
Liberalism and Its Other: The Politics of Primitivism in Colonial and Postcolonial Indian Law

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Liberalism is widely regarded as a modern intellectual tradition that defends the rights and freedoms of autonomous individuals. Yet, in both colonial and postcolonial contexts, liberal theorists and lawmakers have struggled to defend the rights and freedoms of political subjects whom they regard as “primitive,” “backward,” or “indigenous.” Liberalism thus recurrently encounters its primitive other, a face-off that gives rise to a peculiar set of dilemmas and contradictions for political theory and law. In what ways can postcolonial law rid itself of its colonial baggage? How can the ideal of universal liberal citizenship overcome paternalistic notions of protection? How might “primitive” subjects become full and equal citizens in postcolonial societies? To explore these dilemmas and contradictions, I study the intellectual trajectory of “primitivism” in India from the construction of so-called tribal areas in the 1870s to legal debates and official reports on tribal rights in contemporary India. Through a close reading of these legal provisions for tribal peoples and places, I explore the continuing tension between the constitutional ideal of liberal citizenship and the disturbing reality of tribal subjecthood produced by colonial and postcolonial Indian states.

[Liberalism] is meant to apply only to human beings in the maturity of their faculties. We are not speaking of children, or of young persons below the age which the law may fix as that of manhood or womanhood. Those who are still in a state to require being taken care of by others, must be protected against their own actions as well as against external injury. For the same reason, we may leave out of consideration those backward states of society in which the race itself may be considered as in its nonage.

John Stuart Mill, *On Liberty* (London, 1859)

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freedoms of political subjects whom they regard as “primitive,” “backward,” or in more politically-correct terms, “indigenous” (Damodaran 2006b; Jung 2008; Pagden 1982; Viswanathan 2006). Liberalism thus recurrently encounters its primitive other, a face-off that gives rise to a peculiar set of dilemmas and contradictions for political theory, policy, and practice in colonial and postcolonial contexts (Banerjee 2006; Ghosh 2006; Ivison 2002; Ivison, Patton, & Sanders 2000). In what ways can postcolonial law rid itself of its colonial baggage? How can the ideal of universal liberal citizenship overcome paternalistic notions of protection? How might “primitive” subjects become full and equal citizens in postcolonial societies?

To explore these dilemmas and contradictions, I study the intellectual trajectory of “primitivism” in India from the construction of so-called tribal areas in the 1870s to legal debates and official reports on tribal rights in contemporary India. As such, this article has two principal aims: first, to read closely the legal provisions justifying colonial and postcolonial rule over tribal populations in order to highlight the ambiguities and paradoxes of primitivism as an ideology of rule in India, and second, to understand these legal texts in their proper intellectual and political contexts in order to develop an historically-inflected understanding of the continuing tension between the constitutional ideal of liberal citizenship and the disturbing reality of tribal subjecthood produced by colonial and postcolonial states in India. In doing so, I seek to put into conversation the small but influential literature on liberalism and modern empire with the voluminous writings on colonial anthropology and administration in British India.

My approach in this article may be termed interpretive or hermeneutical. I read primary legal texts closely with particular attention to continuities and shifts in their languages and concepts. Furthermore, I situate these texts in their historical contexts in order to better appreciate how the hermeneutics of these texts share a two-way relationship with real-world policy and practice. For the colonial period, I focus on the Scheduled Districts Act (1874), selected administrative and missionary writings on tribal areas and peoples, and extracts from colonial constitutions and commissioned reports. For the postcolonial period, I study the debates over the Constitution of India and its provisions for scheduled tribes, key legislation and court decisions on tribal rights and livelihoods, and reports on tribal development from the 1960s onwards. Last, I invoke secondary sources by historians, political theorists, and anthropologists that explore the historical relationship between liberalism and modern empire as well as ideologies of rule that have used anthropological knowledge to justify their *raison d’êtres*.

Primitivism as an Imperial Ideology of Rule

Do tribes exist? Or are they chimeras, imaginary compounds of various and, at times, incongruous parts, societal illusions fabricated for diverse reasons but, once created, endowed with such solid reality as to have profound effect on the lives of millions of people?

Morton Fried, *The Notion of Tribe* (London, 1975)

Critical philosophy must inquire into the dialectical constitution of the Other. To consider that relation dialectically means to recognize its concrete temporal, historical, and political conditions. . . . The radical contemporaneity of mankind is a project.

Johannes Fabian, *Time and the Other* (New York, 1983)

Every imperial project articulates abstract principles to justify its rule over subjects who are deemed to be culturally different and morally inferior. These abstract principles, which combine to form an “imperial ideology of rule,” may be understood in two complementary ways: first, as a justificatory argument for a particular legal-administrative system in a colonized territory, and second, as a social theory that describes the inner structure of a colonized society and supports the aforementioned argument in the realm of law and governance (Metcalf 1995). While authoritative theories of colonized societies put justificatory arguments for empire on firmer empirical ground, the persistent need to legitimize empire in changing social conditions provides fertile ground for the development of new social theories. Ideology, here, does not refer to a superstructure of ideas that reproduces existing class relations in the realm of everyday life (Althusser 1971:121–76), but to ways of seeing and doing by which “specific ideas help to legitimate unjust and unnecessary forms of political domination” (Eagleton 1991:167). Such a conception of ideology allows us to make sense of the dialogic relationship between legal justification and social knowledge that sustains imperial domination. Accordingly, a hypothetical account of the Other such as Oriental despotism or primitivism can become the legitimate basis for colonizing a certain territory and its population. At the same time, the everyday workings of colonial law and administration may reveal weaknesses or gaps in the colonizer’s theory of native society and its accompanying ideology of rule, causing them to be revised or abandoned in favor of better alternatives. Imperial ideologies of rule are thus best studied genealogically to appreciate their origins as well as historical shifts in their discourses and practices over time.

When we call an imperial ideology of rule “liberal,” we situate it within a modern intellectual tradition that defines citizens as individuals enjoying certain constitutional freedoms under the

state's protection even as they abjure their absolute freedom to act as they wish. Yet not everyone in society is a citizen. J.S. Mill's *On Liberty* (1859/2008), for instance, famously disqualified children and child-like savage races from his liberal doctrines, because, he asserted, they could not govern or improve themselves. "They have to be taught self-government" and "protected against their own actions as well as against external injury," he urged (1862/2008:31), "[t]heir improvement cannot come from themselves, but must be superinduced from without . . . [by a government] which possesses force but seldom uses it: a parental despotism or aristocracy." Through this "rule of colonial difference" (Chatterjee 1993), imperial subjects, defined as child-like and backward, could be denied the privileges of liberal citizenship by imperial governments. "To define oneself as 'modern', or as 'progressive', argues Thomas Metcalf (1995:6), "meant that those who were not included in that definition had to be described as 'primitive' or as 'backward' " and this "creation of doubleness, was an integral part of the Enlightenment [liberal] project." Others have developed Metcalf's argument further to posit a close, even constitutive, relationship between liberalism and empire (Armitage 2000; Mehta 1999; Parekh 1994). Yet recent scholarship warns against taking the Millian rule of difference as standing for all imperial ideologies of rule insofar as "imperial justifications and governing strategies underwent fundamental revision" from the late eighteenth century to the present (Mantena 2010:2; McCarthy 2009; Muthu 2003; Pitts 2005). In studying liberal ideologies of imperial rule, therefore, we must be sensitive to shifts in the languages and logics of empire as well as their changing contexts. The relationship between liberalism and empire, however close, is neither static nor monochrome.

