

# Legislating the Labor Force: Sedentarization and Development in India and the United States, 1870–1915

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In 1910, Salvation Army Commissioner Frederick Booth Tucker remarked that the criminal tribes of Punjab could be divided into two groups: “won’t-be-goods,” for whom transportation to the Andaman Islands or the hill country was the only option, and “would-be-goods,” who could be reformed via the existing network of criminal tribes settlements in India, similar to those that had resulted in “the successful and complete pacification” of more than three hundred thousand “Red Indians” in the United States.<sup>1</sup> Tucker’s analogy is unexpected, mainly because the legal regimes behind the criminal tribes settlements in India and reservation policy in the United States have been thought of in very different ways. Historians writing about the Criminal Tribes Act of 1871 and the system of criminal tribes settlements it created have tended to focus on construction of the “hereditary criminal” castes, with reference to both the ethnographic nature of the colonial project in India after 1858 and the long association between criminality and vagrancy in metropolitan Victorian Britain.<sup>2</sup> The reservation system in the United States,

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<sup>1</sup> Quoted in Andrew Major, “State and Criminal Tribes in Colonial Punjab: Surveillance, Control and Reclamation of the ‘Dangerous Classes,’” *Modern Asian Studies* 33, 2 (1999): 657–88, 675. Under the 1871 Criminal Tribes Act, hundreds of “criminal tribes” in North India—vagrant or low-caste groups with a supposed hereditary predilection for crime—were registered by the colonial government and their movements restricted to settlements.

<sup>2</sup> See Radhika Singha, “Settle, Mobilize, Verify: Identification Practices in Colonial India,” *Studies in History* 16, 2 (2000): 151–98; Meena Radhakrishna, *Dishonoured by History: Criminal Tribes and British Colonial Policy* (New Delhi: Orient Longman, 2001); Sanjay Nigam, “Disciplining and Policing the ‘Criminals by Birth’: Part 1: The Making of a Colonial Stereotype—The Criminal Tribes and Castes of North India,” *Indian Economic and Social History Review* 27, 2 (1990):

on the other hand, has been conceptualized above all in the context of settler colonialism premised on the conquest of land.<sup>3</sup> When placed in a transnational context, it is inevitably set alongside other settler colonialist projects in what Duncan Bell has called “Greater Britain.”<sup>4</sup>

Yet these seemingly disparate legal regimes had in common a set of assumptions, anxieties, and motives regarding the productivity of land and labor that circulated not just within the British Empire, but within a broader imperial context including the United States, the unruly western frontier of the “First British Empire.” This paper seeks to conceptualize the Criminal Tribes Act and the Indian Appropriation Acts of 1851–1871 as part of a congruent effort to manage and define the labor force in the context of the incorporation of peripheral regions into the global capitalist economy. In the complement to land reclamation and agricultural improvement programs, British and American colonizers sought to rehabilitate so-called problem populations—tribal peoples—in order to create a labor pool endowed with suitable qualities for unleashing the productive capacity of land. While in India the cumulative effect of criminal tribes legislation was inclusive in that efforts at reforming criminal tribes aimed to augment the colonial labor force, reservation policy in the United States excluded Native Americans from lands that were the preserve of white labor while simultaneously laying the groundwork for their assimilation into Euro-American society.

In arguing the above, I interrogate the categories imposed by the colonial state to reveal unexpected points of contact and convergence between these two far-flung yet coterminous regimes of state surveillance and control, taking up Radhika Singha’s suggestion that “concerns about policing mobile

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131–64; and “Disciplining and Policing the ‘Criminals by Birth’: Part 2: The Development of a Disciplinary System, 1871–1900,” *Indian Economic and Social History Review* 27, 3 (1990): 257–87; David Arnold, “Crime and Crime Control in Madras, 1858–1947,” and Sandria Freitag, “Collective Crime and Authority in North India,” both in Anand A. Yang, ed., *Crime and Criminality in British India* (Tucson: University of Arizona Press, 1985); and Saurabh Dube and Anupama Rao, eds., *Crime through Time* (Oxford: Oxford University Press, 2013).

<sup>3</sup> Ned Blackhawk, “American Indians and the Study of U.S. History,” in Eric Foner and Lisa McGirr, eds., *American History Now* (Philadelphia: Temple University Press, 2011). See Robert A. Trennert, *Alternative to Extinction: Federal Indian Policy and the Beginnings of the Reservation System, 1846–51* (Philadelphia: Temple University Press, 1975); William E. Unrau, *The Rise and Fall of Indian Country, 1825–1855* (Lawrence: University of Kansas Press, 2007). The term “Indians” is gaining in usage among scholars of the indigenous peoples of North America. To reduce confusion, I use Native American unless making reference to historical usages, such as “Indian removal.”

<sup>4</sup> Duncan Bell, *The Idea of Greater Britain: Empire and the Future of World Order, 1860–1900* (Princeton: Princeton University Press, 2007). See Lisa Ford, *Settler Sovereignty* (Cambridge: Harvard University Press, 2011); Stuart Banner, *Possessing the Pacific: Land, Settlers, and Indigenous Peoples from Australia to Alaska* (Cambridge: Harvard University Press, 2007); and James Belich, *Replenishing the Earth: The Settler Revolution and the Rise of the Angloworld* (Oxford: Oxford University Press, 2011).

populations were invoked ... against a geography of colonial ‘improvement.’”<sup>5</sup> While scholars have tended to accept the Criminal Tribes Act at face value, so to speak—as primarily concerned with crime and criminality—I contend that this reading of the Act elides its purpose as a tool for remaking “criminal tribes” into a workforce capable of tilling the land, an understanding of this legislation that comes into sharper focus when it is set alongside the United States case.

I ground my argument in recent work in development history that has challenged the idea that the global development regime emerged, fully formed, after 1945. Historians have succeeded in not only pushing back the origins of global development into the late nineteenth century but also broadening the scope of analysis to imperial powers other than the United States. Joseph Hodge and Frederick Cooper, among others, have demonstrated that the roots of postwar development can be traced to British and French colonial administrators’ responses to the interwar crisis of empire.<sup>6</sup> While Hodge emphasizes the 1890s and Joseph Chamberlain’s call to develop Britain’s “imperial estate” as the beginning of British colonial officials’ turn to scientific management, both authors pinpoint the interwar years as the moment when the pieces of development clicked into place.<sup>7</sup> On this reading, development was a strategy consciously adopted in the 1930s and 1940s, a spoonful of sugar intended to solve the looming crises of late empire while ensuring that the medicine of colonial rule continued to go down.

Extending this narrative further back into the nineteenth century, I draw attention to the emergence of state-driven plans for colonial development in response to an earlier wave of dislocations caused by the expansion of global industrial capitalism and the intensified pace of expropriation by white settlers. Following Hodge, I show that the colonial state’s concern with “agrarian doctrines of development” in the mid-to-late nineteenth century extended to augmenting natural and human resources.<sup>8</sup>

If there is a problem with historicizing development in this manner, it is that, sooner or later, everything becomes development. As Cooper notes, a long view of colonial development lumps together “assertions of civilizing missions, claims to be exercising trusteeship, the building of railroads, hospitals, and schools” in a way that seems to surrender the specificity of the term, specifically its association with promoting higher standards of living in a manner

<sup>5</sup> Singha, “Settle, Mobilize, Verify,” 154.

<sup>6</sup> Joseph Morgan Hodge, *Triumph of the Expert: Agrarian Doctrines of Development and the Legacies of British Colonialism* (Athens: Ohio University Press, 2007), 2; Frederick Cooper, “Writing the History of Development,” *Journal of Modern European History* 8, 1 (2010): 5–23; Michael Havinden and David Meredith, eds., *Colonialism and Development: Britain and Its Tropical Colonies 1850–1960* (New York: Routledge, 1996).

<sup>7</sup> Hodge, *Triumph of the Expert*, 5; Cooper, “Writing the History of Development,” 9.

<sup>8</sup> Hodge, *Triumph of the Expert*, xxii.

that at least contemplates parity with the metropole.<sup>9</sup> Yet development and hierarchy went hand in hand, and Cooper turns to the example of “forced modernization” policies to note that even programs “intended to make [their subjects] better off and more content” could nonetheless bear the stamp of coercion.<sup>10</sup> Indeed, we can situate both criminal tribes settlements and Native American reservations as sites of uplift, where the colonial state, often in partnership with missionary organizations (the non-governmental organizations of their day), undertook initiatives intended to raise standards of living and prepare subject peoples for self-sufficiency. Moreover, these initiatives were bound up with beliefs about land, labor, and productivity centered around the notion of improvement.

The comparison this essay sustains and nuances—between criminal tribes settlements and Native American reservations—is supported by the shared cultural importance placed on land by British and American empire-builders. British and American practices of land allocation and occupation were fundamentally different from those adopted by their French, Spanish, Portuguese, Dutch, German, and Russian counterparts in land-granting empires, and were uniquely influenced by a strand of improvement thinking that by the nineteenth century had largely fallen by the wayside on the continent.<sup>11</sup> The uniting of the interests of an ascendant landed elite with those of the commercial and business classes in England in the late eighteenth century created what Christopher Bayly has described as a national and patriotic consensus that valorized private property.<sup>12</sup> In the absence of a strong tradition of peasant proprietorship, English landlords successfully pursued the consolidation of land through enclosure, spearheading agricultural productivity schemes that led to secular economic growth across classes.<sup>13</sup> This particular cultural understanding of land as a source of not only rents but also political stability was bequeathed to the various outposts of Britain’s settler empire, including the United States, where the pursuit of new lands by rugged individuals would come to occupy a central place in national mythology.<sup>14</sup>

Yet despite its framing, this paper does not seek to provide a comparative legal history of the United States and India, or even to skim the surface of such a history. Rather, it attempts to reveal “ideas, practices and identities emerging

<sup>9</sup> Cooper, “Writing the History of Development,” 9.

<sup>10</sup> *Ibid.*, 12.

<sup>11</sup> John C. Weaver, *The Great Land Rush and the Making of the Modern World, 1650–1900* (Montreal: McGill-Queens University Press, 2006), 6, 11–12.

