

The Dynamics of Crime and Wajibi: Charans of Western Rajasthan

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Abstract: The charans popularly known as bards of Rajputs in Rajasthan are most often viewed as a homogeneous caste of court poets and genealogists of their Rajput patrons. They are hailed as sacral and given high honour, prestige and social position. However, they were practically not bereft from the vagaries of crime and punishment while they cohabited with other communities. This paper reflects the various acts of violation and defiance that the charans committed in their everyday lives. It also attempts to highlight the reactions of the state as a penal regime while dealing with these kinds of escalated stresses and activities. The Jodhpur state (Marwar) had to walk a tight rope while dealing with its subjects and this is attested by the study of archival records. To uncover this side of charans that is generally veiled in the chronicles (that are mostly authored by them) is the aim of this paper thus attempting to present a clearer picture of this community that held significance in the politico-socio fabric of the region.

Keywords: Charans, Jodhpur, Western Rajasthan, wajabi, bards, disputes, crime, kachedi, Jodhpur sanad parwana bahi.

Charans were the custodians of both speech and history in Rajasthan as they occupied the second rank in the hierarchical order, above their Rajput patrons. As the saying goes, *aage brahman piche bhat / take piche aor jat* (“first the Brahman, then the Bhat, and after them the other castes”).¹ Without a bard to sing his praises or a genealogist to exalt his ancestors, it was impossible for a Rajput to assert his rank in the old society. Whenever questions arose over ancestral rights, privileges, inheritances, land, or titles - or forming new alliances – a Rajput was dependent on charans knowledge, which was transmitted through genealogies. Although the charans are known as genealogists but many and rather most of them were also involved in trade, agriculture and other activities. As they were considered sacred because of belonging to the caste whose *kuldevi* was Goddess Karni, whom the Rajputs worshipped; the charans also acted as sureties and correspondents as they could guarantee safe

¹ R. V. Russel, and Hiralal, *The Tribes of the Central Provinces of India*, Vol II, (Delhi, 1997), p. 255.

passage of goods without any threat. The general attitude was that no one could harm a charan. Therefore, this community in Medieval and Early modern Rajasthan had multifaceted roles. This article seeks to draw attention to the versatile lives of these men and women by examining their daily lives which involved both matters of conflict and cooperation. The aim is to look at the dynamics of conflicts leading to crime and the punishments meted out through means of *wajabi* thus, attempting to widen the vantage points through which we construct their social histories.

Charan Crimes and ‘Penalties’

One of the most important issues that the chronicles both commissioned and non-commissioned, do not address regarding the charans are their criminal and deviant activities that may include robbery, burglary, rape, murder; attack while travelling etc. Criminal and deviant activity projects the nature of societal pressures and other stresses that the community faced at a period of time. To understand the social history of any community it is important to delve on this aspect. The administration of criminal justice was often, though not always, was a political as well as a judicial process. It was therefore by nature variable, arbitrary, subject to negotiation and intercession, but also to exemplary displays power.² The Jodhpur state's reactions and redressal to the varied kind of stresses reflect their stand while dealing with these issues which otherwise call for crippling fines, heavy punishments and trials. If we compare the punishments that are generally meted out to other communities in Rajasthan apart from charans we notice that the so called ‘punishments’ meted to charans were minor.

While discussing the Indian Penal Regime in Maharashtra in the eighteenth century, Guha argued that with regards to criminal justice under the Maratha state, the influence of scriptural law and customs was very limited, and that the Maratha regime drew upon a set of punitive techniques that had evolved over centuries in which arbitrarily violent yet politically unstable regimes had sought to sustain their power against challenges from within and without.³ However in Rajasthan incidences suggests that the customs or customary practices and privileges – endorsed and transmitted through the rural community in their diverse regional and local variations, constituted the informal structures of law. Hence, the parameters of law in medieval Indian society were defined by both administrative

² Sumit Guha, ‘An Indian Penal Regime: Maharashtra in the Eighteenth Century’, *Past and Present*, no. 147, 1995, p.103.

³ Guha, ‘An Indian Penal Regime: Maharashtra in the Eighteenth Century’, p. 103.

regulations and customs. The *Jodhpur Sanad Parwana Bahis (JSPB)*⁴ housed in the Rajasthan State Archives, Bikaner uncovers the details on the petitions that charans and other castes registered at various *kachedis* of the Jodhpur state, therefore becoming a significant source to examine the everyday lives of different communities settled in Jodhpur.

