

---

**INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH**

---

**TRIBALS NORMS AND CRIMINALITY**- Riddhi Choudhary & SK Sahil<sup>1</sup>**Abstract-**

The article deals with the various forms of criminality existing within the tribal community in India, and also sheds light upon the tribal rights and criminality at the international level. Every culture has a determined objective and social order and every member of the society tends to adhere to the standards set forth for the achievement of a given objective. In this endeavour, some people might succeed in taking advantage of their fellow humans, while others might stray from proper behaviour and contribute to crime, which is bad for society and disrespectful to it. As a result, some categories of crime are most directly and obviously affected by general culture. Tribal communities are also no exception to it. Alongside this adversity, their depleted lifestyles and their scarce means to live a healthy livelihood, often leads these tribal communities to indulge into criminal activities, be it petty or grievous as per their unsatisfied needs. This too, however, comes at a price, as once the family get stuck into the deep waters of the criminality, it seeps through generations to come. Crime becomes a norm at such tribal and Adivasi families. Besides this, certain tribal cultures also act as fire to the fuel in regards to this crucial problem. The behavioural conditions, as well as the tribal society's distinctive attitudes are the true source of approval for criminality and other synonymous norms. Lack of education and socioeconomic backwardness brought on by ignorance and a lack of desire to learn more also contribute to the problem of tribal criminality. This article meticulously species the ideologies of various scholars for the existence of tribal criminality and also mentions various ways to cope up with the same, for instance, the need of socioeconomic awakening among the tribes while preserving their folklore and cultural traditions.

**Introduction**

The crimes perpetrated by various tribals and Adivasis who reside in tribal areas of India serve

---

<sup>1</sup> Assistant Professor & Student at George School of Law Respectively

yet another example of how socio-cultural values directly influence criminality. These tribes' deeply ingrained socio-cultural practices, which are based on centuries-old conventions, are to blame for many murders. Tribals' superstitions, witchcraft beliefs, petty fights, indulgence in sexual activity, and excessive alcohol use, especially during festive times, contribute to crimes like murder, rape, arson, kidnappings, and dacoities. Among the Bhil and Bhilala tribals of Madhya Pradesh's Jhabua district, for instance, elopement marriages are typically popular. The Holi celebration and Bhagoria Hat, when young boys and girls dance together and the boy elopes with the girl of his choosing provided, she also approves of him, bring the tribal tribals together. When the couple returns, the parents of both partners arrange their marriage. Elopement is thus one of the recognised rules of this tribal civilization and is never viewed as a crime, even though it is a crime punished under Indian law. Pre-marital sex is illegal in India; however, it is often done in the Gotuls, or youth hostels, of the Gond tribe tribals in the Bihar districts of Bastar and Chotanagpur. The tribal tribals view it as a crucial socio-cultural institution because it gives their children the right preparation for marriage. Additionally, pouring alcohol at religious and agricultural festivals, weddings, betrothal ceremonies, and even to mourners attending the afterlife rites of the deceased is seen as an essential component of tribal tradition that is practiced in practically all regions of India. Due to their behavioral conditions, the tribal society's distinctive attitudes are the true source of approval for these acts. Lack of education and socioeconomic backwardness brought on by ignorance and a lack of desire to learn more contribute to the problem of tribal criminality. It is crucial to foster socioeconomic awakening among the tribal tribals while preserving their folklore and cultural traditions.

### **Social Dis-organisation Theory of Crime:**

Every culture has a culturally determined objective, according to this statement. Be it capitalism, socialism, communism, or any other type of social order. Every member of society tends to adhere to the standards set forth for the achievement of a given objective. In this endeavour, some people might succeed in taking advantage of their fellow humans, while others might stray from proper behaviour and contribute to crime, which is bad for society and disrespectful to it. As a result, some categories of crime are most directly and obviously affected by general culture.

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

<https://www.ijalr.in/>

**How did we get here?**

Tribal Law & Order Act (2010)

A tribal court may impose a sentence greater than 1 year but cannot exceed till 3 years for any 1 offense, or a fine between \$5,000 and \$15,000, or both if the respondent is a person accused of a criminal offense who -

- Has been previously convicted of the same or a similar offense by any jurisdiction in the United States; or
  - Is being prosecuted for an offense like an offense that would be punishable by more than 1 year of imprisonment if prosecuted by the United States or any of the States.