<sup>12</sup> Christopher Bayly, *Imperial Meridian: The British Empire and the World, 1780–1830* (New York: Routledge, 1989).

<sup>13</sup> Robert Brenner, “Agrarian Class Structure and Economic Development in Pre-Industrial Europe,” *Past and Present* 70 (1976): 30–75.

<sup>14</sup> Weaver, *Great Land Rush*, 12.

*trans-imperially* as they moved from one imperial site to another.”<sup>15</sup> As Michel Foucault argues, discourses are never merely descriptive, but generative: “practices that systematically form the objects of which they speak.”<sup>16</sup> Tracing the faint but unmistakable watermark of the trans-imperial discourse around nomadism in two key pieces of legislation in the United States and India, respectively, thus entails reckoning with the colonial state’s attempts to produce new types of subjects, often by violent means.

#### THE “TRIBAL QUESTION” IN INDIA AND THE UNITED STATES

Late nineteenth-century British and American interpretations of property rights in an imperial context were overdetermined by the distinction between wandering peoples and those who cultivated the land. As Robert Fletcher notes, prejudice against nomads had existed since antiquity, with nomads seen as the antithesis of well-ordered civilization.<sup>17</sup> In Britain, this belief manifested itself in campaigns against mobile populations in Ireland, and was exported to the settler colonial world, where fear of nomads took on heightened significance in the context of the expropriation of land for white settlement.<sup>18</sup>

Justifications for imperial conquest turned on the notion that nomadic peoples could not hold claim to land. Hodge draws attention to the notion of *terra nullius*, or “empty land,” as a justification for not only the European conquest of Native American lands in what would become the United States, but also the agricultural improvement schemes spearheaded by the British colonial state in its African and Asian colonies.<sup>19</sup> Descended from the Roman doctrine of *res nullius*, the idea that property rights were contingent on mixing land with labor was famously articulated by Locke in his *Second Treatise of Government*, which singled out Native Americans as an example of a people who, despite being “furnished as liberally as any other people, with the materials of plenty, i.e. a fruitful soil [...] yet *for want of improving it by labour*, have not one-hundredth part of the conveniences we enjoy.”<sup>20</sup> By the seventeenth century, improvement was associated not just with claims to property, but with claims to political sovereignty as well.<sup>21</sup> Colonial populations who were seen as not adequately “improving” their lands were denied claims to land

<sup>15</sup> David Lambert and Alan Lester, eds., *Colonial Lives across the British Empire: Imperial Careering in the Long Nineteenth Century* (Cambridge: Cambridge University Press, 2006), 2.

<sup>16</sup> Michel Foucault, *The Archeology of Knowledge and the Discourse on Language* (London: Tavistock Publications, 1972), 49.

<sup>17</sup> Robert S. J. Fletcher, *British Imperialism and “the Tribal Question”: Desert Administration and Nomadic Societies in the Middle East 1919–1936* (Oxford: Oxford University Press, 2015), 38.

<sup>18</sup> *Ibid.*

<sup>19</sup> Hodge, *Triumph of the Expert*, 17.

<sup>20</sup> Quoted in *ibid.*, 17 (his italics).

<sup>21</sup> See Andrew Fitzmaurice, *Sovereignty, Property, and Empire, 1500–2000* (Cambridge: Cambridge University Press, 2014). Fitzmaurice notes that the term *terra nullius* only emerged late in the nineteenth century.

and cast as itinerant populations, legal outsiders on a model of the state where private property and citizenship were intertwined.<sup>22</sup> The steady encroachment of the colonial state onto native lands in both the United States and in Britain's overseas colonies thus hinged in part on the imperative to "make the most of soils and seasons."<sup>23</sup>

"Empty land," however, was a misnomer. Embarking on a program of agricultural "improvements" entailed taming not only the "waste," but also its inhabitants, whose very existence called into question how untouched the land really was. This prescriptive notion of waste, which encompassed both wastelands and wasted productive potential, was a key influence on the Permanent Settlement of 1793 in Bengal.<sup>24</sup> By fixing revenues and granting hereditary rights to land, the Permanent Settlement sought to transform Bengali *zamindars* into improvement-minded landlords, enshrining a market in land that was intended to stimulate economic development.<sup>25</sup>

Tribal populations presented a thornier challenge for colonial officials, one that could only be solved through sedentarization. Assessing tribal populations' potential to settle and engage in agriculture formed a recurrent theme in official correspondence on tribal management in both India and the United States in the mid-to-late nineteenth century.<sup>26</sup> In an 1864 memo regarding the resettlement of Native American tribes in Washington State, Commissioner William P. Dole of the Office of Indian Affairs wrote, "These Indians are represented to be in a very hopeful condition. They wish to abandon a roving life; to establish them in houses and cultivate their lands; to educate their children, and live peaceably with all."<sup>27</sup> In the Indian context, a similarly instructive contrast between itinerancy and settled agriculture was expressed in the House of Commons reports evaluating the working of the criminal tribes settlements in the North-Western Provinces and Oudh, where "measures were taken for prevailing upon certain wandering tribes in the Moradabad and Gorakpur districts to take to agriculture and other settled occupations," while in the Punjab, the necessity of "providing those [criminal tribes] willing to betake themselves to regular occupations with grants of land" was emphasized.<sup>28</sup>

<sup>22</sup> Fletcher, *British Imperialism*, 38.

<sup>23</sup> Syed Mamood, *A History of English Education in India* (Aligarh: MAO College, 1895), 13.

<sup>24</sup> Vinay Gidwani, "'Waste' and the Permanent Settlement in Bengal," *Economic and Political Weekly* 27, 4 (Jan. 1992): 39–46.

<sup>25</sup> Ranajit Guha, *A Rule of Property for Bengal: An Essay on the Idea of Permanent Settlement* (Paris: École Pratique des Hautes Études, 1963).

<sup>26</sup> Hodge, *Triumph of the Expert*, 25.

<sup>27</sup> Wm. P. Dole, Commissioner, to J. P. Usher, Secretary of the Interior, 17 May 1864, in *Kappler's Indian Affairs: Laws and Treaties, Volume 1* (Washington, D.C.: Government Printing Office, 1904).

<sup>28</sup> House of Commons Papers, "Statement of Moral and Material Progress and Condition of India, 1884–1885," vol. 49, no. 210, 12; House of Commons Papers, "Statement of Moral and Material Progress and Condition of India, 1883–84," vol. 60, no. 51, 13.

Far from isolated discussions, these debates took place within a nexus of imperial exchange that brought together the concerns of British administrators in Punjab and American agents of the Office of Indian Affairs. Marilyn Lake and Henry Reynolds have shown how the construction of the global color line in the late nineteenth and early twentieth centuries emerged from a transnational discourse around whiteness, demonstrating how debates on local racial hierarchies quickly acquired global dimensions.<sup>29</sup> In British colonies from Ireland to Australia, indigenous populations were confined to surveillable and tightly controlled spaces, the colonial equivalents of the “carceral network” of workhouses and encampments that housed Britain’s urban vagrants and Irish migrant workers.<sup>30</sup> These spaces operated according to different logics—the rise of “native policy” in South Africa in the decade after the Boer War, which sought to concentrate black labor as the prerequisite to capitalist development, had more in common with the criminal tribes settlements in India than with the system of reserves adopted in Canada in 1867–1870.<sup>31</sup> Yet they all emerged in response to new notions of racial boundedness that magnified the distinction between settled and non-settled peoples, revealing their function as both tools of state control and solutions to the pressures of capitalist expansion at the periphery.

The globalizing tendencies of this moment were exemplified in currents of exchange and learning on the part of both subject populations and colonial officials in the United States and in India.<sup>32</sup> While Daniel Immerwahr has shown that analogies between the black population in the United States and the status of Indians under British colonial rule dominated comparisons between the two countries from the 1830s, the Native American population of the United States also featured prominently in British accounts.<sup>33</sup> Travelers like Charles Augustus Murray, a British diplomat who spent months living with Natives Americans in present-day Nebraska, were instrumental in bringing images of Natives Americans to wider imperial audiences. In his *Travels in North America*, published in 1839, Murray described the habits of the Pawnees,

<sup>29</sup> Marilyn Lake and Henry Reynolds, *Drawing the Global Colour Line: White Men’s Countries and the Question of Racial Equality* (Cambridge: Cambridge University Press, 2008).

<sup>30</sup> Aidan Forth, *Barbed-Wire Imperialism: Britain’s Empire of Camps, 1876–1903* (Berkeley: University of California Press, 2017), 13, 15–16.

<sup>31</sup> Martin Legassick, “British Hegemony and the Origins of Segregation in South Africa, 1901–14,” in William Beinart and Saul Dubow, eds., *Segregation and Apartheid in Twentieth-Century South Africa* (London: Routledge, 1995), 46.

<sup>32</sup> A small but significant literature has drawn parallels between the African-American experience in the United States and the status of the colonial or Dalit subject in India. See Daniel Immerwahr, “Caste or Colony: Indianizing Race in the United States,” *Modern Intellectual History* 4, 2 (2007), 275–301; Gyanendra Pandey, *A History of Prejudice: Race, Caste, and Difference in India and the United States* (Cambridge: Cambridge University Press, 2013); see also Ann Stoler, “Tense and Tender Ties: The Politics of Comparison in North American History and (Post) Colonial Studies,” *Journal of American History* 88, 3 (2001): 829–65.