Many cases get reflected like for instance in cases of theft, the state tried to resolve the case amicably by restoring the authority to the person in-charge of that land or village. The Jodhpur state resisted in resolving these petty issues and handed over the charge to the local head. Charan Baldiya of village Badram was resting along with his goods that included salt in village Badiya. His belongings and goods got stolen in village Badiya. This village was held by a Purohit as a charitable grant. He tried to trace the thief but could not find him. The state ordered the Purohit to look into this matter and resolve it amicably wherein, either the Purohit finds the thief or the Charan be compensated for the loss.⁵ In another case where the Charan's *bhaibant*⁶ Paema burgled Charan Fateh's house and stole his household goods, jewellery, utensils and hurt two of his cows. Fateh appealed to the state to enquire and retrieve his goods from Paema's control. He further requested the state to document the entire incident of theft and Paema be made responsible for it so that in future he does not commit this again.⁷ The altercation between the charans tied in *bhaibant* relations must be in vogue; probably that is why the charan made sure that all his dispute and conflict vis-a-vis his *bhaibant* relation be documented for future references.

Many incidences reflect that the sacral nature of the charans did not play much role in protecting them from robbers. There were several cases where the plaintiff petitioned to the state on behalf of his deceased charan brother who was killed during his journey to some destination. The charans were therefore a much-diversified group in terms of the power, position and privileges that they commanded from other communities. The plaintiffs in the *bahi* documents are the ones who probably did not enjoy that kind of respect and position as their contemporary poets in the service of Rajputs chiefs, thereby becoming more vulnerable to adversities like these. Rajput Rame robbed charan Lakhe of village Falsudh while he was on his way to Jaisalmer to get his wife from his in-

⁴ *Jodhpur Sanad Parwana Bahis*, is a collection of about 156 *bahis* (nos. 1- 54, AD 1764-1800/ VS 1827-57). They mostly follow a similar format, documented the petitions from people and also the state's response to them. These judicial records encompasses array of issues, from petitions against taxes and elite exactions to disputes over defying of normative behavioural patterns of different communities. Many *bahis* also consisted reports that kasids brought to diwan's office, with the state orders in this regard.

⁵ *JSPB* 14, VS 1831/AD 1774 (July), f. 171A.

⁶ *bhaibant* - brotherhood, fraternity, 'the bond of brothers'.

⁷ *JSPB* 16, VS 1833/AD 1776 (August), f. 48B.

laws' house. On his journey a Rajput robbed Rs. 400/-, goods, camel, clothes etc. of Lakhe and even killed him. The deceased Charan's brother appealed to the Jodhpur state to enquire into the case and give justice by at least retrieving the goods and money back to the Charan's family from the Rajput.⁸ In this dispute we notice that the killing of the Charan was not highlighted and the appeal to the state was for the materialistic goods that were lost in the conflict. It may be suggested that the cases like these where the charan was killed was resolved and justice was dispensed at a different level of adjudication. Generally criminal cases were resolved by the state and in above cases the culprit responsible for killing the charan must have been punished. However, this does not get reflected in the *bahi* documents because of its limitations. It was generally observed that number of disputes especially those related to social factors were arbitrated within the village without reference to the state. Nevertheless, in cases cited above I argue that the onus of enquiry, arbitration and adjudication must have been carried out by the state. Undoubtedly the state must be taking assistance of the panchayats and local heads of the parganas and villages for enquiry and other proofs. These local bodies were better equipped with knowledge of social norms of the village, precedence and shared a close relationship with the inhabitants of the village; but the final decision making in the criminal cases was in the hands of the highest authority i.e. the *huzur* or the state.

