

Chapter 1

Introduction

The draconian law Criminal Tribes Act (CTA), 1871 was enacted under British rule which declaredly nearly 150 communities as born criminal in India. These communities were kept in the settlement for the sake of reformation and were constantly under surveillance of authority. Not only their movement was curtailed but it led to loss of their livelihood and violation of human rights (Idate, 2017). Since enactment of the act, these communities got separated from large society and looked upon as criminals. India gained independence on 15th August 1947 but these communities had to wait for another five years to enjoy freedom when Habitual Offender Act (HOA) was passed in year 1952 and they were decriminalised. India as a democratic country promotes principles of equality, fraternity and liberty. The constitution of India ensures dignity, freedom and equity to all sections including schedule caste, schedule tribes, women and marginalised ones. It is very important to note that the groups such as Nomadic and Denotified Tribes (NTDNTs) are still far away from the development. There is no universal classification of these groups in the country and are incorporated into different social categories in different states. The labelling of criminality imposed by British on them has kept them excluded from mainstream society and they are still living very vulnerable life.

The movement against British in year 1857 was described by Karl Marx as first war of independence. The Britishers felt that it is a high time to distinguish between the loyal and rebellion groups in India. Those communities who supported the rebellion groups were declared as Criminal Tribes by British administration (Idate, 2017). There were some scholars who claimed that these various communities particularly in Northern India fought against British in 1857 freedom struggle. Many local rulers were taking support from these groups either directly to fight against British or indirectly to assist their armies against colonial forces. They were wondering communities so very much aware about geographic information of country and helping as informants to freedom fighters with food, cash and weapons. (Devi, 1992; Radhakrishna, 2001; Kannan, 2007). It was one of the strong reasons that British government was considering them threat to their rule and declared these communities as born criminals under Criminal Tribes Act (CTA), 1871. Not only their freedom was curtailed but it kept them away from developmental initiatives (Dandekar,

2009). Some of these communities belonging to small princely states were thrown out of power and listed under criminal tribes. The purpose was to abolish their identity so it will not challenge the British administration at local level in future (Yang, 1985). The British officials were claiming that they wanted to reform these groups as their main occupations was to commit crime but the real intention was to suppress them one or another way. They enacted CTA with the purpose to control criminal activities of some groups. They believed that these groups were committing crimes from one generation to another. The detail study of the act on these tribes is very essential as the complete historical background of the act given by none of the author at one place (Sher, 1965).

1.1 Nomadism

The origin of the word 'nomad' is derived from the Greek word *nemein* means 'to pasture'. Nomads are defined as “people that travel from place to place to find fresh pasture for their animals and have no permanent home” (Stevenson, 2010, p. 1205). It includes broad category from hunter gatherer to other moving groups for earning livelihood. Their movement is organized with cyclical and seasonal pattern for survival with purpose. With nomadic nature, they have well preserved their cultural and social history (Gilbert, 2014).

1.2 The Criminal Tribes Act, 1871

The British government enacted the Criminal Tribes Act in the year 1871 with aim to gain control over rebellion groups who protested against British annexation in India. With effect of the act, many nomadic groups were declared as born criminals and harsh provisions were imposed on them. The act gave much power to law enforcement officials regarding implementing the act including convictions and imprisonment of such communities without trials. Those who were enlisted under the act, it was mandatory for them to register themselves in nearby police station which had severely affected their movement. The rehabilitation centers were established on the name of reformation of these communities where they were chained and shackled with high wall surrounding in reality. If any person from criminal tribe committed same offence second time under first schedule of Indian Penal Code (IPC), he was imprisoned for seven to ten years. The sentence was deportation for life

convicted third time of same offence where as it was only three to six months or no sentence for people belonging to non-criminal groups of committing such offences. The law was discriminatory for criminal and non-criminal communities (Sher, 1965).

1.3 Habitual Offender Act, 1952

After five year of independence, Habitual Offender Act was passed in the year 1952 repealing the Criminal Tribes Act. Hence, listed communities were declared as Denotified. However, stigma remained same toward nomadic communities and still they have not been incorporated into mainstream society. They are even today perceived as outcast. Though Habitual Offender Act, 1952 does not consider whole communities as criminal but individuals belonging to these groups still looked upon as criminals. The National Human Rights Commission (NHRC) at its meeting held in the year 2000 recommended repealing of the Habitual Offenders Act (Devy, 2006). It emphasized to monitor atrocities against donotified groups, sensitization of police and state machineries toward them.