<sup>33</sup> Immerwahr, “Caste or Colony.”

who moved their camp from place to place following the buffalo. In a nod (and a wink) to the global circulation that travel writing enjoyed at the time, Murray wrote, “Those who are familiar with the writings of Eastern travellers, must be well aware that the camel’s dropping is similarly applied by the wandering Arab and Tartar tribes in both Asia and Africa.” He would footnote this remark with an asterisk that demonstrates the ease with which tribal peoples could be located in a comparative imperial ethnography: “I little thought while writing this sentence, that on the following year I should myself be sitting, with a horde of North American Indians, round a fire made of buffalo-dung....”<sup>34</sup>

Travelers like Murray were joined by swashbuckling figures such as Captain Frederick Marryat of the Royal Navy, whose vivid descriptions of army raids on Lakota encampments were of a piece with his stories of romance and adventure on the high seas.<sup>35</sup> Nor was the place of Native Americans in the British imagination limited to mere tales of imperial adventuring. Coll Thrush has drawn attention to the steady stream of indigenous North Americans who visited London from the sixteenth century onwards, recalling a longer history of British and Native American conflict and compromise on the fringes of empire.<sup>36</sup> Native Americans continued to loom large in the formulation of British military doctrine well into the nineteenth century; the Indian Wars waged by the United States Army reached their peak with the assault on Great Plains Indians including Lakota, Cheyenne, and Comanche from the 1850s to the 1870s, providing a template for colonial policing that contributed to the development of modern counterinsurgency tactics.<sup>37</sup> British military manuals drew on the lessons of the American frontier to offer guidance on how to conduct counterinsurgency, whether against “kaffirs” in South Africa, “Red Indians” in the United States, or the tribesmen of the North-Western Frontier.<sup>38</sup>

Indeed, lawmakers in British colonies often reached for the Native American example when discussing the management of tribal populations. “Experience in the United States proves how much crime and disorder may be checked by periodical accounts being taken of roving people,” Saxe Bannister wrote in his 1838 book *British Colonization and Coloured Tribes*, going on to describe an elaborate system of regulation and surveillance of the movements of Native

<sup>34</sup> Charles Augustus Murray, *Travels in North America during the Years 1834, 1835 & 1836* (London: Richard Bentley, 1839), 48.

<sup>35</sup> Frederick Marryat, *A Diary in America* (New York: Wm. H. Colyer, 1839).

<sup>36</sup> Coll Thrush, *Indigenous London: Native Travelers at the Heart of Empire* (New Haven: Yale University Press, 2016).

<sup>37</sup> Laleh Khalili, *Time in the Shadows: Confinement in Counterinsurgencies* (Stanford: Stanford University Press, 2012), 16–19.

<sup>38</sup> *Ibid.*; C. E. Callwell, *Small Wars: Their Principles and Practice* (London: Her Majesty’s Stationary Office, 1906).



American hunting parties by white authorities.<sup>39</sup> Bannister was the first Attorney General of New South Wales; when the issue of whether New Zealand aboriginals held title to their lands was discussed in the House of Commons in July 1845, the Native American example was again brought up—although this time, their status as hunters and thus as occupiers of the land was contrasted favorably with New Zealand, where “The tribes were constantly wandering from place to place—they were here to-day, and there to-morrow [with] no assignable individual to be found as resident or proprietor.”<sup>40</sup>

This analogy was made explicit with regard to India by William Booth, founder of the Salvation Army, the militant religious organization whose work in India evolved to encompass running criminal tribes settlements. Discussing efforts to reform criminal tribes in India, Booth wrote, “[T]hese people are descended from the aboriginal inhabitants of the country, and once constituted nomadic tribes, who, like the Red Indians of the American Continent, roamed at will over the land with their flocks and herds.”<sup>41</sup> Booth went on to recommend the confinement of criminal tribes to settlements modeled after “the plan of ‘reservations’ [that] has been adopted with great success in dealing with the Red Indians” and would induce them “to become quiet and law-abiding people.”<sup>42</sup> Booth’s parallel between tribal peoples in India and Native Americans in the United States was reproduced in Salvation Army periodicals such as *The Officer*, which stated that “The Criminal Tribes of India ... resemble very closely the Red Indians of America, and it is probable that their history has been much the same.”<sup>43</sup>

The frequency with which Native Americans were referenced in British accounts of managing indigenous populations should come as no surprise, given that both early American settlers in the continental United States and British colonists were engaged in the task of negotiating land rights with indigenous populations, grappling with how to apply legal statutes in unfamiliar territories. A significant literature has highlighted the hybrid nature of colonial law in India: while in theory the judicial reforms imposed by the East India Company in Bengal in 1772 were uniform in nature and authoritarian in scope, in practice there were significant concessions to indigenous legal traditions.<sup>44</sup> Even after the penal code reforms of 1837, this concession to custom

<sup>39</sup> Saxe Bannister, *British Colonization and Coloured Tribes* (London: W. Ball, 1838), 283.

<sup>40</sup> Speech by Mr. John Roebuck, House of Commons, 21 July 1845. At: <https://api.parliament.uk/historic-hansard/commons/1845/jul/21/new-zealand> (accessed 4 Apr. 2019).

<sup>41</sup> Letter from William Booth to the Secretary of State for India, 2 Aug. 1910, Salvation Army International Heritage Centre [hereafter IHC], Papers of William Booth, IHC/PWB/4/13.

<sup>42</sup> *Ibid.*

<sup>43</sup> “A World-Survey of Salvation Army Activities—Our Work among Criminals,” *The Officer* (Jan. 1914): 27–29, IHC.

<sup>44</sup> See Radhika Singha, *A Despotism of Law: Crime and Justice in Early Colonial India* (New Delhi: Oxford University Press, 1998); David Washbrook, “Law, State, and Agrarian Society in Colonial India,” *Modern Asian Studies* 15, 3 (1981): 649–721; Mrinilini Sinha, *Specters of*

lived on, with the British colonial state positioning itself as a neutral arbitrator standing above religious communities and thus exempting itself from matters of “communal” jurisdiction ranging from Brahminical privileges to *pardah*, matters which were deemed to belong to the life of the community.<sup>45</sup>

Hybridity of a different texture can be located, as Peter Karsten has shown, in the “high” and “low” legal cultures of the lands of the British Diaspora, including the United States, with formal Common Law often supplanted by customary law in the colonies, including when it came to acquiring land from indigenous peoples.<sup>46</sup> What Karsten calls the law’s “accommodative epoch” in seventeenth-century Virginia and New England was marked by the acknowledgment, if partial and limited, of Native Americans’ claims to land as “proprietors of the soil.” However, this understanding of indigenous land rights soon evolved (or devolved), speeded by the practice of white settlers squatting on land and claiming title by virtue of erecting improvements.<sup>47</sup> As John Weaver argues in the United States context, “the most repeated justification for occupying frontier lands turned on a single word—*waste*: the waste of land, the waste of water, the waste of native labor.”<sup>48</sup> And most Americans shared this “broad set of beliefs, not least about the value of land and the capacities of nonwhites” with their equivalents in the British Empire.<sup>49</sup>

These beliefs were influenced and reinforced by international networks of reformers and philanthropists. Nineteenth-century American jurists and reformers evinced interest in the management of British colonial populations, including those who would come under the jurisdiction of the Criminal Tribes Act. The Prison Association of New York’s annual report for 1870 contained a long discussion of “The Present State of the Prison Question in British India,” including a report by A. P. Howell, Under-Secretary to the Governor-General of India, on the criminal tribes of Punjab. On the precursor measures to the Criminal Tribes Act in Punjab, the report stated, “It is very much to be regretted, that since the publication of the above, this excellent system of artificial villages is dying out, as the magistrates can no longer legally compel a

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*Mother India: The Global Restructuring of an Empire* (Durham: Duke University Press, 2006). See also Robert Travers, *Ideology and Empire in Eighteenth-Century India: The British in Bengal* (Cambridge: Cambridge University Press, 2007).

<sup>45</sup> Tanika Sarkar, “A Prehistory of Rights: The Age of Consent Debate in Colonial Bengal,” *Feminist Studies* 26, 3 (2000): 601–22; Singha, *Despotism of Law*; Singha, “Colonial Law and Infrastructural Power: Reconstructing Community, Locating the Female Subject,” *Studies in History* 19, 1 (2003): 87–123; Gyanendra Pandey, *The Construction of Communalism in Colonial North India* (Oxford: Oxford University Press, 2006).

<sup>46</sup> Peter Karsten, *Between Law and Custom: ‘High’ and ‘Low’ Legal Cultures in the Lands of the British Diaspora* (Cambridge: Cambridge University Press, 2002).

<sup>47</sup> Karsten, *Between Law and Custom*, 49, 50–53; Weaver, *Great Land Rush*, 112.

<sup>48</sup> Weaver, *Great Land Rush*, 149.

<sup>49</sup> Banner, *Possessing the Pacific*, 9.

member of a criminal tribe to reside in them, and, without this amount of coercion in the first instance, these hereditary vagabonds cannot be taught habits of industry and honest pursuits.”<sup>50</sup> Among the Association’s corresponding members were Lieutenant-Colonel G. Hutchinson, Inspector General of Police, Punjab, and A. M. Dallas, Inspector General of Prisons; their first-hand accounts of the management of criminal tribes were compiled in the Association’s report.<sup>51</sup> Indeed, Hutchinson was a vociferous supporter of expanded criminal tribes legislation in Punjab, carrying out a letter-writing campaign to the provincial government in the spring and summer of 1868 that urged the introduction of “restrictive measures” to “deter from crime by inflicting punishment.”<sup>52</sup>

And while the analogy was often drawn between criminal tribes in India and the domestic prison population in the United States, Native Americans were placed at the heart of internationalist campaigns to improve the “sufferings” of indigenous peoples, such as those mounted by the Society of Friends. The London Yearly Meeting of the Society took great interest in the reports of the Quaker Committee on Indian Affairs in Philadelphia, which were printed alongside reports on the situation faced by Aborigines in “New Zealand, New Holland, and Van Dieman’s Land.”<sup>53</sup> The Aborigines’ Protection Society, founded in 1837 in London, decried the mistreatment of Native Americans just as vigorously as it protested the condition of indigenous populations in Britain’s own colonies, while its offshoot, the Ethnological Society, published ethnographic studies on topics like “The North American Indians: A Sketch of some of the Hostile Tribes” and “On the Races of India as Traced in Existing Tribes and Castes.”<sup>54</sup>

The point here is not that Native Americans and so-called criminal tribes in British India were always seen as analogous across space and imperial imaginaries. Rather, British and American colonists and jurists were able to draw on a common set of tropes and beliefs about itinerant populations as they set about constructing the juridical boundaries that would regulate the extraction of value from land and labor. Heedless of the invisible lines that have separated the First and Second British Empires, and indeed the settler colonial world from India,

<sup>50</sup> *Documents of the Senate of the State of New York, Ninety-Third Session—1870, Volume 1* (Albany: Argus Company, 1870), 417.