In this study of *bahi* documents, there were many cases where we notice many criminal activities by charans. In these disputes too, the attitude of the state was mild and lenient. For instance, Charan Fatto of village Toliyasar had two Baniyas in his custody, he killed one of them and the other Baniya was still in his custody. The state ordered for an enquiry and the release of the baniya and justice should be dispensed through *wajib* decision.⁹ Similarly Charan of village Bhadora of pargana Nagor killed a member of the Doom¹⁰ caste of that village on the day of *holi*. The Charan was summoned, enquired and sent back. The state ordered that whatever their dispute is should be settled and *wajib* should be done.¹¹ In another case Charan Mode of village Kuda killed Sami¹² Sijhiyapuri. In this case the Charan was summoned to Pali for an enquiry on the entire episode of killing which would then be reported to *Shri Huzur* (highest authority). However later we noticed that the state withdrew its order to summon the Charan to Pali and instructed for local enquiry and adjudication.¹³

⁸ *JSPB* 16, VS 1833/AD 1776 (May), f. 22B.

⁹ *JSPB* 12, VS 1829/AD 1772 (October), f. 279B.

¹⁰ *Doom*: caste that are in profession of singing.

¹¹ *JSPB* 8, VS 1825/AD 1768 (April), f. 47B.

¹² *Sami / asami*- peasant

¹³ *JSPB* 16, VS 1833/AD 1777 (March), f. 113B.

There were hardly any severe punishments attributed to the charan in case of any crime or other deviant activities. This reflected the Jodhpur state's biasness towards the charans. However, it is significant to note that these *bahi* documents at times lack in details regarding the background of all the cases that were documented in the *kachedis*. Here with corroborative study of different kinds of source material which includes chronicles, archival, anthropological sources could help to correct and clear understanding of the dynamics of the charan's social relations.

Notions of 'Wajibi' or Legitimate

Apparently, there were many forms of protests that the charans employed during the seventeenth and the eighteenth century. At the face of transgression of traditionally sanctioned norms and rights, the charans promptly resorted to spectrum of devices that would help them protect their subsistence. One of the most peculiar methods of protest was *tragum*¹⁴. Petitions tended to be a common and most accessible method employed by the charans since it was one that was sanctioned by customs and enjoyed official approval too. In doing so, they merely were trying to retrieve what had for long rightfully belonged to them.

Undoubtedly politics fashioned not only the judicial processes but also the nature of documentation preserved by the rulers in form of petition records. The *Jodhpur Sanad Parwana Bahi* records identified the litigants in dispute cases by their castes rather than their sub-castes. This may be explained by the fact that for purposes of administration, an individual's name, caste and place of residence were sufficient parameters for identification. However what we notice perennially in all the documents and especially the ones related to crime was that without recording any details about the cause of the crime and the relationship between it and the punishment ordered; judicial documents are extremely sketchy accounts of events. Those transcribing petitions stated very briefly the offence and punishment announced, the narration of events devoid of any details, and the decision taken by the judicial authorities lacking in the record of explanation or rationale for state orders. Perhaps the transparency in the rulings of the state would be fatal as it might expose them and their discretionary space.

Nonetheless with the help of these documents we can gauge state's reaction to various issues which although formed a part of the 'private matter', but came in the foray of 'public matter', when

¹⁴ *tragum/ traga* - practice of self inflicted death through self-immolation, or by stabbing oneself with a knife. This was done by charans in the case their *dharna* (sitting together in protest against injustice) is not fruitful in getting their demands fulfilled.

the dispute was taken to the local *kachedi*. The state's decision was influenced by different underpinnings. Many a times, cases where people from upper echelon (like the charans) are present, state's decision was coloured by biasness. However, the lower castes also asserted their rights over some issue which the state could not disregard. The phenomenal number of petitions filed by the charans in the latter half of the eighteenth century indicates that despite being from the upper strata of the society there were many concerns and disputes that the charans had to face while dealing with the daily activities with their own caste and also with members of other castes.

The tone of the state was strict when its decision was not followed by the parties involved in the dispute. Although the soft attitude of state was predominant towards the charans in various situations and conflicts, nevertheless when the petitioners did not adhere to state's decision, the authority took strict note of it. In the dispute between Charan Asiya and Barhat¹⁵ Bakhta, where the Barhat explained that the residents of village Peetholav were not allowed to go to the *kachedi* and were also instructed not to assess the crops until some issue pending was resolved. Despite this strict instruction the Jat got the assessment done. The state's firmness was visible in its reaction whereby it ordered to summon everybody to know the details because if the order was against assessment of the land then how could the Jat make the assessment.¹⁶ Like any other community, all the contracts and promises had to be honoured. This also meant that if a certain amount of due and had to be paid by the charan, he could not escape it until he fulfilled his. Thus, when a petition came to Maroth *kachedi* about Charan Ume, who had promised to pay Rs. 1/- to the temple for some event but later refused to pay the amount, the state strictly ordered the Charan to make the payment as per the contract signed.¹⁷ Therefore although couched in deferential language, and to that extent contributing towards the maintenance of the ideology of dominance; petitions at the same time represent resistance, for they articulated charan's plight and applied relentless pressures upon the state to abide by its high moral claims to legitimate authority.

