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Kondh Attitude Towards British Judicial Administration : A Study on Baudh-Kondhmal

✓ Sri Debi Prasad Pattnaik *

In the recent past tribal study has gained momentum and number of scholars now seriously engaged to unfold various hidden aspects relating to tribal life, no doubt number of works have so far been done still many more is to yet to be covered up, Among 64 categories of tribal ling in this part of India, the Kondhs are found in the modern districts of Ganjam, Baudh and Kondhmal of Odisha. Khonds are basically tradition bound and has great respect for their mother land. They has too great respect for their tutelary head. the feudatory Rajas. The kondhs though peace loving in nature but always prepared to sacrifice their life for the cause of their mother land, their tradition and their Raja.

A careful study of the history of Kondh land clearly reveals that the Rajas of Baudh and the Rajas of Ghumsar granted total freedom to their Kondh subjects inlieu of their submission to the Rajas and in turn Kondhs played an important role in the army of the Rajas and were popularly known as the Paiks headed by a Sardar. Patro, Bissoyi, Dora or Kanhar, their dashing spirit and courage proves to be beneficial to the peace and security of their land.

The estate of Baudh was part of Kondhmal and this entire region was known as Baudh-Kondhmal. It was only in 1994 that as a part of administrative reform the than government of Odisha bifurcated this administrative into two districts namely Kondhmal and Baudh which was thickly populated by the Kondhs.¹ But long before the introduction of direct British administration in this part of odisha it was under the administrative control of the Raja of Baudh ² and subsequently part of it was controlled by the Raja of Ghumsar and other part, that is Baudh region, was controlled by the Raja of Anugul.³

Study on the tribal life of Odisha clearly reveals that the Kondhs are basically classified into 13 sub-groups⁴ but all these groups spoke common Kondh language throughout Kondh land. They were far away from modern administrative set up, education, judicial and land revenue system. Anything new was alien to them and were not ready to accept it.

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But the introduction of the British administration in Baudh was a turning point in the socio-economic-cultural and administrative history of Baudh-Kondhmal. It is now an established fact that ever since the British took over the administrative management of the Kondhmals in February 1855 Baudh was directly came under the British administration and was governed by the Superintendent of the Tributary Mahals.⁵

Study on the introduction of British administrative system clearly reveals that the main reason behind this decision to bring Baudh under direct British administration was due to the continuous and prolonged Kondh unrest in the Baudh estate and the helping hand of the Raj family to the rebel leaders of Ghumsar like Chakara Bissoyi and his adherents.

After introduction of British administration all out efforts were made to introduce British judicial system and British officials tried their best to win over the innocent Kondhs. For that reason, it had made determined efforts to establish the rule of law as it had done elsewhere in British India. But in due course of time, It was discovered that justice can hardly be meted out to this wild tribe. To achieve the goal too much emphasis was given for the strict interpretation of the letter and spirit of the penal laws as applicable in other parts of British India.⁶

After the introduction of the British judicial system in this estate British authorities due to the inaccessibility of the area granted certain powers to their traditional Raja, particularly in the matter where mild or lesser punishment is needed to suppress the habitual offenders.⁷

In spite of liberal attitude and approach British officials found it very difficult to win over the Kondhs and create trust in them on British judicial system. However, to bring them to the main stream of the civilized world tireless efforts were made by the British officials which in the long run yielded desired result.⁸

Close review of the British judicial system of Baudh estate reveals that there was no written code of law in Baudh-Kondhmals till it came under the Angul estate as a Sub-Division in 1891. All civil disputes were decided as per the local customs, and in criminal matters the spirit of the Criminal Procedure Code and the Penal Code was followed as determined by their Rajas.⁹ For centuries, the aboriginal Kondhs of Kondhmals were accustomed to with the traditional practice. Their disputes were amicably settled through their village Panchayats and in matters of administering Justice, the ruling chief of this hilly region was practically, to all intents and

purposes, hopelessly powerless. The Raja of Baudh had no formal control and not exercised any real authority over the so-called subjects of this area. So when the British authorities wanted to put the new judicial system into trial British administration sought the assistance and help of the native Raja of Baudh and Anugul for its successful implementation, the response from the latter was lukewarm.¹⁰ As such the idea of putting into effect the laws prevalent in the plain area into this remote part was altogether abandoned primarily for two reasons:

- (a) as the tribal tract in question did not yield sufficient revenue to the British Government and situated far from the seat of authority, it was considered inexpedient from financial point of view to maintain an establishment of a considerable police force for the enforcement of laws of the plains into it.
- (b) the British administrators felt that the Kondhs have not come up to a level so as to comprehend the implications of the English Laws.¹¹ For these reasons taking the inaccessibility of the region into account the British government granted some powers to the Raja of Baudh in regard to milder punishment to be meted out to those habitual offenders of Kondhmal and to agree not to interfere with the Raja's handling of the situation.¹²