<sup>51</sup> *Ibid.*, vii.

<sup>52</sup> G. Hutchinson to the Secretary to Government, Punjab, 17 June 1868, Government of India Legislative Department Proceedings, India Office Records [hereafter IOR/LDP], 88; G. Hutchinson to the Secretary to Government, Punjab, 5 May 1868, IOR/LDP/63.

<sup>53</sup> London Yearly Meeting (Society of Friends), *Further Information Respecting the Aborigines: Containing Reports of the Committee on Indian Affairs at Philadelphia...* (London: E. Marsh, 1842).

<sup>54</sup> *The Third Annual Report of the Aborigines’ Protection Society* (London: P. White & Son, 1840); *Journal of the Ethnological Society of London*, vol. 1 (London: Truber & Co., 1869).

British colonial officials looked to the pacification of Native Americans as a model for their own task of managing criminal tribes.

#### IMPROVING LAND AND LABOR

The 1870s saw a wave of national and imperial consolidation across the globe, from the reunification of Italy to the founding of the French Third Republic and the German Empire in the wake of the Franco-Prussian War. The hardening of boundaries delineating those within and without the nation-state was evident in Britain and the United States as well. In the aftermath of the 1857 Rebellion, a broadly liberal ideological justification for British rule in India tilted in the direction of an “empire of difference” based on racial hierarchy.<sup>55</sup> The 1865 Morant Bay uprising served to underscore the gap between black Jamaican subjects and white English citizens in the minds of imperial administrators, a chasm reinforced by the 1867 extension of the franchise in Britain, which drew white working-class men into the fold of citizenship while leaving imperial subjects out in the cold.<sup>56</sup> In the United States, national unity was achieved at the cost of the failure of Reconstruction and the denial of full citizenship to African Americans.<sup>57</sup>

Political consolidation went in tandem with the mobilization of economic resources by the state. The question British and American colonial administrators grappled with in the late nineteenth century was how to optimize the productivity of both land and labor. After 1858, the British colonial state sought to construct India as a unitary and bounded economic space, a singular entity moving through the empty and homogenous time of capitalist modernity.<sup>58</sup> Through the expansion of the railways, the standardization of currency, and the enumeration of the population via the census, British administrators worked to impose order on an unruly Indian landscape and harness the natural and human resources of empire.<sup>59</sup> By 1895, the *Times* was able to note that “large areas have been brought under artificial irrigation, railways have opened out new regions for tillage” in order to accommodate “the perplexing increase in the pressure of the people on the land.”<sup>60</sup> In fact, the violent

<sup>55</sup> Thomas Metcalf, *Ideologies of the Raj* (Cambridge: Cambridge University Press, 1995).

<sup>56</sup> *Ibid.*; Catherine Hall, Keith McClelland, and Jane Rendall, *Defining the Victorian Nation: Class, Race, Gender and the British Reform Act of 1867* (Cambridge: Cambridge University Press, 2000).

<sup>57</sup> Eric Foner, *Reconstruction: America's Unfinished Revolution, 1863–1877* (New York: Harper and Row, 1988); see also Heather Cox Richardson, *West from Appomattox: The Reconstruction of America after the Civil War* (New Haven: Yale University Press, 2008); Steven Hahn, *A Nation under Our Feet: Black Political Struggles in the Rural South from Slavery to the Great Migration* (Cambridge: Harvard University Press, 2005).

<sup>58</sup> Manu Goswami, *Producing India: From Colonial Economy to National Space* (Chicago: University of Chicago Press, 2004).

<sup>59</sup> *Ibid.* See also Bernard Cohn, *Colonialism and Its Forms of Knowledge: The British in India* (Princeton: Princeton University Press, 1996).

<sup>60</sup> The *Times*, 18 Nov. 1895, IHC/BT/4.

incorporation of peripheral regions into the world economy and the subsequent collapse of indigenous structures was the cause of the demographic crisis of the late nineteenth century rather than its cure, a fact that did not diminish the pace of colonial expansion.<sup>61</sup>

In the United States, too, there was a renewed push to dominate lands and peoples, embodied in Frederick Jackson Turner's frontier thesis and the envisioned expansion of the republic to the Pacific Ocean. According to Roderick Nash, "Wherever they encountered wild country," early American settlers "viewed it through utilitarian spectacles: trees became lumber, prairies farms, and canyons the sites of hydroelectric dams."<sup>62</sup> As Euro-Americans moved westward through the nineteenth century, this expansionist urge met new resources. The lands West of the Mississippi are among the world's most fertile and productive, as arable land as well as pasture for grazing livestock.<sup>63</sup> Their integration into the foodstuffs-centered Atlantic economy of the late nineteenth century was accompanied by a commercially driven rush to stake claim to land, and the wheat, beef, wool, tallow, and hides it promised to supply.<sup>64</sup> The vast productive potential of the Great Plains region, together with the "insistence on improvement," was what propelled white American settlers in their belief that their labor alone would release the full fruits of the land.<sup>65</sup>

The year 1871 saw the passage of legislation in India and the United States, respectively, intended to enshrine these imperatives of expansion and extraction in laws governing the movements of tribal peoples. In 1870, James Fitzjames Stephen—jurist, legal member of the Council of the Governor General of India, and a utilitarian who combined a professed Liberal outlook with a strong belief in the virtues of long-established political institutions (including British rule in India itself)—proposed a bill to register criminal tribes with the colonial authorities.<sup>66</sup> The bill drew on the legacy of efforts to stamp out *thuggee* that began in the 1830s, specifically the thug settlement at Jubblepore (Jabalpur), where former thug families were now "usefully and actively employed" in manufacturing.<sup>67</sup> Tribes that "had during part of the year a fixed residence, and during other parts ... wandered about for criminal

<sup>61</sup> Mike Davis, *Late Victorian Holocausts: El Nino Famines and the Making of the Third World* (New York: Verso, 2001).

<sup>62</sup> Roderick Nash, *Wilderness and the American Mind* (New Haven: Yale University Press, 1967), 31.

<sup>63</sup> Weaver, *Great Land Rush*, 88.

<sup>64</sup> *Ibid.*, 89; José C. Moya, "A Continent of Immigrants: Postcolonial Shifts in the Western Hemisphere," *Hispanic American Historical Review* 86, 1 (2006): 1–28, 4–5.

<sup>65</sup> Weaver, *Great Land Rush*, 88, 90; see also Belich, *Replenishing the Earth*.

<sup>66</sup> Emily Jones, *Edmund Burke and the Invention of Modern Conservatism, 1830–1914* (Oxford: Oxford University Press, 2017), 88–89.

<sup>67</sup> F. O. Mayne, Inspector General of Police, to the Secretary to the Government of the North-Western Provinces, 28 May 1867, IOR/LDP/2302.

purposes” would be subject to a legal regime of registration, resettlement, and restrictions on their movements.<sup>68</sup>

Similar measures had been implemented in Punjab twelve years earlier but were struck down by the Punjab Chief Court in 1867 as executive overreach; remarking on the ruling in his biography of his brother Fitzjames, Leslie Stephen would lament that “the system had to be abandoned and the tribes promptly returned to their old practices.”<sup>69</sup> In its 1867 ruling, the court expressed unease about the threat to individual liberty that criminal tribes legislation represented, as well as the potential abuse of power by lower-ranking officials tasked with registering criminal tribes.<sup>70</sup> But these objections were ultimately overruled by the belief, expressed by officials at multiple levels of government in Punjab and the neighboring North-Western Provinces, that the entrenched and hereditary nature of the tribes’ criminality—their “fraternities” of “such ancient creation,” “their number so vast,” and their “evil of such formidable dimensions”—made normal police measures insufficient.<sup>71</sup> The defense of criminal tribes legislation, much like laws governing *purdah* and the surveillance of colonial populations, rested firmly on the notion of legal exceptionalism.

Fitzjames Stephen’s 1870 bill thus represented the culmination of three years of debates on what constituted excessive police powers, whether criminal tribes settlements were effective deterrents to crime, and the extent to which the existing criminal law adequately responded to the problems of widespread crime and criminality.<sup>72</sup> The 1871 Act was initially instated in the Punjab, the North-Western Provinces, and Oudh, regions deemed to have a high proportion of criminal tribes, before its jurisdiction was extended to the Bengal Presidency in 1876 and to the Bombay and Madras Presidencies in 1911.<sup>73</sup> In Punjab alone, seven tribes, comprising 16,039 individuals, were classed as criminal tribes and registered in settlements by 1881.<sup>74</sup>

Sanjay Nigam has argued that the Act put in place an “apparatus of coercive and disciplinary measures” that confined criminal tribes within a thicket of legal and physical restrictions.<sup>75</sup> Under the Act, criminal tribes were restricted to settlements where they were registered with colonial authorities and their movements monitored using a system of roll-calls and passes that gave them

<sup>68</sup> *Abstract of the Proceedings of the Council of the Governor-General of India* (Calcutta: Government of India Central Printing Office, 1870), 422.

<sup>69</sup> Major, “State and Criminal Tribes,” 667; Leslie Stephen, *The Life of James Fitzjames Stephen, Bart., K.C.S.I.* (London: Smith, Elder, and Co., 1895), 259.

<sup>70</sup> Major, “State and Criminal Tribes,” 668.

<sup>71</sup> IOR/LDP/2302; Nigam, “Disciplining and Policing, Part 1,” 140.

<sup>72</sup> Nigam, “Disciplining and Policing, Part 1,” 154; Major, “State and Criminal Tribes,” 667.

<sup>73</sup> Radhakrishna, *Dishonoured by History*, 27; Major, “State and Criminal Tribes,” 669.

<sup>74</sup> Major, “State and Criminal Tribes,” 670.