Clearly the Jodhpur state in the eighteenth century worked within the framework of customary laws which were generally referred to as the *wajabi* in the documents. The different interactions of charans with other communities which led to conflicts reflect that the state always dispensed justice by ordering *ju wajibi huve ju karaye dejo*. The question is whether there was some particular *wajib*

¹⁵ Barhat - honorary title given to famous and distinctive charans by the Rajput chiefs, for their expertise in literary composition or for their loyal services to the state.

¹⁶ *JSPB* 16, VS 1833/AD 1776 (March), f. 16B.

¹⁷ *JSPB* 16, VS 1833/AD 1776 (June), f. 149A.

law that was homogeneously followed by people from all community or was it distinct for each caste and community. Further what did the state mean by *wajib* decisions and was there any limit or restrictions on these laws or were they generally followed by the state absolutely without any limitations? Weren't there clashes among different customary laws when the parties involved in the dispute belonged to different communities? These pertinent questions are critical to this study as they will help define the notion of *wajib* and also as to why the state made this as the basis for dispensation of justice.

Traditions and customary practices structured a range of interactions and the practise of certain norms over generations had a certain hold over the psyche of charans and could not be thrown to the winds very easily. Thus, the state felt constrained in the observance of conventional standards of *wajabi*. What is clear, though, is that the relations between the state and charans continued to be implicated in the notions of *wajabi*, though the gap between the state's reading and the charan's interpretation had widened considerably towards the close of the eighteenth century. With regards to the previous centuries, it is difficult to comprehend as to how the state dealt with different kinds of conflicts because of non-availability of primary sources for that period. In case of the eighteenth century, the documented *bahi* petition records are useful in reflecting myriad aspects of charan's social life, which included tensions and complexities in their daily lives. Never at any point of time did charans display any ambition or confidence to change the extant of power equations. Rather they knew the Rajputs were the closest to them and this gave them an edge over other castes and communities. Usually, the state felt constrained to operate within the limits of *wajabi*, though the fluidity of this concept provided spaces for variable interpretations. Both the charans and other communities harnessed their own advantage. Tensions in their mutual relations, always present and common, got intensified in the latter decades of the eighteenth century where we notice the number of petitions increasing. This highlighted the growing tensions and complexities that were gradually ascending with multiple identities and communities asserting their power. Furthermore, showcasing their attempts to move up in the hierarchy and also reflects the increasing ambiguity of the customary laws that was no longer sufficient for pragmatic functioning of the state's administrative and judicial authorities. The charan's legitimate rights also got diluted with the coming of the British rule in India from the latter half of the eighteenth century, which resulted in changing notions of the *wajabi* laws and rules that conceivably worked for past centuries.

Therefore, it is important to deconstruct the relationship that Jodhpur state shared with

charans. Undoubtedly being the closest associates of Rajput chiefs as their genealogists and court poets; they shared an extremely honourable position nevertheless the state's act of balancing their patronage should also be taken cognisance of. The Jodhpur administration exercised an overarching authority and did not feel hesitant in employing its administrative apparatus to full use. This was to regulate the affairs of the state and society reaching out to every distinct social group, family, and even individual members of its diverse society. Charans were an integral part of the Rajput society and the state enjoyed legitimate authority over different convention and norms of charans. This they indeed tried to balance especially while simultaneously dealing with other communities in cases of conflicting spheres among them.