1.4 Denotified Tribes

The Criminal Tribes Act (CTA) was first enacted in year 1871 which declared certain communities as born criminals. It had many provisions on restrictions of movement of these groups and made it obligatory to register their attendance in nearby police station at the end of a day. The act defines Criminal Tribes as: “any tribe, gang or class of persons addicted to the systematic commission of non-bailable offences” (Simhadri, 1991, p. 121). With enactment of the act, entire communities were declared as born criminals whether they had actual committed crime or not. Earlier the act was confined to Northern India but undergone several amendments in year 1897, 1911, 1923 and 1924. The Criminal Tribes Act, 1924 remained in force till it was repealed in 1952, hence these groups came to be known as Denotified tribes.

1.5 Historical Perspective of Nomadic and Denotified Tribes

Asia, Africa, Europe and Northern America are considered home to nomadic people. During post-pastoral period, sedentism became preferred way of life and nomadism came into conflict with sedentary people. With the evolution of nation-state, industrialization and globalization, nomadic nature of life came under threat. The nomadic groups were once proud and service provider in the society who later reduced to one of the most marginalized and excluded sections due to historical injustice committed to them during colonial as well as post-colonial time. It is necessary to analyze historical context to understand situation of nomadic groups. In economics, principles of utilitarian consider people based on their utility (Japhet et al., 2016). The practice of isolating people who were having less utility was followed during sixteenth-century in Europe. The poor, lepers and person with unsound mind were eliminated from the mainstream society by keeping them isolated and sent out to remote lands (Foucault, 1988).

Some of the theories such as biological theory based on Francis Galton's eugenics theory and criminological theory of Cesare Lombroso considered intelligence and criminality have hereditary traits respectively (Galton, 1869 & Lombroso, 1864). Based on these theoretical understanding, efforts were made to possibly re-engineering society with biological and sociological intervention. These assumptions resulted into passing of Habitual Criminal Act, 1869 in England. It empowered police officers to identify, supervise and arrest 'habitual criminals' which equated them with criminal identity leading to stigmatization of these people in society (Radzinowicz & Hood, 1990; Wiener, 1994; Pavlich, 2010). The Criminal Tribes Act was enacted in British India immediately after two years of Habitual Criminal Act passed in England. The British prepared list of nomadic communities to identify and control their movements and compelled them for settled life (Japhet et al., 2016). The marginalization of these various groups was started with reign of power by British in the year 1858. The colonial legislations replaced the native customary laws which led to dissolution of traditional norms of Indian society. Over the period, nomadic communities were deprived of their traditional rights on land, forest and animals due to enactment of various legislations. Before nineteenth century, the different nomadic communities of India played very important role to render necessary services to far away villages which were otherwise inaccessible in

normal circumstances. Though they were excluded by caste, they had very special place to provide distinct services like entertainment, sharpening knives in society.

At the time of independence, India emphasized on idea of transforming deep rooted hierarchical society into a civic community of equals. Indian constitution stated three core aspects of lives of its citizen which will govern Indian future based on equal legal status of its members, enjoyment of equal civil and political rights and ensuring of social and economic rights for their development (Jayal, 2012). There are many communities in our society which are very far away to enjoy their rights and constitutional guarantees given to them. The CTA totally ruined life of NTDNTs communities. Not only restrictions were imposed on them but they came under purview of suspicion and whenever any theft was committed, they were first in circle of doubt and forced to accept crime which in reality not committed by them. The police officials and even people in society are having very prejudicial mindset toward these groups. It is estimated that there are around 198 Denotified and 313 Nomadic communities numbering nearly 60 million in country (Resist Initiative International, 2007, p.2). Among them, 28 Nomadic and 12 Denotified tribes are found in Gujarat. Due to wondering nature, they have always been looked upon with suspicion and remain away from associating with other communities in society at large.

1.6 Concept of Thuggee and Criminalization of Tribes

The British authority had observed that certain groups of people were involved in unusual criminal activities which were popularly known as thuggee. The word thuggee derived from the word thug which means ‘thief or deceiver or swindler.’ In India, thugs were the gang of people who were professionally trained and involved in looting and even murdering travellers for centuries. They were considered responsible for death of millions in the country. They were labelled as ‘bloody terror’ and a ‘desolating scourge’ (Twain, 2020). ‘Thuggee’ as it was called trade, was considered as a regular profession and those who were involved in such acts were also paying taxes under most of Hindu and Muslim rule (Rana, 2011). For the British administration, thuggee became a matter of grave concern during early nineteenth century as these groups were not only plundering belongings of highwaymen but involved in murdering of travellers mercilessly by throttling and stabbing. There were also rise of incidences of dacoity which was involving armed robbery. These incidences compelled the British

authority which led to the establishment of “Thuggee and Dacoity Department” in the year 1835 with William Sleeman as its Supervenient. The anti-thuggee campaign was carried out extremely and it was believed thuggee was nearly extinct by 1860 (Lloyd, 2006).