Tribal Law & Order Act (2010) Rights of defendants

The Indian tribe shall--

- Allocate the right to effective assistance of counsel; and
- Allocate an indigent defendant the assistance of a licensed defence attorney
- Provide a judge who
- has adequate legal training to preside over criminal proceedings;
- has a license to practice law by any jurisdiction in the United States;
- Make publicly obtainable the criminal laws of the tribal government;
- Maintain a record of the criminal proceeding.
- The community has spoken to adopt Tribal Law & Order Act with Secretarial Election
- Constitutional Amendment to implement the Tribal Law and Order Act (2010)
- Expanded Jurisdiction under the sadism Against Women Act
- Reliance on the Federal Government to prosecute serious cases
- Ability to handle serious cases in our Tribal Court, closer to the community
- Multiple meetings and discussions between Criminal Justice Departments -
- Attorney General
- Tribal Court
- Law Enforcement
- Probation
- Prosecutor

**Recommendations for improvement of Education among the DNT-NT**

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

<https://www.ijalr.in/>

**Communities:**

1. It should be possible to offer primary education in vernacular languages. Children will find it easier to learn the material thanks to this. Their language will be more perceptive. The NEP needs to address this problem.
2. The National Council for Educational Research and Training, popularly known as NCERT, and the Central Institute of Indian Languages (CIIL). The duty of creating textbooks, reference books, supplemental reading materials, and terminology in the mother tongues of these people may fall to the State Council of Educational Research and Training (SCERT). Such educational materials ought to be distributed to schools with students from DNT-NT communities.
3. Internet-equipped libraries need to be established in the DNT-NT localities.
4. Cases of caste prejudice need to be strictly monitored. The education department should regularly visit schools to check on things like lunchtime seating arrangements and teacher attitudes toward DNT-NT students. If the schools have students from these communities, the school management committee (SMC) must include a member of that community.
5. In order to reduce the number of students dropping out owing to poverty, scholarships up to higher education must be offered. The scholarship money should cover all necessary expenses, including food, housing, books, transport, and maintenance.
6. These students should be given ID cards so they can ride buses and trains for free or at a discounted rate.
7. Under the Right to Education (RTE), special accommodations should be granted for DNT-NT students, especially for those who choose to attend private schools.
8. Children from communities who have a history of providing entertainment, such as Bhat, Nat, Kalbelia, Bedia, and Kanjar, have unique talents. They ought to have seats set aside for them at the National School of Drama. University fine arts programmes, the National Institute of Design, etc.
9. Seats for DNT-NT children shall be reserved at polytechnic institutions, industrial training institutes, and vocational schools.

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

<https://www.ijalr.in/>



10. In the DNT-NT settlements, skill development programmes should be given top priority, and finance organisations should offer low-interest loans. In order to microfinance their needs, SHGs should be established.
11. Children of DNT-NT who are prone to child labour and prostitution shall receive special care from the National Commission for the Protection of Child Rights.
12. Children should be able to study in hostel facilities while their parents are on the go. Like those for the Adivasis, special residential schools should be established for the DNT-NT populations.
13. The female students should receive special consideration. They should have places reserved at the Kendriya Vidhyalaya, Navodya Vidhyalaya, and Kasturba Gandhi Schools. The cost of their entire education should be waived.
14. DNT-NT communities and their citizenship documents, such as caste certificates, voter identification cards, and ration cards, should be thoroughly surveyed. The local government needs to issue these as soon as possible.
15. The government should grant DNT-NT communities land in urban areas where they can erect child hostels as community service centres.
16. It is not appropriate to keep youngsters under the age of 18 in detention during police raids in DNT-NT settlements.

### **Major Reasons for Educational Backwardness:**

1. The educational medium's (linguistic) limitations.
2. The parents' low literacy rates, particularly for female parents. In places like the Gadia Luhar & Bagaria, this can reach up to 95% of the time.
3. The parents' lack of wealth.
4. Kids assist parents with their routine tasks.
5. Inability to enroll in school due to lack of citizenship documentation.
6. A lack of understanding of schooling.
7. As a result of a lack of parental support and direction.
8. Parents cannot afford to pay for all their children's educations due to big family numbers.
9. Kids lose interest in going to school.
10. After finishing basic school, begin working.

