



FOREIGN ELEMENTS AND ORDERS IN COLONIAL ASSAM: TEA, ENCLOSURE, MIGRANT LABOUR AND LABOUR LEGISLATION

Ajanta Sharma * & Khwairakpam Premjit Singh

Department of History & Ethnography, Mizoram University, Aizawl, India

* ajanta.slgr@gmail.com

 Ajanta Sharma: <https://orcid.org/0000-0002-6257-4574>

ABSTRACT

In the later part of the nineteenth century the tea plantations in Assam has witnessed an extensive growth alongwith the mobilization of the labour force. The recruitment and migration of the labour force involved extended miseries due to the unrestrained power of the contractors in the process of recruitment. Moreover, it has a long history of physical and social control of the labours in the tea gardens that pressurized the colonial government to intervene by taking certain legislative measures. On the basis of the archival source, the paper offers a historical analysis of the labour legislations enacted for the tea gardens and its labour force by the colonial government. It also probes into the effectiveness of the labour laws in safeguarding the interest of the labourers.

Keywords: Assam; Tea garden; Coolies; Planters; Labour laws.

Introduction

The British conquest of Assam with the Treaty of Yandaboo (1826) opened up several avenues of imperial commercial interest. The tea gardens of Assam, which started its expansion under the initiative of the Assam Company and later numerous other public and private firms, were one of the key areas of economic interest. The wasteland grant rules formulated by the British in the nineteenth century favoured

the growth of tea gardens in Assam. Assam was loaded with wastelands at the time of British conquest, and realising this, David Scott and Robertson suggested schemes for giving wasteland to generate revenue and clear enormous stretches of forest. Captain Jenkins devised his idea of wasteland colonisation after discovering that their wasteland grant rules were insufficient to attract entrepreneurs. Planters received land at a low rate under the Waste Land Rules, a British scheme designed to create new

prospects for planters to expand the tea gardens in Assam. As a result, the government alienated vast swaths of forest land for tea plantations (Brandis, 1879). Since the 1860s, the rapid expansion and growth of tea gardens in Assam has prompted planters to engage a large number of workers in order to attain the maximum production scale. Local labourers were the major labour force in the tea garden until 1859, but it was difficult to control them since the typical wage rate was low, so the locals chose to work on their own farms. To alleviate the labour shortage, the colonial authorities assisted the planters recruit the labourer from other parts of the country under various legislation. Gordon (2001) stated that "the labourer were recruited from areas where the destruction of local industry, famines and political unrest had led to widespread hardship". The wretched poverty of the countryside most likely contributed to the availability of such a large supply of labour. These workers were prepared to accept low wages as fixed by the employers, making them suitable for capitalist enterprise. Akhtar (1932: 144) rightly stated that the tea gardens had the 'largest labour force at the lowest level of wages'. The labourers in the tea gardens of Assam were recruited from regions of eastern and central India, mostly from tribal districts of Bengal, Bihar, Orissa, and Chotanagpur, who were primarily labelled as coolies in the colonial period.

In its initial years, the recruitment was done by the contractors or the *arkatis* without any regulations and restrictions. Therefore, the *arkatis* adopted typical recruitment methods like providing loans in

advance to the labourers, tempting them with liquor, kidnapping women and girls, and marrying them off in the depots, which was known as "Depot Marriage". The recruitment and emigration of the coolies involved unfolded miseries due to the unimpeded control of the contractors in the process of recruitment. Any tea garden *coolie* who violated the terms of the agreement was punishable under specific laws. The punishments included flogging, hard Labour, an extension of the indenture period, enlargement of debts if they were caught fleeing.

Under such inhumane working conditions, the colonial government was bound to intervene by taking certain legislative measures. The first special act for the tea gardens in Assam was 'The Transport of Native Labourers Act, 1863'. Prior to the act, the Workmen's Breach of Contract Act 1859 served the planters the provision to control the *coolies*. The study focuses on the labour legislations particularly enacted for the tea gardens of Assam by the colonial government. The objective of the study is to examine the effectiveness of the labour laws in safeguarding the interest of labourers. It will also focus on the Workmen's Breach of Contract Act 1859 and its application in the tea gardens of Assam. The term *coolie* and tea garden labourer are used interchangeably in the paper.

Workmen's Breach of Contract Act (Act XIII), 1859

The Workmen's Breach of Contract Act, 1859, differed from the other legislations as it stayed beyond the limits of

a special act and penalised labourers for breach of contract (Singh et al., 2006). Initially, the Act was formed for Bengal Traders' Association and was later incorporated in the tea gardens of Assam in 1864 to force the labourers that were paid in advance to work according to the contract (Das, 1931). The advanced payment was recovered in the form of wage deductions and in the case of non-payment, the agreement was extended. This Act marked the beginning of the indentured system of recruitment in the tea gardens of Assam. At first, the Act applied only to the 'locally engaged labourers', but later on, it was applied to the newly imported labourers and held the labourers who had successfully completed their contract period for the renewal of the agreements (ALEC, 1906; Mohapatra, 2004). Act XIII functioned as an important supplement to the indenture contracts in the tea garden and acquired special significance once the penal clause was repealed in 1908.