The story of origin of Thuggee is mystery for most of us. The different writers have given their own understanding for thuggee. Some of the scholars support the practices of thuggee while others claimed that it was fictitious story created by Britishers. There are some scholars who do not reject the existence of thuggee but they doubt the portray of thuggee by British authority (Baxi, 2022). According to opinion of Colonel Sleeman the existence of itinerant tribe of Muslim were continuously attacking and looting inside country after invasion of Mughals in India while the Hindus believe in divine origin of thuggee from the goddess *Bhawane¹*. Surprisingly both Muslim and Hindu pray and believe in power of same goddess and follow Hindu traditions which lead us to believe that thugees was of Hindu origin (Taylor, 1873). Though some believe that existence of thuggee since ages, but no concrete evidences have been discovered by historians in India until rule of Akbar when many of its practitioners were captured and killed. Till 1810, though local kings and landlords have identified and executed people involved in practices of thuggee but British authority was not aware about them till that time (Taylor, 1873). In same year, the strange incidences of disappearance of many army men who used commute regularly from their homes compelled Commander-in-chief to issue order to warn soldiers against Thugs. After the murder of Lieut. Monsell by Thugs in the year 1812, Mr. Halhed marched with troops towards village to search out murders who were residing in villages where they were residing. The habitats of Thugs were discovered in many villages which were under reign of Scindia and it was known that thugs were paying large annual sums to Scindia rulers for their protection. Though the action of Mr. Halhed created dispersion of thugs but they carried out their profession into different parts of the country which was probably not know earlier.

The British administration had always claimed that they were very much unknown to such kind of crime before coming to India which itself is contrary to their claims. The certain incidences like war and financial exhaustion in Europe created trouble which made very hard for maritime personnel to keep real monitoring on pirates either in East or West Cost. There

¹ Goddess *Bhawane* is worshipped as a form of Durga and symbol of power among Hindu.

was also increasing numbers of freebooters in region and even roads of Europe were not safe from highwaymen so it was like impossible that sea-route is unnoticed for them. The pirates used to present themselves as merchant or slave but their real intentions were well-known (Biddulph, 1907). It indicates that the crime like thuggee was existing in England during middle-age which was rain of Akbar at that time in India when thugs were discovered and executed (Sher, 1965).

In the year 1666 toward the end of reign of Shah Jahan, a French traveller Thevenot describes as follows:

Though the road I have been speaking of, from Delhi to Agra, be tolerable, yet hath it many inconveniences. One may meet with tigers, panthers, and lions upon it; and one had best, also, have a care of robbers and, above all things, not to suffer anybody to come near one upon the road. The cunningest robbers in the world are in that country. They use a certain slip with a running noose, which they can cast with so much sleight about a man's neck, when they are within reach of him, that they never fail, so that they strangle him in a trice (Sleeman, n.d, p.20).

Thevenot also describes that thuggees were taking support of their handsome women with her 'hair dishelmed and seems to be in tears' to trap the travellers by asking help. The traveller agreed to help her and ultimately get into danger once caught up by robbers hiding behind. However, the idea of women utilized by thuggees was not supported in the work of Sleeman (Ní Fhlathúin, 2001). The British officials began to deal with illegal acts of thugs after the conquest of Seringapatam in the year 1799 but they became more serious in action after murder of Lt. Monsell by thugs in 1812, but they could not succeed to suppress them until 1816 (Sher, 1965). In the year 1828, William Bentinck took up certain reformation acts in which suppression of crime was one among them. It was in the year 1829, Mr. F. C. Smith, an agent to Governor-General in Narbada Territories was given special power to take strict action against thugs and their associations. Major Sleeman whose name is always prominent to suppress the crime of thuggee in India was appointed as his co-adjutor and assistant. There was another form of crime which was considered 'crimes of extra-ordinaire' called 'dacoity' or brigandage that involved armed robbery by the dacoits (Rana, 2011, p.13). The incidences

of murders and highway loot provoked the British administration to take some strict action which resulted establishment of special wing called 'Thuggee and Dacoity Department' under government of India with William Sleeman, a civil servant as its Superintendent in year 1835. The Anti-Thuggee Campaign was executed for more than a decade between 1824 to 1841 and it was said that the practice of thuggee was almost extinct by the end of 1860. However, the department was active till 1904 when replaced by the Central Criminal Intelligence Department (CID). The Anti-Thug operation carried out between 1831 to 1837 resulted into 1059 were transported to Panang, 412 of them were hanged while 87 were given life imprisonment, 21 were imprisoned for breach of security, 69 were convicted for various penalties, 11 of them escaped from jail, 36 were died in jail, 483 of them made approvers, 120 were convicted but not sentenced, 936 were kept in jail at various places and 1800 thugs were large in Indin which accounted total population of thug 5066 (Sher, 1965, pp.241-242). Even before formation of Thuggee and Dacoity Department, a Chhapperban tribe was confined for restriction under section 27 Bombay Regulation XII of 1827. Their movements were restricted and its members were compelled to give attendance three time a day on such days and places decided by District Superintendent of Police from time to time.