Primitivism is a type of liberal imperial ideology of rule that has justified the subjugation of populations and places described as wild, savage or, simply, primitive. Primitive populations were, paradoxically, subjects of both *improvement* and *protection* in colonized societies. Much like children need to be nurtured and protected yet improved and guided toward adult capacities of reason and self-governance, primitive peoples, too, were deemed to be exceptional in their need for both improvement and protection via a regime of direct colonial rule. In Mill's (1859/2008) ladder of civilizational maturity, child-like savages ranked below agrarian societies ("slaves"), pastoralists ("barbarians"), and commercial society ("civilization"). Over the course of the nineteenth century, Karuna Mantena (2010) has argued, agrarian societies were progressively pushed to the margins of liberal ideologies of empire, because they, alongside other Indo-European societies, were seen to be governed by non-liberal customary laws and traditions. In Victorian India, for example, Henry Maine's (1871) conservative policy of

“traditionalization” coevolved with a new comparative historical sociology of traditional village communities in the East and West. Whereas peasants became modern Frenchmen and Spaniards in Europe (Sahlins 1989; Weber 1976), low-caste agrarian labor in the plains of India, whether smallholders, sharecroppers or landless workers, came to be seen by British administrators and Indian reformers alike as firmly rooted in the ancient soil of tradition. At the same time, patrons of “primitive” societies such as Edward Tuite Dalton, Henry Lewis Morgan, and Fustel de Coulanges sought to discover their non-Aryan or pre-Aryan essence in the wilds of Asia, Africa, and the Americas, intending to protect this primitivist essence *and* raise economic and educational standards simultaneously. For primitivist ideologues, protection did not simply mean defending the economic rights of peasant cultivators via debt relief or compensatory legislation, as in caste society, but defending imagined aboriginal ways of life in a modern age. Whether in the tea plantations of Assam (Sharma 2011) or the forest highlands of Orissa (Padel 1995), tribal policy sought to civilize savages through commercial and educational initiatives without threatening their folklore, languages or community structures. The emphasis on improvement reveals the liberal core of primitivism, and hence, we cannot dismiss it simply as illiberal racism (Kolsky 2010) or conservative paternalism (Chatterjee 2011:691). What we find is a fairly consistent ideological response to “tribal” peoples and places as opposed to their peers in the plains. Primitivism should thus be viewed as a justificatory argument to govern primitive places *and* as an anthropological theory that explained the most backward or least developed human societies.

In India, “primitive” populations have experienced a distinctive form of sovereignty based on a rule of difference that has marked off tribes from castes. The British saw India as primarily a society composed of disparate castes, held together by Hinduism and dominated by the priestly Brahmin caste (Oddie 2006; Pennington 2005). Hindu or caste society thus came to be characterized by customary hierarchies of purity, pollution, and privilege (Cohn 1996; Dirks 2001; Dumont 1970; Srinivas 1962). In this hierarchical society, as Karuna Mantena (2010) argues, colonial law in India after 1858 was expected not to modernize a traditional society, but to uphold its customary arrangements, including the continued subordination of lower caste and untouchable groups. Colonial law in post-1858 India thus represented a break from the earlier “age of reform,” during which liberal administrators joined Indian reformers to abolish “traditional” social evils such as widow-burning, female infanticide, and untouchability (Majeed 1992; Mani 1988; Stokes 1959). From the late nineteenth century, missionary and secular activists opposing untouchability and

caste-based oppression thus invariably met with stiff opposition from the Raj and its upper-caste collaborators (Dirks 2001:125–274; O’Hanlon 2002; Oddie 1979, 1995), a dialectic that has over time produced “staggered and uneven temporalities of Dalit emancipation” (Rao 2009:272) alongside “the social construction of subordination and . . . idioms of dependence and powerlessness” (Mosse 1994:67). Against this conservative model of a traditional caste-based Hindu or Aryan society in the plains, however, the British viewed pre-Aryan tribal societies as egalitarian, undifferentiated clans living in hills and forests of Assam, the North West Frontier, the western tribal belt along the Arabian Sea, the central Indian tribal heartland, and the Madras Agency Tracts in the south (Damodaran 2006a; Guha 1999; Karlsson 2011; Sivaramakrishnan 1993; Skaria 1999, 2000; van Schendel 2002). Believing pre-Aryan tribes to have been driven out of their homelands by marauding Aryans millennia ago (Thapar 2008; Trautmann 2004), colonial spokesmen for tribes wanted them to be simultaneously civilized and protected from the predations of caste Hindu society (Elwin 1943; Furer-Haimendorf 1982). These twin tasks, however, could not be carried out under the cheaper customary institutions of indirect rule favored by British administrators in India and Africa (Lugard 1922; Mamdani 1996:3–180; Robinson 1972). Thus, direct rule of tribal zones of exception by paternalistic administrators came to be regarded as necessary to secure the ends of primitivism (Ekeh 1983; Sivaramakrishnan 1999:76–120; cf.). The pivotal role of colonial anthropology in producing and defending a place-based distinction between caste and tribe cannot be overstated here (Asad 1975; Bates 1996; Fabian 1983; Paidipaty 2010). It prevented anthropologist-administrators from appreciating the flimsy distinction between caste and tribe in practice, and from viewing tribes as secondary formations arising in the course of statemaking (Béteille 1986; Fried 1975). In this manner, primitivism, as an imperial-liberal ideology, justified direct rule over tribal peoples and places as exceptions within the domain of law.

In the following sections, I avoid the temptation to present primitivism as an unchanging ideology by tracing its intellectual career in four phases from the mid-nineteenth century to the present. In adopting this genealogical approach, I highlight both continuities and changes in the logics and languages of primitivism over the past century and a half. I show, first, how primitivism as an ideology took shape with the inauguration of direct rule in tribal areas; next, how primitivist ideology refined itself in the face of challenges between 1874 and 1935; then, how postcolonial constitutional provisions for tribal areas re-inscribed primitivism as an ideology of rule; and finally, how the paradoxes of improvement and protection have played out in postcolonial India until the

present. Wherever possible, I compare particular aspects of the Indian historical experience of primitivism with parallels drawn from the Americas, Africa, Southeast Asia, and Australia. Likewise, I show how the intellectual trajectory of primitivism in India relates to broader trends in Indian law and society. Nonetheless, a full-fledged comparative sociology of legal mainstreams and tribal margins is beyond the scope of this article. I focus, therefore, on explaining how the well-intentioned liberal defense of tribal subjects has ended up producing and reinforcing the most illiberal consequences despite repeated attempts to justify and refine itself over time.

The Origins of Primitivism in Colonial India

With few exceptions, anthropology's subject, until recently, was understood to be primitive or "non-state" societies. Seen from this perspective, the state seemed distant from ethnographic practices and methods that constituted the proper, disciplinary subjects of anthropology. At the same time, however, the language and figure of the state has haunted anthropology. . . . the quest to find order or reason among the primitives makes use of a language of order that is inherited from—and indeed part of—the modern European state.

Veena Das and Deborah Poole (eds.), *Anthropology in the Margins of the State* (Sante Fe, 2004)

Primitivism should be seen neither as a permanent feature of Indian society nor as a decisive marker of the colonial rupture in Indian history. Early colonial administrators often despaired over politically-illegible hills and forests as well as their recalcitrant inhabitants (Scott 2009), but they lacked a full-fledged social theory to explain their predicament. In 1775, for instance, S.G. Heatly lamented his efforts to "reconcile the inhabitants to the idea of a 'Civil Government' " on the western frontier of Bengal, a "Country the Policy of which [he] did not yet understand . . . in a state of absolute barbarity (Virottam 1970:107–08). In a similar vein, his counterpart in the backwaters of the Bombay Presidency, J. P. Willoughby, highlighted three factors that prevented him from conquering the Bhil chieftains in the forest highlands between Khandesh and Baroda:

1st, the difficult nature of the country in which they are concealed; 2nd, the assistance they undoubtedly receive from the inhabitants of the villages . . . and 3rd, the difficulty, which, on this account, exists of procuring correct intelligence of their movements (cited in Guha 1999:131).