Though this study recognizes the principle of *wajabi* or legitimacy as the anchor of the social space and as the foundation of dispensation of justice on one hand, it is also clear that there were gaps in readings of *wajabi* by the charans, the state and the other communities (both elite and subordinate). These limits of 'legitimate practice' were constantly contested, negotiated, transgressed, and redefined. As Hasan notes, 'power both empowered and oppressed the ordinary subjects. The normative system was both shared and contested'.¹⁸ There were different methods of arbitration and adjudication that the Jodhpur state employed while dealing with the disputes and conflicts concerning charans in their daily lives. Apparently, all cases that came to the state's penal regime were arbitrated keeping the customary laws and rules of the particular caste. The centralized administration structure of medieval India, with its well-defined administrative procedures and regulations provided a set of institutionalized norms for the administration of justice. As far as the study of documents and other primary sources like the chronicles goes, there were three levels of methods of jurisprudence.

Firstly at the local level or village level, where the rural functionaries and sometimes respectable persons of the village like the *hawaldar*, *chaudharies*, *mahajan*, *qanungos* and many a time Barhats of the villages - constituted the local bodies for the arbitration of dispute. The hereditary superior status of few people in the village community conferred on them the position of 'natural' arbiters. The panchayat- both village and the caste panchayat constituted another important body for judicial dispensation the most important function of the panchayats was to resolve disputes. Probably the greatest influence wielded by the village panchayat was in the realm of social disputes as they were aware of the knowledge of social norm of the village and each and every caste. Although the

¹⁸ Farhat Hasan, *State and Locality in Mughal India: Power Relations in Western India, c. 1572-1730*, (Cambridge, 2004).

decision of the panchayat was not binding and representations challenging their decision could be made to the state (*huzur*), the state in actuality upheld the decisions taken by the panchayats and implemented them through the instrument of state administration. This provided additional source of strength to the panchayat. The highest body for arbitration was the *huzur*. Infact all the petitions that are cited in this paper are addressed to this apex authority. There were innumerable cases of disputes registered in the state *kachedi* on daily basis. At this level the adjudication of disputes was conducted through the administrative head of the pargana, the *amil*, on the basis of instructions received from the *huzur*. For all the disputes referred to the state, whether adjudicated by the local level functionaries and respectable persons, or by the caste and village panchayats or adjudicated by the state through the *amil*; the implementation of the verdict was the responsibility of the administrative head of the pargana with assistance of various local officials.

As the disputes moved from the relatively 'private' to the 'public' domain and litigants sought direct state intervention, collaboration with their respective caste panchayats was the norm. Considering that there would be proximity between the *panch* and their caste members, the state constantly reminded them not to show any biasness to anyone (*harkora rakhjo matti*), and to be neutral in the dispensation of their judicial obligations.¹⁹ 'Age old practices and customary laws were accepted as being of supreme importance in the disposal of disputes, and the state deliberated with all those who could help it determine the *wajabi* course of action, even if the reading and interpretation of *wajabi* was constantly manipulated to suit the state's immediate agenda'.²⁰ Despite several layers for dispensation of justice and state trying to reach to every individual from elite to subordinate, there was laxity in central control within the state that led to localization of administrative authority. It is perhaps a reflection of such localization of authority that the State's instructions to the pargana official on complaints from charans were at times disregarded and complaints had to be repeated.²¹

Clearly the Jodhpur state in the early modern period was working towards harmonising its relations with all its subjects belonging to different caste groups and charans were one among them. The issues of conflicts, deviance and crime needs to be stressed while understanding the social history

¹⁹ *JSPB* 6, VS 1824/AD 1767 (November), f. 90A. In the internal dispute over give and take between Charan of village Kuda and Manakchand (Surana caste) the state ordered to resolve the dispute by conducting an enquiry first and then taking decision with impartiality. The state said '*harkor kini ri rakhjo matti*'.

²⁰ Nandita Prasad Sahai, *Politics of Patronage and Protest: The State, Society and Artisans in Early Modern Rajasthan*, 2006, p.110.

²¹ *JSPB* 3, VS 1882/AD 1765 (March), f. 14A / 30B. Charan of Surpaliya village had an internal dispute. The state had ordered Bohra Tarachand to look into the matter and take appropriate action. However, we notice repetition of the same petition in the Nagor Kachedi twice in the same year.

of charans. Despite being an integral part of the Jodhpur state and in a close proximate relation with their Rajput patrons, they could not escape the 'pulls and push' of daily lives which included both conflicts and cooperation with members of the society.

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