The two thugs namely Feringeea and Amir Ali have set unforgettable place in history of thuggee as they were sole source of information for British which led to arrest and execution of thousands of thugs in country. The operation against thuggee continues till 1853 unless all of them were eradicated. W. H. Sleeman, who played vital role in anti-thuggee operation, said that "The system is destroyed, the profession is ruined; the guild is scattered, never again to be associated into a great corporate body. The craft and the mystery of thuggee will no longer be handed down from father to son" (Sleeman, n.d, p.124 as cited in Sher, 1965). Discriminatory approach of British authority toward caste, religion and tribes was justified on the basis of portraying European as more civilized. It was noted in the recruitment of the Bengal Army during 1757 when such despotic approach toward members of different religions to keep them divided, fuelling rivalry to prevent unity among the battalions before implementing theory of 'martial race' later (Kolff, 1990). The efforts to consider certain sections of the society as criminal were made before commencement of CTA in the year 1871. In the year 1772, Warren Hasting allowed under Article 35 of the General Regulations to punish the family and village of offenders on the basis performing this profession from

generation to generation. They are having criminal tendencies by birth (Singha, 1993). Apart from it, Regulation XII of 1793 targeted groups of offenders on the base of profession and nomadism and their families were forced to work on roads or compelled to live settled life. The British authority was preparing list of communities on basis of such commonalities and tried to classify them which led to branding certain groups as offenders in future.

The expansion of surveillance, punishment through use of confession under Sleeman was questioned by the court and political authority; but the creation of enough knowledge about committing crime led to the passing of Act XXX known as The Thuggee Act by the central government without stating what the illegal act in the year 1836. Schwarz (2010) in his opinion explained that anti thuggee approach is violating the very basic principle of 'rule of law' and the authority used measures such as anti-thuggee operation whenever they were threat against authority. In the fraternity of historians, it is largely believed that the anti-thuggee operation started in 1830s was more or less a public relation event as a policing operation. Their objectives were to expand the British rule to the unknown territories. Some of the scholars believe that the British started anti-thuggee campaign to expand the control of East India company which was not otherwise possible. They wanted to wipe out any danger coming to their way of expansion (Schwarz, 2010).

Many scholars have raised questions regarding existence of thugs which were not answered. The reason towards speculations was that the operations against thuggee were carried out in close nature of response and revelation. Mainly thug concept was identified, documented and exterminated by one person mainly known as Sleeman during twenty years of time. Probably no scholar had any opportunity to study the cult closely. Additionally, the people did not notice it and it was fictitious to satisfy the interest of British people in areas of trade, strengthening of British army and moral superiority of English people over India (Chatterjee, 1998). F.C Smith, an agent to the Governor-General and his political assistant Sleeman had started their anti-thuggee operation since 1829 at region Sagar though it was not thoroughly sanctioned by the East India Company. Their action was opposed by the court and administrator in the districts but they continued their operation. A Chief Secretary George Swinton who was also principal assistant to Governor-General William Bentinck allowed capital punishment in a letter to the Resident at Indore against gangs who confessed murder and accepted being 'thug' which F.C Smith and Sleeman understood that political department

working in near state is having higher role rather than court to deal with such extraordinary crimes (Schwarz, 2010).

Generally criminal intention was considered based on the profession of the accused which was linked with the caste mainly through heredity. It was believed that these hereditary criminals were not easily controllable and extra-ordinary measures required to tackle them. They were isolated and sentenced to transportation for life so that other people in society did not get influenced by their criminal activities. The Act XXX of 1836 and Act XXIV of 1843 allowed trial on individuals having association with gangs of collective gangs even though there was no any particular evidence produced against them. Considering certain terms like “professional dacoit” mentioned in the act XXIV of 1843 was vague compared to the term ‘thug’ which was not defined under the act of 1836. The act addressed the conviction of some tribes who were involved in “lawless pursuits” but those pursuits were not properly defined under the act which were leading sentence to the members of the gangs (Singha, 1993). Additionally, the act XI of 1848 broadened the scope to cover “any wondering gang” though it was belonging to thugs or dacoits but believed to have criminal intentions (Schwarz, 2010).

There were evidences about the ‘gang’ of stranglers who were captured and later executed for their crime near Surat. Fryer (1990) wrote that

They used a device of a weight tied to a Cotton Bowstring made of guts, they used to throw it upon passengers, that winding it about their Necks, they pulled them from their Beast and dragging them upon the ground strangled them and possessed themselves of what they had (p. 97).