These official voices of despair ought to caution us against projecting primitivism onto the early colonial period. As the British East India Company moved from trade to dominion c. 1770–1830, it encountered illegible landscapes, which clashed with its vision of a civilized, well-ordered agrarian society (Guha 1999:130–49; Sivaramakrishnan 1999:13). From the 1830s, these illegible spaces came to be demarcated as Non-Regulation¹ Provinces within the three colonial Presidencies of Calcutta, Bombay, and Madras. These exceptional spaces, administered by military proconsuls answerable directly to the colonial capital of Calcutta, were to be governed differently from the surrounding plains, under “special rules for the administration of civil and criminal justice and for the superintendence of the police, land revenue, customs, akbari [excise], stamps and all other local civil duties” (Bengal Regulation XII of 1833). These frontier zones of legal-administrative exception sought to subjugate unruly peoples and places under the “commandement” of colonial law, not improve them according to liberal imperatives (Mbembe 2001:24–101; Paidipaty 2010). The pre-1858 history of primitivism in British India is, therefore, best understood in terms of practical exigencies on colonial frontiers.

Administrative exigencies, however, cannot explain the rise of primitivism as an ideology of rule in the inner and outer frontiers of post-1858 British India. The notion of tribe may be ultimately traced back to Edward Tuite Dalton’s *Descriptive Ethnology of Bengal* (1872). As a pioneering anthropologist-administrator, Colonel Dalton, had “rendered admirable service in the *management and development* of the simple people” of Chotanagpur and Assam (Government of Bengal 1873a:1; italics mine), and had had “more opportunity of observing various races and tribes, especially those usually called Aborigines, than have been conceded to any other officer” (Dalton 1872:1). The tribes of Bengal, he argued in an altogether new language, “had been directly under our government . . . as unsophisticated savages,” whom administrators were expected “to civilize without allowing them to be contaminated” (ibid. 205). Dalton (ibid.) wished that tribals “retain those traits which favorably distinguish the aborigines of India from Asiatics of higher civilization, a manner free from servility, but never rude, a love, or at least the practice, of truth, a feeling of self-respect.” Yet he also hoped that they became “less suspicious, less revengeful, less blood-thirsty, less contumacious, and in all respects more amenable to the laws of the realm and the advice of their officers.” This attempt to synthesize the logics of protection and improvement undergirded Dalton’s (ibid. 3) policy recommendation of “favor

¹ In other words, the laws or Regulations of the Presidencies would not apply to these areas.

bordering on partiality” towards tribes. This new policy, which differed from the colonial defense of the status quo in caste society, departed from an older one driven by practical exigencies in which officials were often lulled into a false sense of security and where “the difficulties of applying complicated machinery of civilized laws to a wild and rough people . . . [meant] that real grievances . . . remained unredressed till they were resented” (ibid.). In sum, primitivism, as an ideology of rule on the frontiers of British India, shifted the colonial gaze from wild geographies to aboriginal tribal populations.

Primitivism derived its legitimacy from a distinctive political ecology of the Indian subcontinent. For Dalton (1872:164), tribal habitats such as Chotanagpur and Assam had “to a comparatively recent period, been regarded by Hindus as outside the pale of Hindustan, occupied by a people who differed from them in religion, in customs, appearance and language.” The tribes of eastern and central India, he believed, had “prior to the Aryan occupation of the Gangetic provinces [been] the dominant race,” and hence, they were “living illustrations of the progress of mankind almost from the stone age to the confines of modern civilization” (ibid. 151–52). That this is a colonial ideological construction is clear from Dalton’s admission that he never found “folklore that threw light on the early history of the race,” and that both castes and tribes claimed “to be autochthones” (ibid. 164). Peter Ekeh (1983:660) has shown that colonial anthropological constructions in Africa “gained strength through [their] analysis of the tribe and associated concepts of kin groups and kinship behaviors.” In a similar vein, Dalton meticulously described each tribe’s oral traditions, dwellings, food habits, cultivation techniques, dress, dances, physical traits and stature, religion, and customs. These descriptions were originally written for “an Ethnological Congress in Calcutta . . . [in 1866] to bring together in one exhibition typical examples of the races of the Old World, to be made the object of scientific study” (Dalton 1872:1). Although the Congress never materialized, Dalton’s comparative historical study of pre- or non-Aryan races neatly complemented Henry Maine’s (1871) sociology of traditional Aryan/Hindu society; it also justified the efforts of Westernizing upper-caste groups to distance themselves from their newly-defined “tribal” brethren (Banerjee 2006). According to this theory of Indian society, British administrators, as the “ruling caste” in David Gilmour’s (2005) felicitous phrase, were expected to curb or even correct the historical injustices of the conquering Aryans/Hindu plainmen against the aboriginal tribes of the subcontinent. Condemnation of plainmen thus extended even to low-caste and untouchable groups, though many of them had coexisted with “tribes” for centuries (Risley 1891, 1892). Only the separation of

tribal hills and Hindu plains, accompanied by direct rule over primitive subjects, could undertake this dual mandate of improvement and protection. In this curious “jurisprudence of emergency” (Hussain 2003), civilizing missions against shifting agriculture and head-hunting could thus coexist uneasily with the defense of customary tribal land rights (Karlsson 2011:138–42).

These primitivist beginnings in Bengal led to the passage of the Scheduled Districts Act (1874), which unified tribal policy in British India. The preamble to the Act explained its aims:

[V]arious parts of British India had never been brought within, or had from time to time been removed from the operation of the general Acts and regulations . . . doubts had arisen in some cases as to which Acts or regulations . . . were in force in such parts, and in other cases as to what were the boundaries of such parts . . . [thus] it was expedient to provide readier means for ascertaining the enactments in force in such territories and the boundaries thereof, and for administering the law therein.

Thereafter, the 1874 Act went on to christen the former non-regulation tracts as Scheduled Districts and to define their geographical boundaries. It specified what laws or regulations were applicable in these zones of administrative exception, and how they were similar or different from the Government of India Act (1869), which reigned supreme in the rest of British India. The Governor-General of India and the Lieutenant-Governors of the three Presidencies directly held the power to appoint and regulate the authority of district officers.² In the context of north Indian tribes deemed to be “habitually criminal” by Act XXVII of 1871, the Scheduled Districts Act reinforced the notion of “reformatory settlement” to sedentarize, protect, and civilize wild, unruly subjects of empire (Radhakrishna 2001; Singha 1998). In the light of debates preceding the Indian Forest Act (1878), the Act of 1874 effectively identified tracts for the conservation of forests and their tribal inhabitants, yet paradoxically, forest-dwelling tribes and their shifting cultivation practices came to be regarded as inimical to any regime of forest conservation (Guha 1996). As such, the Scheduled Districts Act concretized the new colonial regime of direct rule in places identified as distinctly tribal, thereby distinguishing them

² In the hierarchy of post-1858 British India, the Secretary of State for India in London and the Governor-General or Viceroy in India stood at the apex. Below them were the Lieutenant-Governors of the three Presidencies and the Political Agents to various princely states. Under every Lieutenant-Governor, there were Commissioners of Divisions such as Chotanagpur and Assam, who were responsible for the Assistant and Deputy Commissioners in the districts under their jurisdiction. Native officers often assisted European officers at the district level in the form clerks, personal assistants, junior law enforcement officers, etc.

from “mainstream” caste society in India and legitimizing a “rule of colonial difference” (Chatterjee 1993) that reproduced the basic hierarchical logic of the colonizer/colonized divide within the colonized society itself.