Regardless of its shortcoming, the colonial state was keen on its continuation. Besides, there was no labourer protection as the contract could be either oral or written. There was no obligation imposed on the employer beyond that of paying the daily wage of work done. Charles Elliot, the chief commissioner of Assam, was first to suggest the withdrawal of its operation in 1882 and again in 1885 (Behal, 2014). He considered it a "bad Act, one-sided and unfair in its operation and liable to be misunderstood and misused" (Department of Revenue and Agriculture, 1886). Numerous cases of litigation and imprisonment against 'non-recoverable' advances emerged during the

Assam Labourer Enquiry Commissions inquiries. The enquiry committee of 1906 stated that "Act XIII was considered unsuitable as it contains no provisions for instance for the protection of the labourer... a great industry should not be dependent on an uncertain law..." (ALEC, 1906: 219). The planters opposed the idea of annulment of Act XIII of 1859 as this was the only tool to control the labourers. Despite severe objections from the planters, the government of India finally revoked Act XIII from Assam on 21st April 1926. Even after annulment of the act, workers were uninformed as the planters acknowledged that they would have troubled if the workers knew about their freedom (Bhowmik, 1985). With the termination of the Act, the extensive career of indenture recruitment in the Assam tea gardens finally came to an end.

The 'Special' Colonial Laws in the Tea gardens of Assam (1863- 1932)

The later part of nineteenth-century witnessed increased labour population due to the rapid expansion of the tea gardens. The colonial government passed special legislation to recruit the labourers and control them. Under the purview of these acts, the European planters could exercise penal control over the labourers. The appalling and deplorable labour emigration and recruitment system forced the government to set up an Enquiry Committee in 1861. On recommendation of the enquiry committee, the Bengal Legislative Council passed the Transport of Native Labourers Act (Act III), 1863 which was the first legal Act that regulated the working period to a

maximum of five years, licensing of the recruiters and giving proper treatment to the emigrants (like clothing, ration, medicine, hygiene) in transit to minimise the rate of mortality in transportation. However, the act served no purpose to the labourers in transit as the mortality figures were appalling which amounted to "more than 5,500 out of 90,000 labourers" from 1863- 1866 (Akhtar, 1939: 34). After the enforcement of the Act the 'Licensed Contractor's System' emerged that established a complete monopoly to the contractors. The system of recruitment did not change much in its form so the Act was amended in 1865 (Transport of Native Labourers Act, Act VI). Roy and Swami (2016) quoted Griffiths that "... for the planter declares that he imports labourers into the province at a very great expense and that as soon as they arrive, they refuse to work or leave service; that the punishment for desertion is slight and carries with it the release from all engagements and that therefore the labourers willingly incur the liability to punishment in the hope of being set free from the contract...". The amendment of the Act in 1865 bestowed upon the tea garden authorities the unlawful practice of controlling and arrest of the *coolies* within the frame of legality in the course of the unfair 'right to private arrest' as a protection against desertion and this system continued up to 1908 (Annual Report on the administration of the Bengal Presidency, 1864-1865). At the same time the contract period was reduced from five to three years as a concession to labourers but was later again increased to five years under Act I of 1882. This Act of 1865 also provided a fixed monthly rates of wages

along with fifty-four hours of work per week excluding Sunday. Instead of improving the working conditions, the amendment worsened the lives of the *coolies* as they suffered incessantly by the penal powers vested in the hands of the planters.

Since the Act of 1865 did not eradicate any abuse in labour recruitment system another enquiry Commission was set up in 1868 which led to the amendment of the act in 1870. Under this amended Act of 1870, the 'Sardari' System of recruitment was legally sanctioned, but it was not replaced with the 'Arkatti' (licensed recruitment) system. From 1870 to 1915, both methods of recruitment co-existed. Under the *sardari* system, the plantations sent certain trustworthy workers to their native villages such as Bengal, Bihar, and the eastern United Provinces, to induce others from their relatives, caste and village community to accompany them to the tea gardens. The *sardars* acted as mediators between the tea planters and the coolies. The expansion of tea gardens demanded more tea garden coolies from different labour districts. So, both the *arkattii's* and *sardars* recruited large number of workers in the tea gardens. As per the labour immigration reports from 1874- 1881, there were 55% recruits by garden Sardar, 28% by contractors and 17 % were free immigrants (Annual Report, 1874-1881).