During British reign, those who were habitually involved in criminal acts were targeted during 1830s. Thugs were considered as similar to military opponent even though they were not official soldiers because they had such skills to fight against British authority. The British authority was considering them as threat against their law of protecting property and taxing settled cultivators, so some of the officials in central government issues extermination warrant against thugs in 1829 (Schwarz, 2010). There has been always suspicion among scholars whether Britishers were really interested to reform the criminal tribes or they wanted to control them because they many times acted against their set norms. Sanjay Nigam

described that the category of criminal tribes was stereotype of British who wanted to justify their act on the base of 'disciplining and policing' of certain groups who were not ready to accept the norms set up by them particularly imposing on rural society (as cited in Major, 1999). In the same context David Arnold has also mentioned that CTA was used against wandering groups, nomadic petty traders and pastoralists, gypsy types, hill- and forest-dwelling tribals, in short, against a wide variety of marginals who did not conform to the colonial pattern of settled agricultural and wage labor' (as cited in Major, 1999. p. 660).

1.7 Colonial Approach towards Criminal Tribes

In British rule, the revenue demand was increasing so they felt to 'settle' all of the people of county to fixed location which would help them to levy tax on them. It was also the period when the region had witnessed increasing incidences of unrest of pastoralist, armies and yogis during 18th century which lasted till early phase of 19th century. Such activities were considered political threat to the company in its views and also economic loss as company could not bring wondering groups into its network of taxes. They put much emphasize on 'sedentarization' with focus on tribal people of central India. Gradually, the tribes were confined to the forest depriving their traditional rights on its resources and encouraging them to leave their wondering ways for cultivation. The nomadic groups such as Banjara who used to accompany armies with their pack animals along with other communities such as Gurjar and Bhatti were restricted on their grazing ground with assessment of waste lands and development of private properties. They also lost their earning opportunities with disbandment of armies. These wondering groups were first target of suspicion and prejudiced as criminals. These opinions were intensified with the launch of anti-thuggee operations by the Britishers (Metcalf, & Metcalf, 2006).

Broadly speaking the notified communities were divided into four categories. The criminal tribes under first category were kept in the settlement camps which were run by British Salvation Army. The British Salvation Army was providing them basic education, training for vocation skills, hygiene manners and civic behaviour. The second category of them were deployed in the camp and were provided employment into factories run by British in various places. The criminal tribes placed under third category were given land for cultivation to earn food and some income from it and encouraged to live sedentary life. The fourth category of

these groups were registered under the act and were monitored in their own village by local landlords (Radhakrishna, 2000). The Habitual Offender Act passed in the year 1869 to control the movements and impose restriction on Gypsies in England is considered as of the inspirational factors to enact CTA in the year 1871 by the Colonial Government in India. The certain communities like nomadic, pastoral and traditional training communities were notified as 'born criminals' with passing of the act. A British officer Booth Trucker defined it as 'those sections or groups of people who traditionally follow or commit criminal acts like stealing, robbery, dacoity and other such commission of non-bailable crimes in order to obtain a livelihood' (as cited in Korra, 2019). The wandering communities were engaged into various occupations such as cattle grazing, singing, acrobats, religious priests and traditional healers to earn their livelihood. Some of them were involved in resistance against British authority and directly or indirectly were supporting freedom fighters against British Government. The Colonial Government felt them as threat against them so wanted to control them one or another way. The certain communities were residing into forest and British authority believed that only criminal and mysterious people will stay in forests (Mullay, 1912).

The Criminal Tribes Act was amended several times to cover new groups, geographical locations and making rigorous rules. It was in the year 1924 when CTA was consolidated as one law and enacted to whole of the India. This amendment gave more power to local government to notify 'tribes, gangs and classes' as being 'addicted to the systematic commission of non-bailable offences' (Kumar, 2004). The British administration was claiming that they wanted to reform these groups through the act but their main reason to include nomadic, semi-nomadic and pastoral communities under the act was to restrict them to support as informants to freedom fighters. They were ones who were extending help to freedom fighter one or another way such as supplying food, financial support, joining their groups to fight against British authority and providing ammunition. It became very difficult from British administration to keep watch on them at local level so they used this act to control them. This resulted not only cutting down power of these group but kept them away from mainstream society (Dandekar, 2009). Those groups who were supporting princely state although small in nature were classified under the act with intention to deprive them off from ruling power and status to mitigate any kind of attacks from them in future (Joshi, 1998). The British authority was so prejudicial for these groups that they wanted to wipe out all criminals

and criminal communities, as they believed that it was their religion to commit crime (D'souza, 2001). The British had wrong understanding that such kind of criminal groups were integral part of the structure of Indian society (Bonington, 1931).