Yet ideology, policy, and practice did not always align neatly with each other. Consider, for instance, Dalton’s much-vaunted land survey in Chotanagpur to demarcate tribal and non-tribal lands based on his primitivist ideology. The survey sought to restore the ancient land titles of tribal communities while importing Whig and utilitarian ideologies of agrarian improvement from the Bengal plains³ into non-tribal parts of Chotanagpur (cf. Guha 1963). The survey, however, produced unanticipated consequences. On the one hand, some tribal peasants, an oxymoron in terms of colonial ethnology, looked “on the civil court with fear and aversion and they [preferred] a private settlement” with their “landlords and creditors” (Government of Bengal 1873b:75). In exchange for lower rents and *corvée*, these peasants would often testify to survey officials in favor of their landlords. Under the circumstances, the officials could do no more than lament how “aborigines . . . [were] so utterly careless of their own interests” and how the survey per se had ended up as “an engine of oppression by the better educated and more cunning classes against the illiterate aborigines” (ibid. 61–62). On the other hand, some tribal peasants, most notably recent converts to Christianity, “imbibed more independent notions” (Dalton 1859) and deployed the colonial language of aboriginality to claim freehold property rights (Nolan 1886). By doing so, these peasants demanded private property rights, rejecting both tribal community tenures and inferior rights under Hindu landlords. A similar state of affairs existed on the northeastern frontier, where contemporary male youth activists employed the place-based language of aboriginality to thwart both non-tribal outsiders and the older matrilineal land tenure system (Karlsson 2011:133–55). In Chotanagpur, only a tenth of the total land eventually came under tribal community tenures; the rest came under either landlord-tenant regimes or individual tribal freeholders. These unanticipated consequences did not stem from a colonial regime of “conquest by law” (Merry 1999; Povinelli 2002; Robertson 2005), but from the manner in which the protectionist dimension of primitivism collided with sociopolitical realities on the ground.

Civilizing missions did not fare much better than protectionist land surveys in aligning aims and outcomes. In Chotanagpur and Assam, for instance, Christian missionaries entered tribal lands with

³ Commonly known as the Permanent Settlement of Bengal.

the goals of civilizing savages and saving souls, far from the stubborn Hindus who refused the Gospel (Mahto 1994; Zou 2011). Missionaries visited villages by foot or on horseback, asked about everyday grievances, listened carefully to complaints and problems, advised on legal matters and offered lawyers to fight land-alienation cases, used native preachers to spread the word regarding foreign assistance, and eventually, instructed and baptized whole villages (de Sa 1975:76–80). For the new converts, however, Christianity offered not so much “civilization” as the “hope and belief that they would . . . escape from the exactions of their landlords” (Government of Bengal 1890:149). As Lamin Sanneh (1989, 2008) has pointed out, native converts in Africa and beyond often creatively appropriated the salvationist theology offered by missionary civilizers for their own political ends. In Chotanagpur, Christian tribals petitioned the colonial state for recognition as a freehold aboriginal peasantry even as they were maligned as “demagogues. . . [looking] to excite in the minds of the masses of a future of brilliant prosperity with a confiscation of land of all Hindus” (Government of Bengal 1879:59). Much like participants in cargo cults and the Ghost Dance (Andersson 2008; cf. Burridge 1969; Kaplan 1995), the movement for redefining tribal land rights in Chotanagpur took on a millenarian tenor (Singh 1966). Even secular, missionary-educated tribal activists such as Sonaram Sangma in the Garo Hills of colonial Assam could turn the civilizing mission upside down with their critical modernist embrace of institutions deemed “traditional” by colonial law (Karlsson 2011:144–49). In sum, the civilizing impulse of missionaries, much like the protectionist impulse of administrators, encountered unanticipated challenges from newly-minted tribal subjects,⁴ and produced contradictory consequences that could not simply be wished away.

Refining Primitivism in Late Colonial India

The wisdom of . . . administrators in managing the Hindus and Mussalmans of the plains, seems everywhere turned to folly when dealing with the hill and forest tribes . . . it was once customary to lay the blame for our failure on the races themselves; and without doubt, tribes so far removed from us in their social necessities, habits of thought, and motives of action, are more difficult to deal with than a population which has so much in common with us as the Hindus . . . [thus] the hill tribes became a mystery to the

⁴ While there are some similarities between the tactics of protest deployed by lower caste and tribal activists, there are also significant differences in repertoires and content that arise, ultimately, from the distinctive place-based notion of tribe in colonial India.

government.[and] ignorance begets misrepresentation, and misrepresentation brings forth bitter political fruits.

W.W. Hunter, *Annals of Rural Bengal* (London, 1870)

Faced with contradictions, primitivism as an ideology of rule did not dissolve altogether. Instead, its makers strove to refine it to fit better with sociopolitical conditions in late colonial India, though the basic anthropological assumption underlying tribal zones of exception remained intact. The *Report on Indian Constitutional Reforms* (1918), better known as the Montagu-Chelmsford Report after the two leading administrators of British India at the time, perpetuated the rule of difference inaugurated by the Scheduled Districts Act. It drew upon protectionist regional legislation passed in the interim such as the Chota Nagpur Tenancy Act (1908), the Central Provinces Land Alienation Act (1916), and the Agency Tracts Interest and Land Transfer Act (1917). Thus, when the liberal Edwin Montagu and the reform-minded conservative Lord Chelmsford recommended devolution of administrative powers to Indians at the provincial level, they certainly did not include those categorized in the colonial census as “tribes” or “aborigines.” Their recommendations for reform of the Government of India did not apply to the Scheduled Districts because, in their view, “there was no political material on which to found [representative] political institutions” (Government of India 1918:199). As such, not only did the late-colonial reformers take the caste/tribe divide in India as an authoritative social fact, they also renewed primitivism as an ideology of rule by excluding the Scheduled Districts from the legislative scope of their liberal reform proposals.

The subsequent Government of India Act (1919) reinforced the imperial ideology of primitivism when it renamed the Scheduled Districts as Backward Tracts, but also added a set of finer distinctions to this ideology of rule. The Act proclaimed:

The Governor-General in Council may declare any territory in British India to be a “backward tract,” and may, by notification . . . direct that the principal Act and this Act shall apply to that territory subject to such exceptions and modifications as may be prescribed in the notification (para 15 (2)).

The Act noted, additionally, that the Governor-General of India could “direct that any Act of the Indian Legislature shall not apply to the territory in question” (ibid.). Direct rule in these Backward Tracts, the authors of the Act argued, needed to be refined to take two distinct forms. In the *really backward tracts*, deemed as lowest on the developmental scale of civilization, only the Governor-General could make laws and administer them as he deemed fit. In other words, provincial governments based on partial representation for

Indian subjects could not discuss or raise questions regarding direct colonial rule. In the *typically backward tracts*, however, deemed somewhat higher on the developmental scale, the Governor-General could act through provincial or local officials to make and administer laws. Here, too, of course, no principle of representation could be permitted (Section 52A (2)). By modifying the Scheduled Districts Act of 1874 thus, the reformers now identified three, not two, tiers in Indian society: caste Hindus, tribes coexisting with castes, and tribes living more or less exclusively.

This revised ethnology of India mapped onto a subtle reworking of Mill's developmental ladder with Europeans safely ensconced in the fourth or highest tier of civilization. Protecting the backward went hand in hand with what the Act of 1919 called the "gradual development of self-governing institutions." Legislative powers could, therefore, now be devolved partly to upper-caste Hindus in the provinces without extending them to the lowest or most "primitive" tiers of the colonized society. While nationalists were keen to defend their newly-acquired powers against critics (e.g., Mayo & Sinha 2000; Sinha 2006), primitive subjects of the Raj lacked access to the upper-caste nationalist talk shop. In the case of criminal tribes, now understood to exist throughout India by the Criminal Tribes Acts of 1876, 1911, and 1924, the nationalist beneficiaries of imperial liberalism were only too keen to join hands with the British ruling caste to sanction reform in the form of incarceration and hard labor (Chaturvedi 2007). After all, criminal tribes had been described as "ethnic representatives of the pre-Aryan races" living at a "very primitive stage of culture" (Crooke, cited in Schwartz 2010:69), and colonial subjects higher on the ladder of civilization were now expected to reform and police those lower down. The "mythic history of clashing races" thus proved very useful indeed

when brown sahibs and white sahibs sought to escape their fears about the instability of social hierarchy by giving it a biological basis and projecting it into the past—thus covering extant hierarchies with the mantle of the natural and the primordial (Guha 1998:438).

In this manner, primitivism, as a guiding ideology for the gradual development of Indians in different states of civilization,⁵ recalibrated itself according to a new ethnological blueprint of Indian society even as it generated new contradictions and conundrums.