From moral point of view, the Kondhs of Kondhmal viewed the ordinary form of Oath by holding a Bible in hand as meaningless and unbinding. They preferred to swear in their own way which also invariably elicited the truth. Their simplest form of oath was sweating by the skin of a tiger or leopard. The rationale of this oath was that the Kondhs believed the tiger and panther to be servants of the earth Goddess. They believed that if they swear to an untruth, the earth Goddess would send one of her servants to devour them. Swearing before the village God or Goddess and eating some earth mixed with blood and liquor are among the other oaths of a more complicated nature. This form of oath taking was generally followed in the matter related to land dispute. The British Judicial authorities to win over the Kondhs accepted this Kondhs system of Oath and instead of insisting on the Christian form of Oath, the British recognized the Khonds' popular mode of Oath and made its adherence compulsory in Courts so long as they were not repugnant to justice and not purporting to affect any third person. Accordingly necessary amendments were made in the "Oaths Act" of the Angul District Regulation of 1894 as the main object is to ensure the truth, as far as possible, of the statement of a witness.¹³

In the early years of their administration the British authorities tried their best to impress upon the wild tribes of Kondhland that they were sincere and honest in their pledges to serve the ends of justice. British authority even announced by a drummer throughout Kondhmals that anybody who would ink relief in the court of law was definitely get justice atdoor steps.

Herein some interesting examples are quoted to high light how British authority tried to win over the Kondhs.

(1) A Kondh and his wife were engaged in husking paddy by means of a pounder. Accidentally, the rounder fell on the right palm of the male partner causing certain minor bruises. In order to test veracity of the the government's pronounced intention; the victim filed a writ In the court of the Tahasildar demanding immediate judicial action against the culprit. The Tahasildar, in course of conducting the trial, was utterly surprised to find the plaintiff trying desperately, to establish that it was not his wife but the pounder itself which was the real culprit and, as such. Should be taken to task.¹⁴

The Tahasildar faced a still more piquant situation while delivering the judgment. Knowing full well that to find an inanimate object guilty and awarding punishment" to it would certainly be treated by the public as I matter of ridicule, the magistrate was left it no other alternative than sentence the pounder a fifteen days' imprisonment. The sentence -as put into immediate effect by bringing the pounder from the' Kondh's house in fetters and keeping it Inside the prison Birds.¹⁵ The incident had a tremendous effect on the Kondh minds about the veracity of British official pronouncements.

(2) On another occasion, a Kondhs was found felling trees from the Ghomsar Maliahs and carrying them over to the Kondhmaliahs, his native land which lay on the border line between the two. When asked to explain as to why did he steal timbers from the neighboring jungle which belonged to a separate jurisdiction, the accused made a frank confession that he failed to understand as to bow the Maliahs can be demarcated. The suit against the accused was dismissed by the Tahasildar on the ground that it was difficult to restrict all in a sudden the free movement of a tribe which had claimed indefeasible right over the dense forests from time immemorial.¹⁶

(3) Inanoth instance one Kondhoolo Mallick from Kondhmals was summoned to the court of the Tahasildar for interrogation for having infringed certain provisions of the forest conservancy law by resorting to podu cultivation. The accused promptly replied to the Magistrate-cum-Tahasildar that he was prepared to desist from shifting cultivation provided the government made alternative

arrangement for the livelihood for him and his family. This case was immediately dropped. Thereafter, cases against podu cultivation was rarely registered as the practice was resorted to by the Kondhs in general.¹⁷

Even though initially, the Kondh's had no inclination to bring their cases to the doors of Courts but in due course they exhibited more eagerness as revealed from the Annual Administration Reports of Kondhmals

Moreover, in certain cases, the British judicial authorities were put in a dilemma by not being able to inflict death punishment for offences of murder because the credulous Kondhs argued that he committed such heinous crimes while under the spell of intoxication. Since the government had done little then to check spirit consumption among the Kondhs, it could hardly take any effective step in awarding befitting punishment for murder.¹⁸

The Kondhs prior to the British rule had never known what imprisonment was. They were brought to submission by the sheer display of brute force. Gradually they got used to British judicial customs like "trial", "conviction", "solitary confinement" and "transportation for life" etc, which were very peculiar and completely alien to their traditional life. Even though initially they protested but subsequently gave up the protest.¹⁹

To conclude it can be said that although the British could have succeeded in enforcing their system of judicial administration in Baudh-Kondhmal but they did not implement it in accordance to its true spirit because of the following reasons.²⁰

- a) Any attempt to impose an alien system in a tribal set up like the Kondhmal, would have thrown the British administration out of gear
- b) Any sudden departure from the conventional standard of the Kondh traditional way of life would have affected the relationship between the ruler and the ruled
- c) A policy of persuasion pays better in the long run than that of coercion.

Thus by adopting a method of conciliatory approach the British succeeded in a large measure in perpetuating their hold over an easily excitable race like the Kondhs without causing any serious damage to their cultural identity the preservation of which was the sole concern of the latter. In a way, the process of transition from barbarity to civility among the Kondhs of Baudh-Kondhmal was slowly effected not through intimidation by the British but through mutual understanding of each other's stand point.