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

<https://www.ijalr.in/>

11. As a result of the frequent family relocation for employment.
12. Getting married young.

### **The environment of the schools: -**

1. Child's liking or disliking of the school.
2. The hesitation of parents to attend Parents Teachers Meetings (PTM).
3. Being called by the name of the community/caste.
4. Not paid any attention by the teacher.
5. Mid-day meal discrimination.
6. Not allowed to drink water from the same pot & lots.
7. Ordered to bring tea or water for the teacher. Do cleaning of school premises.
8. Fellow student attitude is offensive/hurtful.

### **EX-CRIMINAL TRIBES AND CRIMINOLOGICAL THEORIES**

There are more than 200 groups of ex-criminal tribes in the Indian subcontinent, with a total population of close to 6 million. The criminal tribes were known to as such in the past because they were compelled to engage in illegal actions like stealing, robbery, dacoity, etc. for a living. The peasants were being pillaged and robbed as they travelled from village to hamlet by the Criminal Tribes. The British-ruled government of India passed the Criminal Tribes Act in 1871 to control the roaming criminal tribes as a result of the government's failure to control these tribal groupings. The fact that organised crime was a widespread phenomenon was later realised. All members of such tribal organisations, including both children and adults, were criminals regardless of their sexual orientation or whether they had committed the crime or not. The Act was altered multiple times to keep the criminal tribes in check and used to refraining from their evil deeds. Because of concerns that it violated the spirit of the Indian Constitution and new Indian ideals after India became a republic, the C. T. Act was abolished in 1952. It was replaced by the Habitual Offenders Act. As soon as the C.T. Act was repealed, the tribes adopted the name Vimukta Jatis, which means Denotified Tribes. The legal stigma that had previously been associated with the indigenous people was removed, even though the social stigma against them has lingered since. The manner that crime manifests among the former criminal tribes is unusual in several ways: Tribal crime is recognised by the law as a collective

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

<https://www.ijalr.in/>

phenomenon since it is (1) passed down from generation to generation, (2) accepted as the norm by the criminal tribe, and (3) practised by successive generations.

## **BIOLOGICAL STRUCTURE**

According to Lombroso, criminals acquire their criminal tendencies from their parents at birth. He gave the criminal tribes of India as an illustration (Wolfgang, 1960:209). He underlined the importance of innate impulsivity as a significant contributing cause of crime. He disagreed with the then-dominant "free will" idea. Later, however, Tarde (Vine, 1954) and Goring rejected the Lombrosian idea (Driver, 1957).

Mazumdar did research on numerous castes in India, especially criminal tribes. Between the various caste groupings, including the criminal tribal groups, he discovered no distinctions in blood types or physical characteristics. According to Kapadia:

"In the vagabond and criminal segments of the tribal population, Mazumdar notices an increasing expansion of the head from the Eastern to the Western parts of U.P., possibly indicating assimilation of a brachycephalic element. However, the limited measurements he was given, the Habura 73-71, the Bhatu 74-83, and the Dom 73-79 (Criminal Tribes), demonstrate that these groups are dolichocephals and resemble their counterparts in South India, the Parriyan 72 (Risley) and the Chenchu 73-80 (Indian Census 1931) ".

"Commonly, criminal tribes are referred to as the hereditary criminals of India, yet we have no solid evidence that criminality is passed from father to son biologically," said Venugopalarao (Venugopalarao, 1962:24). Therefore, it appears that biological theories no longer pass an analytical test.

## **ECONOMIC STRUCTURE**

Typically, it is assumed that poverty has a role in crime. Bonger (Van Bemmelen, 1955) methodically linked crime to a lack of opportunity. In a similar way, Biswas (1960), Gillin (1931), and Bruce (1969) linked economic issues to tribal criminality. In Delhi State, Biswas looked at prison colonies. He discovered that their spending far outweighed their income, forcing them to commit crimes in order to make up the difference. Gillin gives a comprehensive account of the abhorrent circumstances in which the tribal members were coerced to commit atrocities. Most of the people frequently faces starvation, the speaker said. Millions will perish if there is a famine without assistance from the government or relief agencies. There is no