⁵ There is a clear parallel here to the "two publics" created by colonial powers in Africa (Ekeh 1975; Mamdani 1996).

A decade after the Government of India Act (1919), the Indian Statutory Commission headed by Sir John Simon reexamined its key provisions. The Simon Commission, as it was popularly known, published a two-volume report in 1930 that sought to renew “the solemn pledge of the British people with regard to the progressive realisation of responsible government in British India” (Government of India 1930 (II):3). Covering 120,000 square miles and 11.25 million primitive subjects, the Backward Tracts posed a significant administrative headache. They existed without their fellow Indians’ newly-acquired right to vote in provincial elections; they demanded “special consideration” on account of their peculiar demographic, cultural, and political circumstances; whereas there was conflict evidence whether some tracts such as Darjeeling “should continue to be in any degree excluded from the normal constitutional arrangements,” others such as Assam were deemed to merit “special administrative and legislative procedure” (ibid. 127–28; 131–34). Worse still, census enumerators had difficulty distinguishing between “the religious attitude of an aboriginal Gond or Bhil and that of some who have been absorbed into the lowest Hindu castes” (Government of India 1930 (I):46). These messy political arrangements, it appears, made direct colonial rule by the Governor-General or Governor a nightmarish proposition.

Messiness did not, however, deter the Simon Commission from extending the primitivist ideology prevalent in the Backward Tracts. By renaming “typically backward tracts” as “partially excluded areas” and “really backward tracts” as “wholly excluded areas,” the Commission did not question earlier legal provisions in these areas. They argued, much like their predecessors in 1874 and 1919, that

The stage of development reached by the inhabitants of these areas prevents the possibility of applying to them methods of representation adopted elsewhere. They do not ask for self-determination, but for security of land tenure, freedom in the pursuit of their traditional methods of livelihood, and the reasonable exercise of their ancestral customs. Their contentment does not depend so much on rapid political advance as on *experienced and sympathetic handling*, and on *protection from economic subjugation by their neighbours* (Government of India 1930 (II):128; italics added).

As tribal exceptionalism continued to justify direct colonial rule, protectionism seemed to trump self-determination. “[B]ackward races” of hunter-gatherers and shifting cultivators, explained the Commission, “remnants of pre-Aryan autochthonous peoples . . . in the hills and forests,” needed “special provision and special protection” because

They cannot compete against the subtler minds of the Aryan races that have in the past two or three centuries penetrated slowly into the country; their improvidence lays them open to the wiles of the moneylender; their lack of education and distinctive languages place them at a great disadvantage in the Courts (Government of India 1930 (I):88).

This anthropology of hapless non-Aryan tribes, unaffected by colonial statemaking, necessitated a policy of protecting unruly, child-like primitive subjects from civilization and modernity. Elsewhere, however, the Simon Commission reposed its faith in a Millian parental despotism:

The responsibility of Parliament for the backward tracts will not be discharged merely by securing to them protection from exploitation and by preventing those outbreaks which have from time to time occurred within their borders. The principal duty of the administration is to educate these peoples to stand on their own feet . . . a process which has scarcely begun (Government of India 1930 (II):129)

Arguably, the tensions between a protectionist, do-nothing policy and a progressive, educational one run deeper here than in Dalton's writings: the balance now tilted towards protectionism. While primitivism had always struggled to paper over the disparate aims of protection and improvement, there is something particularly novel in the Simon Commission's recommendation that the Central government assume full responsibility for the excluded areas.

It is too large a task to be left to the single-handed efforts of missionary societies or of individual officials. Co-ordination of activity and adequate funds are principally required. The typical backward tract is a deficit area, and no provincial legislature is likely to possess either the will or the means to devote special attention to its particular requirements (Government of India 1930 (I):80).

As such, despite earlier setbacks, the Raj insisted on a more activist role for the colonial state in protecting and improving its tribal subjects in India. It did not ponder whether the greater the centralization of power over tribes, the greater might be the tensions between these twin ends.

The last colonial constitution for India, the Government of India Act (1935) followed directly from the recommendations of the Simon Commission. The Act required the Governor-General to determine policy directly or via an agent in the "tribal areas" (paras. 11 (1), 33 (3e), 123 (1), 313 (2c)). It prohibited legislative council members from "the asking of questions on, any matter connected

with the tribal areas or the administration of any excluded area” (paras. 33 (1d) (iv), 84 (1d) (iv)). No laws passed by federal and provincial legislatures could apply to tribal areas, which were the sole prerogative of provincial Governors. Insofar as the colonial government continued to be responsible for the protection and improvement of over 15 million primitive subjects in 8 totally excluded and 28 partially excluded areas, the Act of 1935 thus represented the most refined form of primitivism in British India. It firmly reinforced the caste/tribe divide at the all-India level by distinguishing indirectly-ruled provinces and princely states from directly-ruled excluded and partially excluded areas. Such legal pluralism in India, as in other parts of the colonial world, arose from the dialectic between state-produced law and empirical knowledge about the colonized society (Chanock 1985; Merry 1988; Moore 1986).

From the Colonial to the Postcolonial: Reinscribing Primitivism

[E]lites assuming the task of building a national culture and providing it with a liberatory/progressive history have [ironically] turned to modes of knowledge and reconstruction produced in the colonial period.

K. Sivaramakrishnan, “Unpacking Colonial Discourse: Notes on Using the Anthropology of Tribal India for an Ethnography of the State”

In the decade before decolonization, the nationalist Congress party produced the first systematic critique of primitivism as an imperial ideology. A Congress pamphlet, titled “Excluded Areas under the New Constitution,” lambasted “the essentially reactionary nature of British rule in India” that kept “15 million inhabitants of India . . . preserved in a state of semi-barbarism, denied education, medical facilities and other amenities of civilized life” (Ahmad 1937:6). Without a “consciousness of their political and economic rights,” the liberal voice of anti-colonialism argued, these “backward people . . . [were] helpless before the physical prowess of their foreign rulers” (ibid. 7). According to this line of reasoning, this denial of political and economic rights stemmed from the “authoritative and autocratic” administration of tribal areas by “a few government officials,” little to no literacy or local self-government among the governed populations, and the lack of “any vital contact between the tribes and the civilized areas” (ibid. 10–11, 26–27). In its annual session at Faizpur in 1936, the Congress criticized the Act of 1935 as

yet another attempt to divide the people of India into different groups, with unjustifiable and discriminatory groups, to obstruct

the growth of uniform democratic institutions in the country (cited in Guha 1996:2375).

By putting an end to this illiberal policy isolating tribes from caste society, the liberal anti-colonialists thus sought to raise the tribals' "economic and cultural level and to bring them within the pale of civilization" (Ahmad 1937:26). In this anti-colonial critique of primitivism, therefore, an emphasis on improvement apparently trumped protectionism.

Nonetheless, it is worth flagging the pamphlet's implicit assumption of tribal backwardness and civilizational immaturity. Nationalist-minded anthropologists, too, held that tribals were basically "backward Hindus" who could be civilized and absorbed into caste society (Bose 1975; Ghurye 1943). At the same time, however, much as in colonial anthropology and law, tribal peoples were deemed to be the "original inhabitants of India," belonging "to a different stock from the Aryas" who had conquered pre-historic India (A.K. Azad, cited in Constituent Assembly of India 1950 [henceforth CAD] I.9). Manipulating the colonial ethnology of Indian society for nationalist ends, therefore, the Congress sought a unified postcolonial polity in which upper-caste Hindus would bear the responsibility for civilizing their primitive brethren.

Is it surprising, then, that the Constituent Assembly, formed to draft a constitution for the Indian nation-in-the-making, paradoxically reproduced the basic contradictions of primitivism in its own deliberations? Despite its criticisms of the Government of India Act (1935), the Constituent Assembly unwittingly reworked and renewed its key provisions. The future prime minister Jawaharlal Nehru declared that "existing laws should continue" in tribal areas and that

every care should be taken in *protecting the tribal areas*, those unfortunate brethren of ours who are backward through no fault of theirs, through the fault of social customs, and may be, ourselves or our forefathers or others; that it is our intention and it is our fixed desire to help them as much as possible; in as efficient a way as possible to *protect them from possibly their rapacious neighbours occasionally and to make them advance* (CAD III.3; italics added).

