate his/her pre-modern, backward characteristics (his 'laziness', his 'carelessness') with the law makers for a disciplining of his pre-modernity through terms and conditions defined by the law makers.

Important Findings:

The following are the important findings of this paper:

- 1) Law intensified the relationship between the ruler and the subject, the colonizer and the colonized within the territory of the colonial tea plantations, thus, tea plantations forming an important foundation that enabled the colonizers to strengthen their hold over Assam as a colony.
- 2) The identity of the tea garden migrant worker as 'coolie' seemed like a manifestation of the idea surrounding the creation of a colonial subject, legalized or legitimized by the mechanism of law.
- 3) If the 'coolie' was a manifestation of the colonial subject, then this subjectivity was a product of a

civilizational comparison between the colonizer and the colonized as the 'modern' and the 'primitive' respectively.

Conclusion: In the light of the above findings, it needs to be highlighted that as long as the state, and particularly the post-colonial state continues to treat its citizens as subjects, particularly those who occupy the lowest rungs of the socio-economic ladder such as the migrant tea plantation workers of Assam, true emancipation of this community would be a far fetched dream. The adherence to partial treatment of this group by the Indian state with the denial of rights and privileges which the community continue to demand, one such demand being the desire to be granted the ST status, would even fail to change the attitude of the public in general. Therefore, it is very important to make provisions in the present system of law to alleviate the economic conditions of the worker community of the large number of tea gardens of Assam so that they are not deprived of the right to live a dignified life and the government should take measures to bring about alterations in those provisions of law which act as a stumbling block towards uplifting the standard of living of these people.

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References:

1. Azera Parveen Rahman, "The plight of women workers in Assam's tea gardens", www.dnaindia.com/analysis/column-the-plight-of-women-workers-in-assam-s-tea-gardens-1981349, Thursday, 24 April, 2014.
2. Ratnadip Choudhury, "Mayhem in the tea garden", www.tehelka.com/mayhem-in-the-tea-garden, issue 3, vol. 10.
3. Nupur Das, "This is the agonizing state of tea garden workers of Assam" www.youthkiawaaz.com/2013/02/the-agony-of-the-tea-garden-workers-of-assam, 25 February, 2013.
4. H.A. Antrobus, A History of the Assam Company 1839-1953. Edinburgh: T&A Constable Ltd, 1957.
5. Sir Percival Griffiths, The History of the Indian

- Tea Industry. London: Weidenfeld and Nicolson, 1967.
6. Nitin Varma, "For the drink of the nation: drink, labour and plantation capitalism in the colonial tea gardens of Assam in the late nineteenth and early twentieth century", in Labour Matters Towards Global Histories, Marcel Van der Linden and Prabhu P. Mohapatra, Ed. New Delhi: Tulika Books, 2009.
 7. Sharit Kumar Bhowmik, "The plantation as a social system", in Economic and Political Weekly, vol. 15, no. 36, Sep 6, 1980, pp. 1524-1527.
 8. Rana P. Behal and Prabhu P. Mohapatra, "Tea and money versus human life: the rise and fall of indenture system in Assam valley tea plantations", in Plantations, Proletarians and Peasants in Colonial Asia, E. Valentine Daniel, Henry Bernstein and Tom Brass, Ed. London: Frank Cass, 1992.
 9. From- T.J. Murray, Offg. Secretary to the Chief Commissioner of Assam. To- The Secretary to the Govt. of India, Deptt. of Revenue, Agriculture and Commerce, Emigration Branch, March 1878, Appendix E, no. 2,482, Shillong, dated 27 September, 1877.
 10. From- T.J. Murray, Offg. Secretary to the Chief Commissioner of Assam. To- The Secretary to the Govt. of India, Deptt. of Revenue, Agriculture and Commerce, Emigration Branch, March 1878, Appendix E, no. 2,482, Shillong, dated 27 September, 1877.
 11. Subject:- Mode of calculating the average strength of imported labourers employed in tea gardens in Assam; and frequency of desertion among them. From- Her Majesty's Secretary of State for India, To- The Govt. of India, No. 56, Public, dated India Office, London, 23rd May 1878, Deptt. of Revenue, Agriculture and Commerce, Emigration Branch, Proceedings nos. 24 to 29, August, 1878.
 12. Subject:- Mode of calculating the average strength of imported labourers employed in tea gardens in Assam; and frequency of desertion among them. From- Her Majesty's Secretary of State for India, To- The Govt. of India, No. 56, Public, dated India Office, London, 23rd May 1878, Deptt. of Revenue, Agriculture and Commerce, Emigration Branch, Proceedings nos. 24 to 29, August, 1878.
 13. Report on Labour Immigration Into Assam for the Year 1896, Extract from the proceedings of the Government of India, no. 2 - 80-2, Revenue and Agriculture Deptt, Emigration Branch, January 8, 1898.
 14. Subject:- Mode of calculating the average strength of imported labourers employed in tea gardens in Assam; and frequency of desertion among them. From- The Secretary to the Chief Commissioner of Assam, To- The Secretary to the Govt. of India, no. 24T, Dated Yacht Sanamukhi, July 23, 1878. Deptt of Revenue, Agriculture and Commerce, Emigration Branch, proceedings nos. 24 to 29, August 1878.
 15. Annual Report on the labour immigration into Assam for the year 1877. Proceedings of the Dept of Revenue, Agriculture and Commerce, December, 1878.
 16. The Report of the Commission on the Labour Districts Emigration Act. Amendment of the Labour Districts Emigration Act VII (B.C.) of 1873. Proceedings of the Revenue and Agricultural Dept, Emigration, nos. 1 to 15, August, 1881.
 17. Anand A.Yang Ed. Crime and Criminality in British India. Tucson, Arizona: The University of Arizona Press, 1985.
 18. Anand A.Yang Ed. Crime and Criminality in British India. Tucson, Arizona: The University of Arizona Press, 1985.
 19. Anand A.Yang Ed. Crime and Criminality in British India. Tucson, Arizona: The University of Arizona Press, 1985.
 20. Subject: Labour Contract Law In Assam, Home Deptt. Proceedings, Judicial Branch, March 1876, nos. 117 to 122. Khanda Kachari cooly's agreement for 730 days, or two years' agreement, dated 4th May 1874, with A.B. Fisher, Chief Superintendent, Assam Company, Nazira. From- H. Luttman Johnson, Secretary to the Chief Commissioner of Assam, To- The Officiating Secretary to the Government of India, no. 3439, Shillong, October 18, 1875.
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