<sup>75</sup> Nigam, “Disciplining and Policing, Part 2,” 257–58.

temporary permission to leave the settlement.<sup>76</sup> They were required to be engaged in “earn[ing] a living” through waged work in agriculture or “industrial” activities (including “weaving, aluminum work, stone quarrying, mat, basket and rope making, tile and brick making and cleaning palmyra fibres”).<sup>77</sup> When registered individuals were considered to have been “for some time earning an honest livelihood,” their names were taken off the registry and they were free to leave the settlements.<sup>78</sup>

Scholars have tended to view criminal tribes legislation as emerging out of colonial discourses around criminality and vagrancy on the one hand and hereditary castes or “ideal types” on the other. Colonial officials conceived of criminal tribes legislation with reference to laws in Victorian Britain that enforced the notion of entrenched criminality, such as the Habitual Criminals Act of 1869, which subjected certain repeat offenders to a system of police supervision and registration.<sup>79</sup> Even staunch opponents of criminal tribes legislation, such as C. P. Carmichael, Inspector General of Police in the North-Western Provinces, drew on this comparison, arguing that similar police powers had been rightly “repudiated and held up to reprobation” at home [*sic*].<sup>80</sup> And the member of a “criminal tribe” undoubtedly took their place beside the “intriguing Brahman” and the “fierce Pathan” in the colonial imaginary.<sup>81</sup>

Yet viewing criminal tribes legislation solely as an example of the long arm of the ethnographic state is to ignore the call to read between the lines of the colonial archive. The passage of laws criminalizing vagabondage and begging in England in the fifteenth and sixteenth centuries went hand in hand with the process of enclosure, which allowed landlords to maximize the productivity of their holdings through agricultural improvement schemes.<sup>82</sup> In the late nineteenth century, this notion of improvement changed shape. In the context of the violent incorporation of colonial lands into the system of global industrial capitalism, it took on new and heightened significance, providing the impetus for scientific management of the “imperial estate.” As in sixteenth-century England, however, laws curtailing the movements of colonial

<sup>76</sup> “Criminal Tribes’ Act,” *The Unrepealed and Unexpired Acts of the Legislative Council of India, from 1834–[1871–1872], Volume V* (Calcutta, 1872), 208–10.

<sup>77</sup> American Baptist Foreign Mission Society, *One Hundredth Annual Report* (Boston: Fort Hill Press, 1914), 113.

<sup>78</sup> *The Punjab Record (Reference Book for Civil Officers), Volume 10*, (Lahore: W. E. Ball, 1875), 96.

<sup>79</sup> Memo by Sir D. F. Macleod, 23 July 1870, Legislative Department Proceedings [hereafter LDP], Nov. 1871, no. 67, National Archives of India [hereafter NAI].

<sup>80</sup> Letter from C. P. Carmichael, Inspector General of Police, to the Secretary to the Government, North-Western Provinces, 6 July 1870, IOR/LDP/421A.

<sup>81</sup> Pandey, *Construction of Communalism*, 108.

<sup>82</sup> Karl Marx, *Capital: A Critique of Political Economy, Volume 1* (Mineola, N.Y.: Dover, 2011), book 8.

populations were responding not only to concerns about crime and criminality, but also to productivist imperatives.

Indeed, a closer look shows that the debates surrounding criminal tribes can only be fully understood with regard to the developmentalist project of the late nineteenth-century colonial state. Colonial officials opposed to criminal tribes legislation frequently pointed out that there were already laws in place that pertained to the majority of the offenses listed under proposed criminal tribes legislation but stopped short of the settlement prerogative contained in the 1871 Act: "It is admitted that the Penal Code sufficiently provides for the offence actually committed by persons of the classes referred to in the draft Act, including attempts and abetments; and the fact of belonging to any wandering, or other gang of persons associated for the purpose of habitually committing theft of robbery, is also made a punishable offence."<sup>83</sup>

In addition, there is little evidence for a rise in criminal behavior that would justify the expanded purview of the 1871 Act. While crime statistics for this period are limited, an examination of the Annual Reports of the Thuggee and Dacoity Department for the North-Western Provinces and Oudh from 1846 to 1864 reveals a robust campaign against thugs and dacoits, groups whose classification as "hereditary" criminals anticipated criminal tribes legislation.<sup>84</sup> In the Annual Report for 1862, Major J. H. Chamberlain noted that there were thirteen fewer criminal cases in 1862 than in 1861, and while "The criminals captured in 1862 gives an increase of 6 prisoners over 1861," "the actual number of criminals reported engaged was 5 less than 1861."<sup>85</sup> More significant than ebbs and flows in the annual number of criminal cases, however, is Chamberlain's statement, reiterated from the previous year, that "I do not believe in the existence of any regular fraternity, or association of "professional poisoners" banded together by regular system, slang language, or laws, such as the Thugs, Budduells, Passees, and other professional fraternities."<sup>86</sup>

During the debates around the passage of the Criminal Tribes Act, advocates of criminal tribes legislation often cited an increase in crime that they blamed on the retraction of the previous measures against organized criminality that had been struck down in Punjab in 1867.<sup>87</sup> Yet as P. H. Egerton, Superintendent of the Amritsar Division, noted in 1869, the removal of these earlier

<sup>83</sup> Letter from J. F. Sandford to the Secretary to the Government of the North-Western Provinces, 22 July 1867, IOR/LDP/971.

<sup>84</sup> Annual Reports (1846–1865), Thuggee and Dacoity Department, F-1 to F-9, NAI; Original Legislative Consultations, 26 Feb. 1848, no. 31, NAI.

<sup>85</sup> Annual Report for 1862 from an Assistant General Superintendent, 1 June 1863, Thuggee and Dacoity Department, F-7, NAI.

<sup>86</sup> *Ibid.*

<sup>87</sup> Extract from *Abstract of the Proceedings of the Council of the Governor-General of India*, LDP, Nov. 1871, no. 125, NAI.



measures had resulted not in a spike in crime, but rather its marked decrease.<sup>88</sup> Egerton drew attention to a decrease of 26 percent in non-bailable cases in Gurgaon District of Punjab, citing the Police Report of 1868's statement that "the abolition of the ticket-of-leave system, and punishment of Meenas for absence from roll-class, has not been attended with an increase of violent crime," and that instead "a contrary result has occurred."

In the years prior to 1871, the activities of organized criminals in the North-Western Provinces, Oudh, and Punjab, the three provinces where the 1871 Act was first enacted, were on the decline. In the absence of plausible evidence suggesting a wave of crime, the passage of criminal tribes legislation can only be explained in the context of the intensive mobilization of resources by the colonial state after 1858, a process that included the reclaiming of lands and peoples.

The extent to which criminal tribes legislation was linked to the remaking of nomadic populations into settled agriculturalists is revealed by the frequent characterization of criminal tribes settlements as an "economic experiment," with the "main hope" of "establishing [criminal tribes] as tenant farmers with a stake in their holdings."<sup>89</sup> This rhetoric was deployed by the Salvation Army and other missionary organizations tasked with running criminal tribes settlements in India after 1908.<sup>90</sup> In "A Note on General Booth's Indian Peasant Settlements," G. B. Paranjape praised the Salvation Army's settlements as tackling the problem of poverty, stating, "If ... General Booth's scheme happens to succeed, it will surely begin a new era in the agricultural industry of India, and will give a sure impetus to the general prosperity of the country."<sup>91</sup> The pacification of the countryside was closely linked to agricultural settlement, with one British observer acknowledging both the need to wage "continual warfare" against wandering tribes as well as "to open out for them new modes of livelihood, where waste land is available."<sup>92</sup>

The developmentalist impetus behind criminal tribes legislation pervaded even the most intimate matter under its purview—the separation of the children of recalcitrant criminal tribes from their parents and their removal to separate reformatories. Colonial officials were united on exempting girls from this policy, stating that "girls should not be removed from their mothers."<sup>93</sup>

<sup>88</sup> Letter from P. H. Egerton, Esq., Commissioner and Superintendent, Amritsar Division, to the Secretary to the Government of the Panjab, 20 Feb. 1869, repr. in LDP, Nov. 1871, no. 67, NAI.

<sup>89</sup> "The Criminal Tribes Work in India as an Economic Experiment," *Staff Review*, 1930, 391–96, IHC.

<sup>90</sup> Rachel Tolens, "Colonizing and Reforming the Criminal Tribesman: The Salvation Army in British India," *American Ethnologist* 18, 1 (1991): 106–25, 114, 117.

<sup>91</sup> "A Note on General Booth's Indian Peasant Settlements by G. B. Paranjape L.M. & S.," IHC/BT/4.

<sup>92</sup> LDP/NAI/67.

<sup>93</sup> Letter from C. J. Hallifax, Junior Secretary to Government, Punjab and Its Dependencies to the Secretary to the Government of India, Legislative Department, 23 Apr. 1896, IOR/LDP/541;

While this position can be partially ascribed to gendered assumptions about the maternal relationship, it was also based on more pragmatic considerations. An 1896 letter clarified the Lieutenant-Governor of Punjab's position on sending girls to reformatories: "He does not think that there is sufficient reason for interfering with girls nor does he know *what we could ultimately do with them*" (my italics).<sup>94</sup> By virtue of being the children of "criminal" parents, girls were criminals themselves; their relative lack of value as members of the labor force, however, meant they would be only partially rehabilitated. The scope of criminal tribes legislation went beyond criminality alone.