These communities were scattered due to their nomadic way of life so they were not having any written form of their history, customs, cultural practices and set pattern of occupations which made it easy for British authority to notify them as criminals. It is important to note that Banjara community was involved in trade of salt and transportation of goods by animals from one place to another since ages. They had practiced this profession in rein of Mughal and other kings before the arrival of British in India. Once there was establishment of rail network and other moder technologies, their age-old occupations were badly affected which led them to live settled life and adopt other professions such as agriculture, livestock rearing and so on. Some of them got involved into criminal activities due to loss of their livelihood which was not true for whole community in involvement of such acts (Varady, 1979). However, branding whole nomadic, pastoral and religions communities as criminal groups was major drawback of the act (D'Souza, 2001).

It is interesting to note that individuals were booked under the regulation of XXVI of 1793, then under the Act of XXX of 1836 and later under the Indian Penal Code of 1860 by British officials. There were no any such concept of criminal tribes and cases of declaring groups of individuals or whole community as criminal before enactment of CTA, 1871 (Nigam, 1990). As practicing caste-system in India, there were certain sections of SCs and STs were kept at bottom of the society which kept them away from integration into mainstream society but still there were not treated as criminal (Freitag, 1991). The scholars have claimed different theories about origin of the criminal tribes but one of them believes that they are descendants of gypsies who are found in all over the word with the common origin. In England, the criminal act was used against gypsies to safeguard white people from them and the act was implemented in India with same thought and strategies to control tribal dynasties and make them powerless without resistance (Radhakrishna, 1989). The itinerary communities do not follow the rigid customs and constraints of sedentary society, so they are considered as threat to the established order. The gypsies and nomadic groups were charged for disobeying laws and lazy people who were not believing in hard work. Their men escaped to do hard work of ploughing and tilting in agricultural land and women tries to avoid labour work of

housekeeping and child nurturing. They were imposed with various accession such as vagrancy, lust for wandering, purposeless life and believed plague for others (Radhakrishna, 2000).

It is not exaggerated to say that almost all legislations pertaining to gypsies in England were enacted to protect sedentary communities from the nomadic ones and never other way round (Mayall, 1988). Many evidences have been observed of harassment of these groups by settled communities in Europe which is also true in case of India as well. The attitude of sedentary communities had always been very contradictory and different toward itinerate groups. These nomadic communities should be settled somewhere but ‘not near us, not here’ and ‘they should visit our village, but should not stay too long’. (Radhakrishna, 2000, p. 2554). The itinerate communities are expected to adopt lifestyle of mainstream society but not allowed to integrate with others in mainstream society so they cannot corrupt them. Nomadic groups are also blamed for ‘wandering aimlessly’ but reality is different. They have fix route of migration with purpose and time. They are also labelled as idle, lazy and non-hardworking people. Once Booth Tucker who was head of the Salvation Army in India said that “when we asked them to till the land, or work in a factory, they were shocked. Work? they answered, we never work, we just sing and dance” (as cited in Radhakrishna, 2000, p. 2555). It is a question to be raised that how can till long their craft have survived if they do not work. It also important to note that their nature of work is different from others which is independent, non-time bound and not wage work.

The prejudicial mindset is always there for such communities as one of the cases of Yerukula tribe of Madra presidency. They are charged with their professed criminality. One of the reasons to tag them criminal was their migratory nature as like gypsies and second, they lost their traditional livelihood which made them dangerous criminals (Radhakrishna, 1989). Their own folklore was used to brand them as criminals. It was believed that they once asked their god Subramanya which profession they should choose and God gave them task of breaking houses. This was considered as evidence to believe that their profession was to commit crime of thefts and robberies. Surprisingly, the recorded crime committed by the community was very low compare to proportion of their population in Madras Presidency and the crime rate of higher castes was recorded high compare to their population in region. Sometimes, other local elements would commit more crime when itinerant communities were

near to their place so they were obviously first suspect for the police. The second accusation about migratory community was that they indulged into criminal acts due to loss of tradition livelihood could be somehow understandable as many of them lost their traditional livelihood due to advancement of technology.

The existence of crime has been since evaluation of human kind. It is not only modern phenomena and there are multiple reasons that human being had been indulge into criminal activities such as social environment, poverty, hunger, bad home and so forth (Darrow, 1922). There is one view that hunger and poverty are not always force behind attempting crime but emotional instability of person drives them towards criminal act with boost of personal accomplishment (Sutherland, Cressey & Luckenbill, 1992). The contrary view claimed that criminality is not hereditary, but social environment of person leads towards criminal acts. There is no strong link between criminality and birth of person as crime has been part of society since ages and surrounding factors are responsible for it (Thurston, 1909). With limited British knowledge regarding Indian sub-continent, they created fictitious image for marginalized sections which resulted into victimization of nomadic and other vulnerable groups including small tribal regimes. Their imagined stories against these groups with intention to demoralized and suppress them so that they can exploit natural resources (Dirks, 2002). In addition, British government encourage their several officers and intellectuals to write against criminal tribes which created environment of hate for these groups. They were mainly dependent on police department to gain formation about so-called criminal tribes which represented bias picture of these sections.