It is difficult to ignore the echoes of primitivism in these lines. Much like his colonial predecessors, Nehru, too, reposed faith in the modern state to act as a liberal despot that would simultaneously improve and protect childlike primitive subjects. In a similar vein, Dr. B.R. Ambedkar, the Chair of the Constitution Drafting Committee, clarified the continuities from colonial policy:

We have two categories of areas,-scheduled areas and tribal areas. The tribal areas are areas which relate only to the province of

Assam, while the scheduled areas are areas which are scattered in provinces other than Assam. They are really a different name for what we used in the Government of India Act [1935] as “partially excluded areas”. There is nothing beyond that (CAD VII.18b).

In the former, a law passed by central or state legislatures would “apply automatically unless the Governor [of a state] declare[d] that that law or part of that law shall not apply,” whereas in the latter, applicable only in the colonial province of Assam in northeastern India, a law passed by central or state legislatures would “not apply unless the Governor extend[ed] that law to the tribal area” (ibid.). These policy perspectives bore considerable similarity to those of the English missionary-turned-anthropologist Verrier Elwin (1943:32), who had gone as far as recommending the creation of national parks for these “ancient people with moral claims and rights thousands of years old.” A friend of and later adviser to Nehru on tribal policy, Elwin (1941, 1942:269–70) urged the post-colonial government to prevent the “slow material decline” of tribes such as the Agarias, and to protect their distinctive ways of life from a “loss of nerve.” Readers today cannot fail to recognize how these deliberations on tribal exceptionalism in postcolonial India, as distinct from initiatives to improve the lot of ex-untouchables or dalits, are suffused with the languages and logics of colonial paternalism.

Others among India’s founding fathers, however, were deeply suspicious of any attempt to reinforce colonial paternalism. Sardar Vallabhai Patel, the Chairman of the Tribal and Excluded Areas Committee and future Home Minister, expressed discomfort with the notion of “tribe” in ways that predate Morton Fried’s (1975) skepticism by nearly three decades:

[W]ith regard to the word “tribes”, my own feeling is that it is not an appropriate word. The expression “protection of tribal areas”, similarly, is not a happy one . . . What is the meaning of tribes. What is it that the word means, and is it so? It means something and it is there because, for two hundred years, attempts have been made by foreign rulers to keep them in groups apart with their customs and other things in order that the foreigners’ rule may be smooth. The rulers did not want that there should be any change . . . All the laws that have been given them protection are there. But have they protected them? (CAD III.3).

Jaipal Singh, a prominent tribal leader from Chotanagpur in eastern India, similarly criticized the colonial language of protectionism underpinning the Constituent Assembly debates:

What my people require, Sir, is not adequate safeguards . . . We do not ask for any special protection. *We want to be treated like every other Indian* . . . I take you all at your word that now we are going

to start a new chapter, a new chapter of Independent India where there is *equality of opportunity*, where no one would be neglected. *We are all equal* (CAD I.9; italics added).

By emphatically demanding equality of opportunity as citizens of independent India, Singh clearly sought to move beyond the imperial liberalism of primitivist policies, and to push for a more inclusive, egalitarian postcolonial liberalism. Patel agreed:

it should be our endeavour to bring the tribal people to the level of Mr. Jaipal Singh and not keep them as tribes, so that, 10 years hence, when the Fundamental Rights are reconsidered, the word “tribes” may be removed altogether.

The words of Patel and Singh are a far cry from those of Nehru and Ambedkar. There is, for Patel and Singh, no liberal “waiting room of history” (Chakrabarty 2007) in which primitive or backward subjects must wait to attain democratic rights as free and equal citizens. While they envisaged positive discrimination for historically-disadvantaged groups in the short run to counteract social evils of the past, reserved seats in schools, colleges, legislatures, and the public sector represented clear departures from the primitivist policies of the past. This counter-current of social and material improvement opposed the dominant tenor of protectionism and isolationism in the making of tribal policy for postcolonial India, thereby compelling the latter to make concessions to the former. In this way, the Constituent Assembly ironically combined two contradictory aims, thereby building on the late-colonial trend of prioritizing protection over improvement. In sum, despite nationalist criticisms of colonial tribal policy, the lawgivers unwittingly reinscribed primitivism as an ideology of rule for postcolonial India.

The Constituent Assembly’s reports for the scheduled and tribal areas echoed this new postcolonial ideology of primitivism. Following late-colonial precedent, the joint report on these areas of administrative exception regarded the inhabitants of tribal areas in Assam as “mostly anthropological specimens” and those of the scheduled areas as having “assimilated to a considerable extent the life and ways of the plains people” (CAD VII.1). Similarly, a sub-committee report for the scheduled areas agreed with Nehru and Ambedkar on the need to extend the protectionist provisions of the Government of India Act (1935) to the new postcolonial constitution (Thakkar 1947). The “people of the excluded areas,” it explained along the lines of the Simon Commission, had “no experience of local self-governing institutions of the modern or statutory type and are of course not represented in the legislature” (ibid. 4). The sub-committee report on tribal areas in Assam, too, regurgi-

tated an old colonial trope when it pointed to “the evils of jhum [shifting] cultivation,” which, to the upper-caste mind, inevitably led to “erosion, alteration of the rainfall, floods, change of climate etc,” problems that “tribes may not always be aware of” (Bardoloi 1947:11). Yet, using language akin to Patel’s, the report did admit:

Although exclusion or partial exclusion has been in force for a number of years now, the benefits which areas have derived from it are not particularly noticeable . . . partial exclusion or exclusion has been of very little practical value. There has been neither educational nor economic development on any appreciable scale. The object of special administration has thus not been achieved (Thakkar 1947:5).

But why continue with a dysfunctional system? If the primitivist mix of protection and improvement had not worked earlier, why was it expected to work in future? There are no easy answers here. The justifications sound exactly the same as before: a “great need of the aboriginal for protection,” and bringing them “up to a satisfactory level . . . [via] development plans” (ibid. 7–8). The continuities of language and contradictory logics from the colonial period are difficult to miss. This is how primitivism as an ideology of rule came to be reworked and renewed in the postcolonial constitution without the slightest hint of irony.

The Fifth and Sixth Schedules of the Constitution perpetuate the languages and logics of the Partially and Wholly Excluded Areas defined in the Government of India Act (1935) and the Typically and Really Backward Tracts defined by the Government of India (1918). The colonial legacies of legal pluralism thus persist in the postcolony (Hazelhurst 1995). In the Schedule V areas, dispersed across eastern, western, and central Indian states, state governors wield special powers to prohibit or modify central or state laws, to prohibit or regulate the transfer of land by or among tribals, to regulate commercial activities, particularly by non-tribals, and to constitute tribal advisory councils to supplement state legislatures. In principle, New Delhi also reserves the right to intervene directly in the administration of these Scheduled Areas by bypassing elected state and local governments. In the Schedule VI areas, dispersed across the seven northeastern states formed out of the colonial province of Assam), state governors preside over District and Regional Councils in Autonomous Districts and Regions to ensure that state and central laws do not impinge on these administrative zones of exception. The spatial incarceration of tribal populations into Schedule V and VI areas means that those who identify as members of Scheduled Tribe lose much of their special rights and privileges when they migrate outside their “habitats.” Article 46 concretizes older languages of protection when it obliges

the postcolonial state to “protect [tribal subjects] from social injustice and all forms of exploitation.” It is true, of course, that Articles 330, 332, 334, and 335 seek positive discrimination for the scheduled tribes, along the lines recommended by Patel, in state and central legislatures as well as in educational institutions and public sector jobs. Despite this concession to the liberal imperative of improvement, protectionism continues to prevent a truly decolonized liberalism from emerging in postcolonial India. Is it surprising, then, that postcolonial rulers have inherited the political travails of their colonial predecessors in the scheduled and tribal areas?