If 1871 was a watershed year for the expansion of the colonial state's control over itinerant populations in India, it also marked a turning point in the decades-long process of treaty negotiation between the United States federal government and Native American tribes across the American West.<sup>95</sup> "Indian removal," the process of relocating tribes to areas west of the Mississippi River initiated by Andrew Jackson in the 1830s, had been predicated on the notion that tribes were sovereign nations capable of making treaties with the federal government. The vast areas west of the Missouri River were deemed "Indian Country"—a federally recognized entity distinct from the United States.<sup>96</sup> But as white settlers pushed forward into Texas, California, and Oregon in the 1840s and 1850s, the borders of Indian Country were constantly breached and redrawn, with the smaller area designated "Indian Territory" (in present-day Oklahoma) the only space in which a more durable notion of tribal sovereignty was maintained.<sup>97</sup>

The Indian Appropriation Acts, a patchwork of laws signed between 1851 to 1871, restricted tribes to reservations separate from the lands granted to white American settlers, purportedly to encourage them to take up farming while protecting them from the "evil example or annoyance of unprincipled whites."<sup>98</sup> The creation of Native American reservations on potentially valuable lands was often opposed by whites who claimed title to the land. In an 1871 memo regarding the setting aside of lands in California, E. S. Parker wrote that "the citizens of San Diego County protest against the order of the President setting apart said lands for Indian reservations; that the Indians are unanimously opposed to going on said reservations; that citizens have made

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Letter from E. B. Francis, Deputy Commissioner, Ferozepore, to the Junior Secretary to Government, Punjab, 23 Jan. 1896, IOR/LDP/109.

<sup>94</sup> IOR/LDP/541.

<sup>95</sup> Banner, *Possessing the Pacific*, 319.

<sup>96</sup> Richard White, *It's Your Misfortune and None of My Own: A New History of the American West* (Norman: University of Oklahoma Press, 1991), 89.

<sup>97</sup> *Ibid.*

<sup>98</sup> R. McClelland, Secretary, to the President of the United States, Department of the Interior, 12 Apr. 1855, in *Kappler's Indian Affairs*.

valuable improvements thereon, and that there are but few Indians on the lands set apart as aforesaid; that recent gold discoverers have attracted a large immigration thither.”<sup>99</sup>

Yet the aims of reservation policy were multilayered, and attitudes towards reservations far from fixed, on the part of either whites or Native Americans.<sup>100</sup> In the 1850s, Commissioners of Indian Affairs expressed the view that granting Natives Americans permanent land tenure in the form of reservations would incentivize them to farm and improve the land, a line of reasoning they shared with British officials involved in drafting the Permanent Settlement in Bengal.<sup>101</sup> But reservations also had a carceral aspect that resembled the disciplinary regime of criminal tribes settlements in India. U.S. Army troops regularly tracked down and returned Native Americans who “escaped” from reservations, demonstrating the extent to which Native American populations were perceived of as criminal by the sheer fact of their movements.<sup>102</sup>

The first era of reservation policy was capped by the Indian Appropriation Act of 1871, which ended the practice of negotiating treaties with Native American tribes, stripping tribes of their status as “domestic dependent nations,” a legal category that had been affirmed by Chief Justice John Marshall in *Worcester vs. Georgia*, and paving the way for the outright seizure of Native American lands.<sup>103</sup> There had been calls to end the treaty system for decades, including by Andrew Jackson, who decried “the farce of treating [*sic*] Indian tribes,” with many citing the belief that Native Americans were not equals to negotiate with, but rather subjects to govern over.<sup>104</sup>

The 1871 act, however, was the direct result of political wrangling. In his 1868 address to Congress, President Ulysses S. Grant had pledged to end hostilities against all Indian tribes who agreed to remain on reservations, essentially transferring the locus of control of Indian affairs to the United States Army, and by extension the executive.<sup>105</sup> Congress reacted to this assertion of executive power by abolishing the treaty system altogether—treaties between the United States and other nations were the exclusive purview of the president and the Senate, and eliminating the category of “domestic dependent nations” gave the House of Representatives a toehold from which to exert influence on Native American affairs.

<sup>99</sup> E. S. Parker, Commissioner, to Hon. C. Delano, Secretary of the Interior, Office of Indian Affairs, 13 Feb. 1871, in *Kappler's Indian Affairs*.

<sup>100</sup> Stuart Banner, *How the Indians Lost Their Land: Law and Power on the Frontier* (Cambridge: Harvard University Press, 2005), 6.

<sup>101</sup> *Ibid.*, 233.

<sup>102</sup> *Ibid.*, 240.

<sup>103</sup> Karsten, *Between Law and Custom*, 57.

<sup>104</sup> Francis Paul Prucha, *American Indian Policy in Crisis: Christian Reformers and the Indian, 1865–1900* (Norman: University of Oklahoma Press, 1976), 63–64.

<sup>105</sup> Cathleen D. Cahill, *Federal Fathers and Mothers: A Social History of the United States Indian Services, 1869–1933* (Durham: University of North Carolina Press, 2011), 18.

Notwithstanding this shift in the governance of Native affairs, the 1871 act only furthered the process of the conquest of Native lands already in motion.<sup>106</sup> Indeed, according to General William Tecumseh Sherman, from 1871, the federal government's Indian policy would be much the same as that which had "prevail[ed] in the Indian country generally, viz: to fix and determine (usually with the assent expressed or implied of the Indians concerned) the reservation within which they may live and be protected by all branches of the Executive Government."<sup>107</sup> The difference was that now the Indians' consent, however flimsy, was no longer required.

Running through these pieces of legislation was the imperative of fixing tribal populations to the land, a move that would encourage not only the tightening of state control around groups acknowledged to "injure" respectable society with their "depredations," but also their remaking as a compliant agricultural labor force.<sup>108</sup> Land itself first had to be integrated into the productivist economic order. The boundaries of the Pai-Ute reservation in Nevada were described in an 1875 executive order as: "Commencing at a stone set in the ground, extending 3 feet above, whereon is cut 'U.S. No. 1,' which stone marks the northeast corner of the reservation, standing on a small hill known as West Point, and set 18 feet in a northeasterly direction from the corner of a building designated as the office and medical depository located on said reservation and running thence north 60 degrees west 80 chains to a stone on which is cut 'U.S. No. 2.'"<sup>109</sup>

Every executive order that set apart a grant of land for a reservation contained a similar description of the surveyed land, intended to fix and make permanent its borders by overlaying the natural attributes of the land—the "small hill," rivers, ridges—with the framework of disciplinary authority, in this case indicated by the medical depository, the designation cut into the stones, and the surveyor's chain as unit of measurement.<sup>110</sup> In this sense, reservation policy was as much about "fixing" the boundaries of land as it was about settling Native Americans by "assign[ing] them to homes and ... compel[ling] them to remain thereon."<sup>111</sup>

Rendering land legible and thus ripe for integration into the new economic order was equally bound up with the operation of the Criminal Tribes Act in India. "[I]f wandering tribes like Haranshikaris can be induced to take up land in forest areas instead of sticking to the plains," ventured a passage

<sup>106</sup> Ibid., 67.

<sup>107</sup> General W. T. Sherman to General J. M. Schofield, 9 Nov. 1871, in *Kappler's Indian Affairs*.

<sup>108</sup> *Abstract of the Proceedings*, 422.

<sup>109</sup> H. R. Clum to the Secretary of the Interior, 28 June 1875, in *Kappler's Indian Affairs*, 867.

<sup>110</sup> The notion of the pre-industrial world as "natural" is problematized by William Cronon, *Nature's Metropolis: Chicago and the Great West* (New York: W. W. Norton, 1991).

<sup>111</sup> General William Tecumseh Sherman to General J. M. Schofield, 9 Nov. 1871, in *Kappler's Indian Affairs*.

from the Report of the Workings of the Criminal Tribes Act in the Bombay Presidency, “it will solve a big problem, as there is much land available.”<sup>112</sup> The “problem” at stake was how to release pressure on land by reclaiming wastelands and forest. The intricate workings of the Act reflected this task. The purpose of the system of roll-calls and passes—“the prevention and removal of contrivances for enabling the residents therein [...] to leave their place of residence without leave”—was to prevent criminal tribes from sheltering in “thorn hedges, underground passages, and the like”—natural features that were seen as the antithesis of well-ordered fields.<sup>113</sup> The old tribal villages, with their “rabbit warren”-like maze of dwellings, would be replaced by “settled abodes, laid out in streets,” with circular houses and even street lights.<sup>114</sup>

The fixing of land and the fixing of tribal populations proceeded in tandem. Official correspondence on reservation policy in the United States consistently emphasized the link between agriculture and settlement. In a memo regarding the removal of Native Americans in California to a reservation at the mouth of the Klamath River, Commissioner Geo. W. Manypenny wrote, “It will be observed from this report of the superintendent that he has deemed it important to continue the employ of an agent and to prepare for raising a crop in order to assure the Indians of the good faith of the Government and to preserve the peace of the country.”<sup>115</sup> Agriculture was both a means by which to persuade Native Americans to live on reservations and the perceived end of reservation policy. Secretary of the Interior Robert McClelland went so far as to characterize Indian removal as a “philanthropic policy of furnishing these Indians, who are desirous of becoming cultivators of the soil, with land for that purpose.”<sup>116</sup> These aims were echoed by British administrators in North India, for whom the success of the Criminal Tribes legislation could be measured by the progress of sedentarization. “The Criminal Tribes Act was enforced against four tribes during the year,” stated a report in the House of Commons Papers, and “Arrangements were made for settling the Sanaurias in Lalitpur on waste land grants, which promise well. Similar arrangements for other tribes are under contemplation.”<sup>117</sup>

<sup>112</sup> *Annual Administration Report on the Working of the Criminal Tribes Act in the Bombay Presidency, Part I* (Bombay: Government Central Press, 1930), 9.

<sup>113</sup> *The Indian Criminal Codes, Fourth Edition* (London and Calcutta: John Flack & Co., Wyman & Co., 1872), 326.

<sup>114</sup> Frederick Booth Tucker, *Criminocurology—The Indian Crim and what to Do with Him* (Simla: Lidden’s Printing Works, 1916), 23; American Baptist Foreign Mission, *One Hundredth Annual Report*, 113.

<sup>115</sup> Geo. W. Manypenny, Commissioner, to R. McClelland, Secretary of the Interior, 10 Nov. 1855, in *Kappler’s Indian Affairs*.

<sup>116</sup> R. McClelland, Secretary of the Interior, to the President of the United States, 12 Apr. 1855, in *Kappler’s Indian Affairs*.

<sup>117</sup> House of Commons Papers, “Statement of Moral and Material Progress,” 1883–1884, 13.