Freitag (1991) observe that British government had always felt that collective criminality was a threat to their rule in India and to curb them they came up with judicial instrument such as CTA. Indian had always been country of multi-culturalism and diverse castes which made difficult for British official to govern them which was one of the reasons for enactment of CTA with aim of controlling (D'Souza, 2001). The Criminal Tribes Acts was a tool to show that the government is concerned to establish environment of law and order to control crime of land and nomadic and tribal groups were easy targets and victims. The criminal tribes were outcome of prejudicial views and attitude of British government towards marginalised communities (Chandavarkar, 1998). The British officers had understood Indian community

with their own bias convenience so it is rightly asserted that the perception of British government towards Indian and its people had been resulted bad in sense (D'Souza 2001).

1.8 Ground Reality and Implementation of CTA

Incidences of malpractices had been reported for implementation of CTA at ground level. Ravishankar Vyas who worked for many years for upliftment of criminal tribes expressed concerned that police patil will register persons from criminal tribes and will keep them as his servants if he wanted to bring fodder of cattle. He added that if man is a habitual criminal, he will bribe a patel to keep register unwritten for few days. If he is caught somewhere for crime, he will be marked absent otherwise he will be marked present while coming back once he shares certain portion with patel from stolen goods. Not only male but sometime woman also bribe police or patel to avoid presence. There were incidences that real culprits were excluded from daily presence and innocent ones had to mark their presence and work for patel. The strong system they wanted to establish, there were high opportunities for fraud (Gould & Lunt, 2020). An effective implementation of CTA at bottom was dependent on village patels as they were ones who were registering attendance; but their work was often criticized in report of Working of Criminal Tribes Act due to incidences of corruption and mal-practices. Usually, register was kept blank and was only filled when police was coming to visit village. Those criminal tribe persons refused to do personal work of village patel were marked absent and prosecuted.

There were many freedom fighters and social reformer who opposed steps taken by British against criminal tribes. Jawaharlal Nehru in his speech at Nellore in the year 1948 mentioned that monstrous provisions of CTA denied civil libers of certain sections. He added that none of the criminal community or tribe to be declared as criminal and doing so was against the principles of criminal justice and treatment of offenders. Pattabhi Sitaramaiah in his speech also declared that criminal tribes were treated even worse than cattle. While leaving the country, British handed overall all the documents pertaining to criminal tribes to police departments. The British left but stigma remain the same for ex-criminal tribes and these various records were used by various police departments against them during any criminal activity happening in nearby areas. These groups have always been suffered of social

discrimination, isolation and injustice even after denotification in the year 1952 from CTA (Bayley, 1969).

1.9 Different Committees and Commissions on Denotified and Nomadic Communities

There has been various committees and commissions formed to understand situation of criminal tribes. They have given various recommendations for reform and welfare of these groups; but it has not resulted to create sustainable impact to improve life of nomadic and denotified communities. Few development initiatives have reached to these communities.

1.9.1 The Criminal Tribes Inquiry Committee, 1947

The Criminal Tribes Inquiry Committee, 1947 was constituted in United Province. It reported that nomadic communities will continue criminal activities till they get settled down and recommended making certain provisions under the law to settle them and need to teach them living an honest life against bad practices like idleness, prostitution and criminal tendencies due to their socio-economic conditions.

1.9.2 Ayyangar Committee

The committee was set up under chairmanship of Mr. Ananthsayanam Ayyangar in year 1949. It conducted a detailed study on working of CTA and submitted its report in 1950. The report suggested repealing act with valid reasons. It emphasized to allocate enough funds for welfare of these communities and recommended Central government should provide fund not exceeding 50 per cent to State government for welfare programs of criminal tribes for initial ten years. The recommendations were accepted by Central government and Criminal Tribes Act was repealed with effect from 31st August, 1952 by enacting Habitual Offender Act to keep control on individuals who commit crimes rather than criminalizing whole communities.

1.9.3 Kalelkar Commission

The first Backward Class Commission was appointed under chairmanship of Mr. Kakasaheb Kalelkar in year 1953. Its report suggested that criminal tribes should not be called ‘Tribes’

nor to be called as 'Criminal' or 'Ex-Criminal' and suggested to use word 'Denotified Communities' for them. For betterment of these communities, the commission suggested to distribute them in small groups in towns and villages where they will make contacts with other people which will help them to assimilate in mainstream society.