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

<https://www.ijalr.in/>

surprise that entire families and tribes have turned to criminal means of subsistence under such circumstances, which have persisted for decades (Gillin, 1931:106). The condition is further described as follows: "Most of the men were dressed in rags when the initial batches were brought into the communities. Children under the age of twelve were completely naked, while the women barely had enough clothing to cover their embarrassment (Gillin, 1931:107). However, economic factors are insufficient to explain why similar other groups that were just scraping by were not also criminal in nature. The Scheduled Castes and Tribes of India, which are similarly or even more impoverished, lack criminal tendencies. Therefore, it makes sense to assume that inadequate conditions can be a required but insufficient cause. The idea that having a poor economic background causes crime is unacceptable for two reasons: (1) Not all people from disadvantaged homes turn to crime, and (2) Not everyone in the same family must be a criminal. Furthermore, a decrease in poverty has not necessarily resulted in a decrease in criminal behaviour in economically developed nations with relatively high crime rates, such the United States. The economic component is a necessary but not sufficient cause of crime among the tribal people, it should be understood.

## **SOCIAL STRUCTURE**

Sociologists have investigated social structure-related deviance, including Merton and others. Merton's theory of deviance was largely influenced by Durkheim's concept of anomie. Merton claims that even though the institutional tools necessary to fulfill a few culturally defined "dominant-success goals" are not always readily available, American society places a significant priority on them. As a result, some individuals adopted unconventional strategies to advance their cultural goals. A sizable segment of the community is forbidden from utilizing legal means to achieve the set cultural goals, deviation results. Merton notably pointed up how the lower classes were put in a more vulnerable position in the United States when compared to the upper classes. American civilization prescribes aspirations regardless of financial situation, but socially organized tools are distributed unfairly. Misalignment of methods and objectives leads to deviations. It is basically a structural view of deviant behaviour that acknowledges the role of economic considerations when it is argued that lower classes tend to be more deviant. Because "They (the criminal tribes) experienced some conventional aspirations of Indian society (desire for status, respect, and subsistence), but lacked socially structured means by which they could achieve those aspirations," Patrick claims that the Mang Garudi's criminal

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

<https://www.ijalr.in/>



behaviour was a by-product of the Indian social structure. The means-ends model works well to explain criminal behaviour among criminal tribes in post-independent India, but it is less clear how well it would work to explain criminal behaviour among criminal tribes in pre-independent Indian society, which was largely based on ascribed status. The Indian Constitution declares democratic ideals like equality and freedom for all people, regardless of caste, race, colour, gender, or origin, but not everyone has access to the means to uphold these ideals. As a result, groups like criminal tribes or handicapped groups that are unable to achieve the common goals may turn to crime. However, this theory does not demonstrate the long-term criminality of a certain group.

### **TECHNIQUES OF NEUTRALIZATION**

According to Sykes and Matza, many perpetrators do feel sorry and accountable (1957). However, the offender claims that because his inappropriate behaviour adheres to the standards of his sub-cultural group, it is acceptable. The writers further assert that the delinquents' actions do not pose a threat to society. Since the criminal tribes consider their criminal behaviour to be their "Kulavrithi," guilt-inducing thoughts do not appear (Caste or tribal occupation). Simhadri's 1972 study of an Andhra village revealed that the delinquent tribes never expressed regret for their criminal behaviour. Because a tribe has evolved into a caste, a particular tribe may also consider that stealing or committing crimes is a legitimate line of work for their caste. Although not all tribal members or members of a criminal's family are criminals, it should be acknowledged in the village. Therefore, the "neutralization" argument is unable to explain how people who stop from committing crimes behave.

### **DIFFERENTIAL ASSOCIATION**

Sutherland developed a notion called "Differential Association." He contends that criminal behaviour is taught in conjunction with others, according to the frequency, intensity, priority, and duration of contact, much like other types of behaviour. Therefore, crime can be described as a social phenomenon rather than a biological or climatic one. In other words, the theory emphasizes association as a crucial prerequisite for understanding criminal behavioral patterns. Criminality results from an excess of contacts and relationships of this nature. What determines if a person has a propensity to commit crimes is the ratio between definitions (situations) that are in favour of the law and those that are against it. A person becomes delinquent when there

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

<https://www.ijalr.in/>

are too many definitions that favour breaking the law relative to those that do not.