Settlement policy was explicitly couched in the language of improvements and conceived as the complement to land reclamation and development schemes. In a letter requesting a report on the Bitter Root Valley reservation in Montana, President Grant asked that “a just and impartial appraisement be made of any substantial improvements made by said Indians upon any lands of the Bitter Root Valley, such as fields inclosed and cultivated, and houses erected.”<sup>118</sup> In the Bombay Presidency, the farm settlements at Indi and Hotgi were deemed a success “as can be judged by the fact that, at last, Haran-shikaris have taken to improving their lands by embankments, cleaning out weeds, well digging, and as cultivators, making steady profits, and remaining on their holdings,” while the nomadic Domes of Bihar were derided as “callous to shame, unable to realize the meaning of improvement.”<sup>119</sup> It was even suggested that members of criminal tribes join the “coolie corps” in building canals and other public works, demonstrating the degree to which criminal tribes were seen as assimilable with other categories of bonded labor.<sup>120</sup>

The parallel between settlement policy and development was explicitly made by Booth Tucker in 1916: “For centuries the waters of the Satlaj have rolled towards the ocean from its mountainous home in the Himalayas, but it is only recently that its waste powers have been harnessed and all Simla has flashed forth with electric light. For centuries the waste waters of Crimdom have rolled to the ocean of despair. Now they are being harnessed and already by God’s blessing the electric rays of virtue and honesty, of reformation and salvation, have flashed forth in hundreds of Crim homes.”<sup>121</sup>

Booth Tucker’s invocation of God’s blessing was no accident. Missionary organizations took a leading role in running both criminal tribes settlements and Native American reservations, underscoring the role of these spaces as sites of bodily and moral regeneration. As Rachel Tolens has shown, after 1908, missionary organizations played a prominent role in the running of criminal tribes settlements in India.<sup>122</sup> Under their supervision, the reformatory institutions of the criminal tribes settlements expanded to include education; instruction in hygiene and dress; and organized games, prize competitions, and other activities intended to boost industry and morale.<sup>123</sup> By 1911, Booth Tucker and the Salvation Army were in charge of running five criminal tribes settlements in Punjab.<sup>124</sup> In the Madras Presidency, however, only three out of four mission settlements were run by the Salvation Army. In a remarkable confluence of

<sup>118</sup> Ulysses S. Grant, 14 Nov. 1871, in *Kappler’s Indian Affairs*.

<sup>119</sup> *Annual Administration Report*, 9; *Indian Criminal Codes*, 325.

<sup>120</sup> Opinion by C. Brown, Deputy Inspector-General of Police, on the Bill to Amend the Criminal Tribes Act 1871, 31 Jan. 1896, IOR/LDP/181.

<sup>121</sup> Booth Tucker, *Criminocurology*, 2.

<sup>122</sup> Tolens, “Colonizing and Reforming.”

<sup>123</sup> Major, “State and Criminal Tribes,” 684.

<sup>124</sup> *Ibid.*, 675.

imperial ventures, the fourth, at Kavali, was headed by the American Baptist Mission.<sup>125</sup>

The Kavali settlement provides a window into how itinerant populations across space were brought under the disciplinary auspices of reform. The Baptists' projects at Kavali, home to 630 individuals by 1913, included opening hostels for the children of criminal parents, a day school for pupils, and an agricultural school for young men.<sup>126</sup> In setting up these reformatory institutions, the Baptist Mission drew on its experience in the American West. The Baptist Mission had been involved in missionary work among Native Americans since 1814; by 1927, they were active among twenty-eight different tribes in thirteen states.<sup>127</sup> Along with other denominational missions, including the Society of Friends, the Baptists set up mission schools, churches, and temperance unions on reservations.<sup>128</sup> Under Grant's Peace Policy, religious denominations were charged with nominating reservation agents, a degree of involvement that paralleled the administrative authority over criminal tribes settlements granted to religious missions in India.<sup>129</sup>

From Kavali to Kansas, the American Baptist Mission promoted education as the key to instilling an appreciation of "regular work" and the normal "way of life" among native peoples, veiled code for settled occupations.<sup>130</sup> The Baptist school on the reservation of the Delaware nation in Kansas was described in 1863 as "well conducted" and capable of furnishing "the rising generation" with "the rudiments of an English education."<sup>131</sup> And periodicals like the *Baptist Missionary Magazine* ensured that reservation missionaries were aware of the work being done by their compatriots abroad: one issue included a description of a mission study class held at the Kavali settlement and taught by a Miss Grace Bullard, with the exhortation, "Perhaps her success will stimulate *you* to try a class this year."<sup>132</sup> The fanning out of Baptist missionaries onto imperial circuits was representative of the way ideologies and technologies of reform were diffused on a global scale. Through carefully administered moral education, those who formerly led "roving lives" could be transformed.<sup>133</sup>

<sup>125</sup> *Report on the Administration of the Police of the Madras Presidency* (Madras, Government Press, 1913), 28.

<sup>126</sup> American Baptist Foreign Mission, *One Hundredth Annual Report*, 113.

<sup>127</sup> United States Board of Indian Commissioners and Samuel A. Eliot, *Christian Missions among the American Indians* (Washington, D.C.: Board of Indian Commissioners, 1927), 2, 6.

<sup>128</sup> *Report of the Commissioner of Indian Affairs 1862/63* (Washington, D.C.: Government Printing Office, 1864), 237; Society of Friends, *Further Information*, 14.

<sup>129</sup> Cahill, *Federal Fathers and Mothers*, 19.

<sup>130</sup> American Baptist Foreign Mission, *One Hundredth Annual Report*, 113.

<sup>131</sup> *Report of the Commissioner*, 237.

<sup>132</sup> "A Mission Study Class in India: Kachins and Singphos One," *Baptist Missionary Magazine* 88, 9 (1908): 355.

<sup>133</sup> American Baptist Foreign Mission, *One Hundredth Annual Report*, 113.

## ELIMINATION AND EXPLOITATION

The legal regimes put in place by the Criminal Tribes Act of 1871 and the Indian Appropriation Acts of 1851–1871 drew on a global discourse on the management of itinerant populations to bring criminal tribes and Native Americans, respectively, under disciplinary authority. I have argued that efforts to regulate these populations should be viewed as closely linked to agrarian development schemes that sought to unleash the productive potential of land. Yet the imperatives of the colonial project in India and in the United States were not the same, and tribal populations acquired different significance in each case.

In their introduction to *Settler Colonialism in the Twentieth Century*, Caroline Elkins and Susan Pedersen argue that settler colonialism was based on “a logic of elimination and not of exploitation.”<sup>134</sup> They take up Patrick Wolfe’s contention that in settler colonial societies, elimination and assimilation were essentially “two sides of the same coin”—both policies intended to remove potential hurdles to the continued conquest of land by removing indigenous populations, whether through legal exclusion or forced assimilation.<sup>135</sup> Examining the sedentarization policies imposed by the U.S. Government on Native American populations in the late nineteenth century, however, reveals a tenuous (and ultimately untenable) logic of productivism that went beyond the tightly bound imperatives of elimination and assimilation. The remaking of the Native American population into settled agriculturalists took place on ostensible assimilationist grounds but was fraught with ambiguity about the place of Indians, and their labor, in Euro-America.

As Richard White notes, Indian removal had been “based on the premise that whites and Indians could not coexist alongside each other until Indians were ready to be assimilated fully into American society.”<sup>136</sup> Reservation policy extended this logic: Native Americans would be molded into a compliant agricultural population capable of tilling the lands allotted them. Agent O. H. Irish of the Office of Indian Affairs described the Omahas in 1863 as “profess[ing] a desire to be instructed in the several branches of industry which are being pursued by the white settlers in the vicinity of the reserve,” going on to describe their efforts building houses, establishing permanent settlements, and fencing land “as fast as they can make arrangements to do so.”<sup>137</sup> The purported benefits of the federal government’s endorsement of reservation policy were two-fold: confining Natives Americans to reservations not only allowed for their “advancement in civilization” through the adoption of

<sup>134</sup> Caroline Elkins and Susan Pedersen, eds., *Settler Colonialism in the Twentieth Century: Projects, Practices, Legacies* (New York: Routledge, 2005), 2.

<sup>135</sup> *Ibid.*, 3.

<sup>136</sup> Richard White, *The Middle Ground: Indians, Empires and Republics in the Great Lakes Region, 1650–1815* (New York: Cambridge University Press, 1991), 519.

<sup>137</sup> *Report of the Commissioner*, 240.



agricultural pursuits, but also cleared their former lands for intensive white settlement.<sup>138</sup>

Following the end of Reconstruction in 1877, reservation policy shifted in the direction of assimilation. “The very existence of this tribe depends on their being made an agricultural people,” Irish would write about the Omahas.<sup>139</sup> His words reveal the complex imperatives behind the white settlement of the West, ideologically prefigured by the Free Soil movement of the 1840s and made possible by the building of the railroads by thousands of Chinese immigrant workers.<sup>140</sup> White Americans’ preoccupation with the doctrine of improvement necessitated the isolation of the Native population, but it was their ultimate absorption into the white population that became the goal of reservation policy. The era of Reconstruction led progressive reformers to reappraise reservation policy in light of the duties of the federal government to peoples who lacked full citizenship, whether they were freed slaves or Native Americans.<sup>141</sup> Under the banner of the “Friends of the Indian,” northern reformers persuaded the federal government to take over the running of reservations from missionary groups and directly provide social programs—schools, religious education, agricultural training, lessons in homemaking—intended to shape Native Americans into workers on a Euro-American model, capable of tilling the land allotted them.<sup>142</sup>

As in the case of criminal tribes in India, reformers sought to inculcate “civilized” habits by separating children from their parents, sending them to boarding schools both on and off reservations. In her work on the Mt. Pleasant Indian School in Northern Michigan, Alice Littlefield has argued that the chief purpose of the boarding school system administered by the Bureau of Indian Affairs was to provide agricultural training, with the goal of making provision for “each boy to have a farm of his own when he leaves school and work it himself.”<sup>143</sup> Littlefield notes that the agricultural training received at the Mt. Pleasant School was often ill-suited to local realities as well as indigenous crop patterns, with most Northern Michigan Indians relying on a combination of wage-labor and seasonal work rather than settled farming. The result was the

<sup>138</sup> Ibid., 242.