Primitivism in Postcolonial India: Continuities and Contradictions

The Constitution is yours. The borders are yours. The sovereignty is yours. The flag is yours. What is ours? What is that is both tribal and Indian in the Constitution?

Jaipal Singh, cited in Shiv Visvanathan, “The Tribal World and the Imagination of the Future”

Insofar as law may be understood as a socio-historical process (Moore 1978), successive accretions of lawmaking can form an internally-consistent framework of legal thought, whose social contradictions and intellectual blind spots are easily overlooked. For this reason, primitivism has survived as long as it has in postcolonial India. Both late colonial policymakers and their postcolonial successors had opportunities to abandon primitivism to govern and understand so-called tribes. Yet tribes, imagined as indigenous peoples of India similar to those displaced and dispossessed in white settler colonies, continue to be regarded as backward subjects living in isolation in the hills and forests away from plains civilizations (Béteille 1998). The tropes of improvement and protection have assumed newer discursive forms, though the logic that yokes them together betrays its colonial past. In the name of improvement and progress, the all-important resources of land, water, and forests have been nationalized, even as tribal subjects have borne the brunt of displacement and dispossession disproportionately (Baviskar 1995; Ghosh 2006; Karlsson 2011; Nilsen 2010). In the name of protection, however, the old colonial handbooks of tribal custom and law have become the basis for postcolonial policymaking on community rights over natural resources in particular habitats (Rao 2010; Sen 2012; Upadhyaya 2010). The tensions between improvement and protection have thus grown apace over the past sixty years. The postcolonial regime of positive discrimination is the

cement that binds these contradictory tendencies into a coherent ideology of rule: it seeks to improve and protect the “scheduled tribes” simultaneously while, in fact, marginalizing and impoverishing them. In this final section of the article, I explain how and why a well-intentioned liberal framework of laws has led, tragically, to the most illiberal consequences for tribal subjects in postcolonial India.

Colonial continuities can be discerned clearly in the contradictions that arose in defining tribes and their dwelling places in postcolonial India. In 1959, the Government of India appointed a Commission headed by U.N. Dhebar to, in the words of Article 339, “report on the administration of the Scheduled Areas and the welfare of the Scheduled Tribes” in the country. The Commission tied itself into knots trying to reach a satisfactory definition of “tribes” before concluding that the scheduled tribes can be

generally ascertained by the fact that they live apart I hills, and even where they live on the plains, they lead a separate, excluded existence and are not fully assimilated in the main body of the people. Scheduled Tribes may belong to any religion. They are listed as Scheduled Tribes because of the kind of life led by them (cited in Ryan 1968:1).

In practice, postcolonial policymakers have used a wide range of social criteria, however inconsistently and unsystematically, to identify tribes: “geographical isolation, simple technology, living conditions, general backwardness, animism, tribal language, and physical features” (Xaxa 2008:28). Yet, as per the Dhebar Commission’s recommendations, a tribe is, technically speaking, simply a group listed as a scheduled tribe in Article 342 of the Constitution. While this definition ends the discriminatory colonial regime of criminal tribes, its awkward formulation obviously lends itself to numerous practical difficulties when groups seek to enter the hallowed constitutional list as tribes (Kapila 2008): how, for instance, does one recognize a tribe from other social groups, especially those at the bottom of the caste hierarchy? Similar issues crop up when defining scheduled areas in terms of necessity, the proportion of tribal inhabitants, compactness, and “susceptibility to special administrative treatment without inconvenience” (Government of India n.d.:1). As in the late-colonial period, the governors of states today can decide whether a particular law can be applied to scheduled areas under their jurisdiction (*ibid.* 3). Likewise, as before, non-tribals are legally barred from leasing or owning land in the scheduled areas (*Samatha v. State of Andhra Pradesh and Others*). Tribal activists have, however, sharply criticized these policy provisions by pointing to the “inadequacy of representation of tribals in the legislature, the inadequacy of admission of tribals to vacancies

in services, gross and open discrimination” (Tigga 1960:9). The inadequacy of applying outmoded colonial laws to tribal subjects could hardly be expressed more succinctly.

Much like the definitions of tribes and tribal places, the old paradoxes of improvement in scheduled areas have seeped into the postcolonial period. “Civilization,” the old basis for improving tribes, has now been replaced by “development” without much loss of meaning. It is not an accident, therefore, that led the Dhebar Commission to call the tribes “unspoiled children of Mother India . . . [in] different stages of development” (cited in Prakash 2001:79–80). Developmentalism may be clearly seen in the First Amendment to the Constitution (1951):

Nothing shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and Scheduled Tribes.

Here, the postcolonial developmental state appears to treat scheduled castes and tribes on par with each other as socioeconomically backward subjects. Yet elsewhere, it treated tribal subjects as distinctive in their backwardness and need for improvement: since 1972, tribal development funds have been allocated from central and state budgets at least in proportion to the tribal population in each state (Louis 2008:323). Nevertheless, local and regional political economies of corruption, buttressed by upper-caste prejudices against “wild” tribal populations, have consistently thwarted the governmental will to improve (Shah 2010:66–98; cf. Li 2007). In 1999, a separate ministry for tribal affairs was created to address longstanding socioeconomic grievances via measures for “social security and social insurance . . . , tribal welfare planning, project formulation research and training, promotion and development of voluntary affairs” (Louis 2008:57). However, “irrespective of the tall claim of planned development in the last sixty years,” writes a tribal rights activist, “nothing substantial has happened in the appalling condition of the tribals” (*ibid.* 320). India’s Planning Commission (2008:3) has acknowledged the postcolonial failure to improve material conditions for tribal subjects when it paints an “overall scenario of poverty, deprivation, oppression, and neglect” in the scheduled areas. Furthermore, this scenario is widely held responsible for the popularity of the ongoing Maoist movement in these tribal areas (Dandekar & Choudhury 2010; Gopalakrishnan 2010; Guha 2011; Roy 2010). Might the failure to improve be linked to the postcolonial policies that have, paradoxically, marginalized and impoverished these areas?

Protection of tribal subjects, like improvement, has remained an enigma for the postcolonial state in India. On the one hand, the

state has enacted protective legislation to end human rights violations against the scheduled tribes (Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Rule, 1995), to prevent the alienation of tribal lands to non-tribals (e.g., Andhra Pradesh (Scheduled Areas) Land Transfer Regulation, 1959; Kerala Scheduled Tribe (Restriction on Transfer of Lands and Restoration of Alienation Lands) Act, 1975), to empower tribal village communities as decision-makers in the democratic system (The Provisions of the Panchayat (Extension to the Scheduled Areas) Act, 1996), and to recognize customary tribal rights to forests and their products (Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006). On the other hand,

the grant of such rights has been of little use to the tribes as far as their actual enjoyment is concerned . . . tribes have continued to lose control over their land and other resources . . . [because] they were given these rights without any corresponding powers to enforce them . . . Both the executive and judicial authorities were indifferent and insensitive to the rights of tribal people . . . [and] the tribes had very little say in these institutions. . . . [Lastly,] [t]he legislatures that conferred such rights also made it a point to take away such rights when they found this to be inconvenient (Xaxa 2008:67).

The paradox of protectionism, the policy favored by Nehru and Ambedkar at the birth of the postcolonial nation, may also be understood in the recent workings of the National Commission for Scheduled Tribes. Set up in 1990, this constitutional body set up for “the protection, welfare and development and advancement of the Scheduled Tribes” had, by 1996–97, begun to find it “extremely difficult to carry out . . . [its] functions and activities smoothly, as the manpower and budget placed as its disposal [were] quite inadequate” (Louis 2008:67, 217). In a similar vein, the creation of new “tribal” states in Jharkhand and Chhattisgarh has not only failed to protect tribal rights, but has actually become the object of indifference, even scorn, among ordinary tribal subjects (Shah 2010:8; Tillin 2008). These paradoxes faced by postcolonial guardians of tribal places differ only in degree, not in kind, from those faced by their colonial predecessors. Far from empowering the average tribal citizen economically and legally, protectionism in India’s tribal policy have, in fact, led to “everyday tyranny” (Nilsen 2010:49–54) and the “increasing disempowerment of the tribes in terms of access to [natural] resources that they had so far enjoyed” (Xaxa 2008:69). As one of India’s leading sociologists has argued, the illiberal consequences of colonial primitivist policies have only been exacerbated in postcolonial India (Sundar 2011).