1.9.4 Lokur Committee

The Lokur Committee was formed under chairmanship of B.N. Lokur as an advisory committee for revision of list of Schedule Caste (SC) and Schedule Tribe (ST) in the year 1965. The nomadic and denotified groups were not divided universally as one community was listed under category Schedule Tribe in one state where as same community was included under list of either other backward class (OBC) or SC in another state. The committee was following strict guidelines for revision of ST and SC list but made certain favourable recommendations for nomadic and denotified groups. It suggested creating distinct category separate from ST, SC and OBC for nomadic and denotified tribes and need to make suitable measures for their development.

1.9.5 Justice Venkatachaliah Commission

In the year 2002, National Commission to Review Working of the Constitution was constituted under chairmanship of Justice M N Venkatachaliah. The report made special recommendations for denotified communities and observed that they have been wrongly stigmatized as habitual criminals and required special focus by government as well as society in general.

1.9.6 National Commission for Denotified, Nomadic and Semi-Nomadic Tribes

Government of India constituted two National Commissions for Denotified, Nomadic and Semi-nomadic Tribes; one under chairmanship of Balkrishna Renke in year 2008 while second under chairmanship of Bhiku Ramji Idate in year 2015. The major recommendations by these commissions were separate welfare program specially targeting them, members of these communities to be appointed at National and State Human Rights Commission to prevent atrocities against them, making efforts for their inclusion into mainstream society,

protecting them under Atrocities legislations and Constitutional amendment to create separate category for nomadic and denotified groups.

1.10 Devipujak Community

Devipujak community is listed as Other Backward Class (OBC) in Gujarat. Devipujaks are scattered in most parts of the state. They were listed as born criminals under Criminal Tribes Act and this draconian law ruined normal life of community. They have been victim of historical injustice. The act had harsh provisions like members of these groups were compelled to register themselves at local police station which had badly affected their nomadic way of life. The CTA was replaced by enacting Habitual Offender Act, 1952 officially declaring them denotified. Though they were decriminalized under act, the stigma remains same and they continue to be perceived as socially outcast. Society at larger considers these groups as criminals and many of them are living in disgraceful condition even today. Devipujaks are divided into many sub-groups like Datania, Gamecha, Patni, Vedva and others. Government of Gujarat issued resolution in year 2001 to replace the word Vaghri with Devipujak because it was used very disrespectfully toward these people in society to show them inferior.

1.11 Rationale

After seven decades of independence, Nomadic and Denotified Tribes are living very miserable life. The development measures are still very far from them and incidences of human rights violation become everyday part of their life. These communities are scattered in small groups and living away from mainstream society. Several committees and commissions were formed and many recommendations were given which hardly resulted for any sustainable development of communities. The stigma of criminal identity is still attached with these groups and many have lost their traditional livelihood due to economic changes occurred in last two decades. They have remained poor, marginalized and powerless since ages. Apart from it, they do not have strong political representation from community members. To overcome these hurdles, there is strong need to make sincere and concrete efforts for development of these communities.

Most of the existing literatures have concentrated on historical injustice, criminalization of these groups under umbrella term criminal tribes; and very few studies have been conducted on individual communities. Though they have many similarities in aspects of poverty, marginalization and atrocities but each community is having its unique culture, occupation, custom and way of living which need to be understood in context of particular community. The present study focuses on Devipujak community to understand ground reality of community covering their social history, culture, socio-economic conditions, their livelihood and stigma. It will help to understand Devipujak community with their views towards social reality. The findings of the study can be useful to plan welfare measures for community and future intervention for their development.

1.12 Chapterization

The thesis is organised into eight chapters including introduction itself. The second chapter titled Research Methodology discusses about adoption of ethnographic method for research with Devipujak community. It mentions research paradigm with Subjective Constructionist Interpretivist approach to understand life of Devipujak community with their own perspectives. It talks about formulation of research questions which led to specific objectives to understand various living aspects of Devipujak community. It explains experiences and challenges faced by a researcher during field work. The third chapter deals with social history of Devipujak, story about their origin both documented and mythological understanding, various sub-castes among them and historical aspects about Kumarkhaniya Devipujak. The fourth chapter dwells into various customs and traditions of Devipujak community. Devipujaks strongly believe in their god and goddesses. They follow rituals of animal sacrifice and consider organizing *Mandavo* as very auspicious occasions in their life. Their customs of marriage, divorce, remarriage and death ceremony are also discussed. The chapter fifth describes the traditional livelihood practices of Devipujak community and different new means of livelihood options they have adopted in their life. The migration is very common among this community to earn livelihood. It depicts the life of Devipujak community who have gone to Mumbai for earning purpose. The sixth chapter focuses on the role and influence of Social Panch in their life. It has discussed real incidences and intervention of social panch to deal with cases. The seventh chapter deals with perspective of Devipujak community for self and how they look to other communities. It also explains the relations of

other castes with Devipujak community and social discrimination they have faced by society at large and police authority. The chapter eight talks about discussion and conclusion including suggestive roadmap for Devipujak community.