<sup>139</sup> Ibid.

<sup>140</sup> Eric Foner, *Free Soil, Free Labor, Free Men: The Ideology of the Republican Party before the Civil War* (New York: Oxford University Press, 1970), 26. For the significance of the West as a space where anxieties about race and racial mixing played out in the era of “Greater Reconstruction,” see Elliott West, “Reconstructing Race,” *Western Historical Quarterly* 34, 1 (2003): 6–26.

<sup>141</sup> Cahill, *Federal Fathers and Mothers*, 22, 26.

<sup>142</sup> Ibid., 30–31.

<sup>143</sup> Alice Littlefield, “Indian Education and the World of Work in Michigan, 1893–1933,” in Alice Littlefield and Martha Knack, eds., *Native Americans and Wage Labor: Ethnohistorical Perspectives* (Norman: University of Oklahoma Press, 1996), 103.

gradual incorporation of Native labor into the wage labor force.<sup>144</sup> As Robert Trennert illustrates in his work on the “outing” system and its gradual demise, progressive-era efforts at promoting agricultural self-sufficiency soon devolved into straightforward mechanisms for extracting Native American labor, contributing to widespread proletarianization and underdevelopment.<sup>145</sup>

The uncertain place of Native Americans in the labor hierarchy of the late nineteenth-century West can be seen in shifting attitudes towards reservation labor during the assimilation era. As William J. Bauer writes in his study of the Round Valley Indian Tribes in Northern California, the years after the Civil War represented a reconstruction of their own for the Round Valley Indians—an end to the widespread practice of indentured Native labor in California and an opportunity to establish freedom of movement across porous reservation borders.<sup>146</sup> Reservation agents discouraged Round Valley Indians from working for wages off the reservation. Yet as the era of assimilation wore on, the federal government began to encourage paid Native American labor in freighting and reservation law enforcement, which were seen as opportunities for Native men to model the role of breadwinner.<sup>147</sup> The passage of the Dawes Act in 1887, which established the allotment system in order to clear tribal lands for white settlement, represented the high watermark of the assimilation era.<sup>148</sup> The legal regime set up by the Indian Appropriation Acts could try and peel apart land and labor, but they would remain stubbornly intertwined.

By contrast, developing the “imperial estate” in colonial India relied on the mobilization of indigenous labor from the start. British officials believed just as fervently in the notion of improvement as did the white settlers of the Great Plains, as evidenced in the land reclamation, experimental agriculture, and soil conservation schemes they pursued; in the absence of a settler population to serve as a ready-made labor pool, they looked to indigenous populations to create a stable labor force that could be enlisted for the production of primary commodities as well as those exported abroad.<sup>149</sup> Criminal tribes were swiftly integrated into a colonial economic hierarchy based on various forms of bonded labor, one that stretched from the Madras Presidency to the highlands of Kenya to the Caribbean.

<sup>144</sup> Ibid., 118.

<sup>145</sup> Robert A. Trennert, “From Carlisle to Phoenix: The Rise and Fall of the Indian Outing System, 1878–1930,” *Pacific Historical Review* 52, 3 (1983): 267–91.

<sup>146</sup> William J. Bauer, Jr., *We Were All Like Migrant Workers Here: Work, Community, and Memory on California's Round Valley Reservation, 1850–1941* (Durham: University of North Carolina Press, 2014), 57, 79.

<sup>147</sup> Cahill, *Federal Fathers and Mothers*, 106.

<sup>148</sup> Frank W. Porter III, “Without Reservation: Federal Indian Policy and the Landless Tribes of Washington,” in George Pierre Castile and Robert L. Bee, eds., *State and Reservation: New Perspectives on Federal Indian Policy* (Tucson: University of Arizona Press, 1992), 114–15.

<sup>149</sup> Singha, “Settle, Mobilize, Verify,” 154.

Yet as in the United States case, the imperatives of sedentarization were intertwined with military pacification, and developmentalist aims coexisted with an older language of conquest. In the case of wandering tribes, colonial officials acknowledged that it was “necessary to fix them to a residence before they can be punished for leaving such residences.”<sup>150</sup> The Criminal Tribes Act prescribed that work done in criminal tribes settlements had to be paid, and that “the surplus proceeds” of workers’ labor be disposed “for the benefits of such persons.”<sup>151</sup> But the idea that criminal tribes settlements operated for the benefit of their inhabitants was belied by the fact that their labor was soon put to work clearing “waste lands.”<sup>152</sup> Even the industrial settlements, originally intended as training grounds for skills, were soon integrated into the formal labor market, supplying labor to local railways, mills, and tea estates.<sup>153</sup>

Returning to the argument originally posed by this essay, then, it is tempting to view both reservation policy and criminal tribes settlements as run-of-the-mill colonial exploitation under a different name. In this view, the rhetoric of progress and improvement was simply window dressing. But the failure of these projects does not imply they were something other than “development”; indeed, an extensive literature has critiqued twentieth-century development policy for its well-documented failures.<sup>154</sup> More importantly, these policies were significant not because they were not exploitative—they certainly were—but because they marked a concerted effort by the nineteenth-century colonial state to mobilize both natural and human resources. Far from mere rhetoric, a shared transnational discourse around land, labor, and improvement propelled policies that brought not only marginal lands, but marginal peoples into the global capitalist economy.

#### LEGACIES

The management of tribal populations in late nineteenth-century India and the United States drew on a set of shared concerns about maximizing the productivity of both land and labor. The legal regimes put in place by the Criminal Tribes Act and the Indian Appropriation Acts operated through different logics; one exclusionary yet assimilationist, one prefaced on the impressment of tribal populations into the colonial labor force. At their core, though, was an attempt to solve the “tribal problem” by entrapping the bodies of their subjects in the hardening amber of disciplinary authority, keeping them in their place.

<sup>150</sup> Letter from Lieut.-Col. R.H.M. Aitken to the Secretary to the Government of India, 1–2 June 1870, IOR/LDP/236.

<sup>151</sup> *Unrepealed and Unexpired Acts*, 209.

<sup>152</sup> *Abstract of the Proceedings*, 424.

<sup>153</sup> Major, “State and Criminal Tribes,” 677.

<sup>154</sup> Arturo Escobar, *Encountering Development: The Making and Unmaking of the Third World* (Princeton: Princeton University Press, 1995).

Yet the legacies of these policies are anything but fossils. In both India and the United States, indigenous populations remain subject to the legal categories introduced by the colonial state. British officials upheld the category of criminal tribes into the twilight of empire: a note attached to the 1938 ordinance banning their emigration to Ceylon mused, “To label a whole tribe or class of persons as ‘criminal’ and subject them to special restrictions sounds medieval, but perhaps it isn’t as bad as it sounds.”<sup>155</sup> The Indian state continues to classify the tribal peoples formerly known as criminal tribes as “Denotified, Nomadic and Semi-Nomadic Tribes”; they are the beneficiaries of quotas aimed at increasing their representation in public colleges and the workforce in the face of persistent stigmatization.

In the United States, the reorganization of Indian policy in the 1930s under John Collier at the Bureau of Indian Affairs—the “Indian New Deal”—marked the reversal of forced allotment and assimilation policies and the partial restoration of Native land rights.<sup>156</sup> Twists and turns in federal Indian policy notwithstanding, the continued existence of hundreds of Native American reservations—lands of sovereignty within the boundaries of the nation-state—serves as a reminder of the ongoing tensions generated by settler colonial expansion.<sup>157</sup>

Reading the Criminal Tribes Act and the Indian Appropriations Acts alongside one another reveals the shared imperatives of sedentarization and land reclamation behind a set of legal innovations that confined indigenous peoples to bounded and surveillable spaces. This drive against nomadism was part of a broader global expansion in the capacity of the late nineteenth-century (colonial *and* non-colonial) state to universalize the conditions of subjecthood for those under its domain. But it is fair to say that land held particular importance for British and American empire-builders, for whom more widely held anxieties about nomadism converged with a distinct faith in the idea of improvement.

As this analysis has strived to demonstrate, the British preoccupation with land was not restricted to the settler colonies alone. In the Indian context, the doctrine of improvement manifested itself in attempts to legally circumscribe criminal tribes, harnessing their labor to the agricultural productivity and land reclamation schemes of the colonial developmentalist state. Reorienting colonial histories around this notion of development brings into view new axes of connection between the “First” and “Second” British Empires, allowing

<sup>155</sup> “Indian Criminal Tribes Immigration Ordinance of 1938,” 1 Jan. 1939, file 56067, National Archives, Kew, London.

<sup>156</sup> C. Joseph Genetin-Pilawa, *Crooked Paths to Allotment: The Fight over Federal Indian Policy after the Civil War* (Chapel Hill: University of North Carolina Press, 2014), 158–59.

<sup>157</sup> Blackhawk, “American Indians,” 390.

us to see through the opaque categories of the colonial state to the processes of reordering they conceal.

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**Abstract:** Scholars have treated British colonial rule in India and the internal colonization of the United States in the nineteenth century as analytically distinct moments. Yet these far-flung imperial projects shared a common set of anxieties regarding land and labor. This paper seeks to conceptualize the Criminal Tribes Act of 1871 in India and the Indian Appropriation Acts of 1851–1871 in the United States as part of a congruent effort to manage and define the labor force in the context of the intensified expropriation of land. In the complement to agricultural improvement programs, British and American colonizers sought to rehabilitate itinerant populations to create a labor pool endowed with suitable qualities for unleashing the productive capacity of land. While in India the cumulative effect of criminal tribes legislation was inclusive in that members of criminal tribes were purportedly reformed in preparation for joining the colonial labor force, reservation policy in the United States excluded Native Americans from lands that were the preserve of white labor while simultaneously laying the groundwork for assimilation.

**Key words:** development, criminal tribes, British Empire, settler colonialism, bonded labor, Native Americans, reservations