Arguably, the limits of primitivism as a ruling ideology may be best understood with respect to the postcolonial regime of positive discrimination in favor of scheduled tribes. Positive discrimination, favored by Patel during the Constituent Assembly debates, may seem to carry the egalitarian banner of liberal philosophers such as John Rawls (1971) and Amartya Sen (2009). Indeed, Marc Galanter (1984:50) famously argued that the policy of reservations in India “do provide for a substantial quantitative presence that would otherwise be lacking” for scheduled castes and tribes alike. But reservations are not merely a legal mechanism for improving the condition of so-called backward classes. They are, equally, measures to protect the scheduled tribes, who have failed to match the vast political strides achieved by the formerly untouchable scheduled castes (Xaxa 2008:87–100). Protective discrimination in practice thus neatly operationalizes the ideology of primitivism with its contradictory aims of improvement and protection. The failure of the reservations policy ought to be seen in this light. In the case of public sector jobs and seats in government-run educational institutions, Article 335 of the Constitution requires reservation of 7.5 percent for tribal citizens, but the norm remains “non-implementation and wrong implementation by those who were supposed to be responsible for the implementation (Louis 2008:11). Similarly, in the case of legislative quotas for the scheduled tribes, 40 out of 542 (7.4 percent) national parliamentary seats and 315 out of 3,997 (7.8 percent) state assembly seats are reserved for scheduled tribe candidates, but these seats are so scattered across the country that tribal interests cannot be easily articulated in the legislative sphere (Guha 2011). Last, positive discrimination for the scheduled tribes has had the unfortunate consequence of designating them as “inherently deficient and insatiable, as always needing more and more” (Gudavarthy 2012). It would be wrong to view these failures of positive discrimination in terms of the state’s malevolence or a lack of official will. For tribal subjects in postcolonial India, these failures are the ineluctable consequences of primitivism embodied in the reservations policy.

Conclusion

In this article, I have traced the intellectual career of primitivism as an ideology of rule from its origins in Victorian India to the postcolonial present. In doing so, I have focused not merely on the continuities in languages and logics of this ruling ideology of government, but also on the contradictions within it. It would be wrong to conclude that the legal provisions of 1874 have reached us intact today. The shifts and reinforcements over time, in response to

practical constraints and challenges, complicate a simple, linear narrative. The ascendancy of protection over improvement in the intellectual and legal history of primitivism, too, confounds any attempt to project the present into the past or vice-versa. Last, it would be wrong to conclude that the caste/tribe divide undergirding colonial and postcolonial anthropology in India happened to be a correct reading of the sociopolitical landscape. This is not how colonial subjects saw themselves, as historians and historically-minded social scientists repeatedly tell us, so neither should we.

To recapitulate my argument briefly, I defined primitivism as an imperial ideology of rule that infantilized so-called savage or tribal peoples and subjected them to a protectionist yet developmentalist regime. In the Indian context, I showed how the Scheduled Districts Act of 1874 marked the formal inauguration of a colonial rule of difference that separated castes and tribes by law. Tribes were officially set apart as primitive subjects of the Raj, and identified with hills and forests. Despite its failures in policy and practice, primitivism came to be applied with renewed vigor in so-called tribal places through the interwar legislative formulations of the Government of India Act of 1919 and 1935 and the Simon Commission Report of 1930. Late colonial policymakers retained the older languages of protection and improvement even as they increasingly privileged the former over the latter and developed a new bipartite understanding of more and less primitive peoples dwelling in Excluded and Partially Excluded Areas. Despite anti-colonial critiques of primitivism, the makers of modern India basically reproduced colonial logics and languages of exclusion in Schedules V and VI in the postcolonial constitution. While the extension of voting rights to tribal subjects did represent a break with the colonial past, older ideas of the savage in need of civilization nonetheless persisted along with state monopolies over forests and minerals to which tribal subjects enjoyed longstanding rights. In a similar vein, the postcolonial regime of positive discrimination in the public sector, educational institutions, and legislatures has revealed old contradictions between the logics of improvement and protection. These continuities from the colonial era, ultimately, point to the systematic failure of postcolonial policymakers to build a genuinely democratic polity that recognizes tribal and non-tribal individual as equal citizens.

The implications of this failure are profound in India and beyond. First, the collapse of modern European empires has not led scholars and policymakers to radically rethink ideologies of rule that have seeped into the postcolonial present. The older anthropology of “tribes” continues to pervade official and popular thinking, and remains integral to the making of the modern tribal subject in contemporary India (Chandra 2013). As a Maoist

insurgency now rages through the scheduled areas of eastern and central India, public debate has predictably revolved around established tropes of improvement and protection of tribal populations (Harriss 2010). We may say with Anupama Rao (2009:xiv) that “dalit history is the history of India’s political modernity,” but seeing the bitter fruit harvested by primitivism in post-1947 India, we must ask when the postcolonial will, in fact, begin in India’s tribal frontiers (Kar 2011). Of course, as Achille Mbembe (2001) reminds us, the persistence of colonial governmentality in primitive zones of exception is hardly unique to India. Second, in India and elsewhere, a primitivist ideology of rule, instead of being jettisoned, continues to be defended in liberal terms. The Indian Home Minister, for example, is prepared to protect tribal communities from corporate mining by reviewing all memoranda of understanding (MoUs) between state governments and mining companies, but, in his zeal to improve them too, he asks rhetorically, “Do you want the tribals to remain hunters and gatherers? Are we trying to preserve them in some sort of anthropological museum?” (Chaudhury 2009). Unlike those who enjoy the privileges of citizenship, tribal subjects have never had the luxury of self-determination, whether to decide how mineral resources under their homes will be utilized or how mining revenues will be shared, or even if they wish to be subjects of the postcolonial Indian state. In India, as in many other parts of the ex-colonial world, Mill’s (1862/2008:31) argument that savages’ “improvement cannot come from themselves, but must be superinduced from without . . . [by] a parental despotism” still rings true. As far as tribal subjects as concerned, postcolonial liberalism remains firmly in the grip of its colonial predecessor.

How might we work towards a more inclusive postcolonial liberal polity, and abandon primitivism as an ideology of rule? While a definitive answer cannot be attempted here, this article assumes that deconstructing pernicious ideologies such as primitivism that “legitimate unjust and unnecessary forms of political domination” (Eagleton 1991:167) is a necessary first step towards progressive democratic futures in postcolonial societies. To disentangle postcolonial liberalism from primitivism, it is worth acknowledging deep-seated flaws in the Enlightenment anthropology of humankind that sees “savages” scattered across different non-Western contexts. The universal common sense denoted by this anthropology has been critical in ensuring the persistence of primitivism as an ideology of rule despite recurrent difficulties and challenges. Only with new anthropologies of contemporary non-Western societies can better models of postcolonial liberalism be expected to emerge. Ideas and practices of liberty, equality, and inclusive politics are, after all, not peculiarly Western in provenance. The “hyperreal Europe,” of which Dipesh Chakrabarty

(2007) writes so eloquently, needs to be abandoned forever so that Europe and its history may be regarded as merely one among many places and histories. Different, well-grounded liberalisms arising out of distinctive historical contexts need to be invoked urgently in postcolonial constitutions and in the everyday workings of law and government. The primitivist mix of protection and improvement ought to have no place in such reconstructed legal traditions. In every postcolonial context, therefore, liberalism must reconcile itself more readily to its Other so that the politics of primitivism may be banished forever from the books of law.

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