This thesis was very helpful in describing tribal criminality. Since each tribal group limits its members' social interactions, criminal behaviour, like all other behaviors, is inherited. In India, social groups, such as tribes or scheduled castes, frequently coexist in the same geographic area. Because of this, there is a significant physical and social barrier preventing the lower and top castes from mixing. Tribals, particularly criminal tribal organizations, rarely interact with outsiders. It is impossible to adopt the ideals of other castes or social groups when there is little to no chance of making contacts with them or associating with them. It makes sense that tribal people would absorb the ideals of their surrounding environment. As a result, the tribal family serves as a training ground for their kids to pick up criminal tactics and behaviour. According to Haikerwal, one of the roles of the tribal family was to start teaching the basics of crime the day after a baby was born.

### **LOWER CLASS CULTURE MILIEU AND CONTAINMENT THEORY**

Miller and Reckless introduced the concepts of "Lower Class Culture Milieu" and "Containment theory," respectively. The former is a cultural theory, whereas the latter is socio-psychological. The three fundamental tenets of Miller's (1958:9) theory are as follows: As a result, it is possible to break the law by default when adhering to specific lower-class values because: 1. they are distinct from middle-class values; 2. they diverge significantly from them; and 3. they are defined by separate values that undermine the legal codes. In Miller's words, "participating in some cultural behaviors which constitute important aspects of the whole life pattern of lower-class culture unavoidably violates certain legal rules."

In other words, the style of life of the "lower class" is inherently in violation of the law. To us, this concept seems a little ad rem. A criminal tribe's behavioral style is passed down through hereditary means if the social group has engaged in criminal activity for many generations. The fact that these tribal members made a living off crimes like robbery, dacoity, murder, etc. is a sociohistorical accident. Once criminal activity has become ingrained in tribal culture and lifestyle, such culture inevitably deviates from the law and is passed down from generation to generation.

However, this argument also fails to explain why other kids do not commit crimes in the same

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

<https://www.ijalr.in/>

delinquent area. This mismatch was clarified through research and experiments done by Reckless. They discovered that self-concept disparities account for why some youngsters who live in high-delinquency neighborhoods grow up to be troublemakers whereas others in poor areas do not. "Conception of self and others is the differential response component that helps to explain why some succumb and others do not, why some drifts toward socially unacceptable patterns of behaviour and others swerve away from them," the scientists wrote in their conclusion. Reckless discovered from his research that both non-criminals and delinquents were the result of the formation of a particular sense of "self" and the conception of "good" or "bad" in both criminally and non-criminally inclined neighborhoods. In the early phases of an individual's participation in community life, ideas like self-conception arise. In contrast to those who develop a sense that they are "bad," who feel discouraged and try to distance them from the norm and become deviant, people who develop an inner sense that they are good will continue to be good and will possess a good conscience to conform to the conventional society even in their adulthood. In terms of tribal culture, criminal behaviour has previously been tolerated among criminal tribes as normal and customary behaviour. The tribal people are attempting to adopt the higher society's principles now that they have encountered it. As a result, the tribal members have realised that their actions or high rates of crime are unacceptable to society at large. Although Reckless claimed that his containment theory was insufficient to explain the traditional criminal behaviour of the tribal people because of how it changed as a result of the contact between the tribes and the wider society and the tribes' adoption of the bigger culture, the theory seemed to be adequate to account for the existence of crime.

## CONCLUSION

The biological hypotheses can be disregarded because they contradict rational thinking. There are two schools of thought among social scientists who study economic variables: those who believe that economic forces alone are to blame and others who believe that economic considerations may be a necessary but insufficient element. The latter of the two perspectives is more reasonable. The combined theory of Sutherland, Miller, and Reckless effectively explains why crime continues to exist within the criminal tribes. In the first place, Sutherland's theory is relevant because it provides a general explanation of how people learn and adjust their behaviour—criminal or otherwise—through close relationships with people in their families, neighborhoods, and tribes. According to Miller's idea, a particular cultural environment that

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

<https://www.ijalr.in/>

consistently breaks the law is inherited. By socio-historical accident, crime entered tribal culture in the case of the criminal tribes. As a result, tribal culture became inherently criminal, and the deviant culture was passed down through the generations within the same cultural group. Some people follow societal conventions, but they nevertheless have a tendency toward the old-fashioned criminal tribal culture. According to Reckless' hypothesis, people who interact often with the greater society come to view themselves as either "good" or "bad," and as a result, either stick to their conventional values and social conventions or depart from them.



For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

<https://www.ijalr.in/>