Although the Acts were amended from time to time and several labour enquiry commissions were set up, the labour problems continued to grow as the working and living conditions were not as they were promised which led to the shortage of

Labour. Unlike the other enquiry Commissions, the Labour Enquiry Commission of 1881 laid much stress on free emigration to serve the needs of the planters to regulate a growing labour force. It removed restrictions from the Sardari system of recruitment which resulted in the enactment of the Inland Emigration Act, (Act I) 1882. The Act remained an important legislative mechanism to strengthen the planters' authority up to 1901. The tea industry experienced phenomenal growth in Assam but it was not free from fraud and abuse. Act I of 1882 was passed to encourage 'free immigration'. After the passing of the act, labourers were procured either by contract under the Act or they came up without such contract. The former class was called the Act Labourer and the latter was the Non-Act labourer or the free immigrants. The act authorized the execution of contracts in Dhubri rather on the labourers districts. This system of recruitment was also known as 'Dhubri system'. More than half of the emigrants were recruited under the 'dhubri system' by the late 1880's (Sen, 2010: 22). Under this system, the unlicensed recruiter ignored the registration of the coolies and was transported in large numbers without any proper sanitary precautions that led to the rise mortality among the coolies. In 1884, 7,614 immigrant labourers died in the province (Annual Report, 1885: 28). The annual Labour Immigration report (1890) reported the total number of deaths in 1889 to 374 attributed to cholera, of which 135 occurred at Dhubri, 90 on steamers and 149 at debarkation depots. This led to the passing of Emigrants Health Act of 1889

that provided sanitary and medical supervision for all indentured labourers including the 'free' labourer. Though major sanitary conditions were introduced in the provisions of the Act, significantly less regard was given to the sanitary arrangements as the main motive of the authority was to extract profits using cheap labour force. The abuses of Act I of 1882 were exposed by the then chief commissioner of Assam, Sir Henry Cotton in his Annual Report on the labourer immigration into Assam, 1900. Consequently, the colonial state was forced to withdraw the uncontrolled recruitment process and some of the penal provisions of the earlier labourer legislations. Thus, under immense pressure, the government amended the Act in 1901, known as Assam Labour and Emigration Act (Act VI) 1901.

The Assam Labour and Emigration Act, 1901 was enacted that attempted to develop the health status of the *coolies* and reinforce the control and authority of the Medical Inspector while raising the minimum wages (Assam Labourer and Emigration Act, VI of 1901). But these provisions were just for name sake, the result was unsatisfactory and the Act was again amended in 1908 on the recommendation of the Assam Labourer Enquiry committee of 1906. The committee suggested that the labourer was not to be forced to stay in the garden by force of law but "by making life attractive to him" (RALEC, 1906). Thus the Act XI of 1908, withdrew the provision of the arrest without warrant. The amendment of the Act in 1901, 1908 and 1915 by the colonial state finally dismantled a number of the penal contract

system. Act VII of 1915 abolished the Arkatti system and made garden *Sardar* the sole recruiting agent. In Assam, the entire indentured recruitment system was eventually dismantled in 1926 after the abolition of the Workmen's Breach of Contract Act 1859. Under Act VI of 1901, the local governments of the recruiting districts were empowered to forbid the recruitment entirely by 'means of a notification' (RALEC, 1906). So in 1931, the Royal Commission of Labour favoured free recruitment by minimising the special restrictions on the recruiting agencies to "prevent the normal play of social and economic forces in attracting labour from one part of India to another" (RALEC, 1932: 363). Therefore on the recommendation of the Royal Commission of Labourer, the government replaced the Act of 1901 with a new legislation known as the Tea District Labourer Emigration Act, 1932. Under this act a Controller of Emigrant Labourer was appointed who was to control the recruitment and transportation but "there was no provision in the Act for regulating accommodation, sanitation, working hours, educational facilities, etc., which had been, at least on paper, part of the earlier law." (Behal, 2014: 154). As the system of contract labourer was abolished, there was no contracted term mentioned in the Act. This was considered as the last legislation related to the tea gardens of the Assam under the colonial rule.

Conclusion

The prominence of the Assam tea industry to the British colonial Empire was mirrored in the huge set of regulations

designed to allow labour supply rather than to benefit the labour force. Beginning with the Transport of Native Labourers Act of 1863, the colonial state enacted a number of legislations to enable the recruitment and management of Assam's migrant labour force. Despite the passage of various laws, Act XIII of 1859 served as an essential complement to the indenture contract in the tea gardens until 1926. Furthermore, once the penal clause was repealed in 1908, it took on new importance. Although the labour laws included measures for workers' welfare such as wages, medical care, housing, and rationing, the emphasis was exclusively on the penal clause. Planters had a wide range of legal powers under colonial labour laws, which enabled them to conduct disciplinary proceedings by oppressing and penalizing the labourers. As a result, all of the Acts proved to be a "blessing in disguise" for the planters while failing to protect the interests of the labourers.

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