

# The Enigma of the Crime of Cattle Theft in Colonial Sindh, 1843 - 1947

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## Abstract

The crime of cattle theft in Sindh persisted for over 100 years despite consistent efforts at eradicating it. For such a persistent problem, no one factor was the sole cause; instead numerous factors, including environmental, topographic, socio-economic and socio-political combined to increase, rather than decrease, rates of cattle theft. 'Invariably', the measures taken to control cattle theft or 'lifting' throughout this period were repressive, complicating the situation. This paper examines the reasons why administrators found it so difficult to finally end this practice' outlining the practical difficulties encountered during several different historical periods. The paper traces the colonial history of Sindh, beginning with its conquest by British troops and their early efforts to enforce control.

## Keywords

Cattle Theft, Colonial, Sindh, British, Police, Zamindar, Wadero

## Introduction

Cattle theft was one of the most enigmatic criminal law problems in colonial Sindh. More complex was the issue of resolving this problem. The situation was a reflection of the sociological complexities that had gradually evolved over the previous decades, accumulated a momentum in its aggravating stance and defying all attempts at formulation of a specific strategy for its solution. Apart from societal factors that were undermining the solution, it is ironic that the priorities that governed the formation of police, and the administration of criminal justice, from 1843 to 1847, were, by themselves, the basic aspects that were negating the effectiveness of the administration of the system of criminal justice in the subsequent years of the 19<sup>th</sup> century. From 1847 to 1935, the strategy of the Bombay government, as far as the administration of Sindh was concerned, was rule via collaborators, or indirect rule, which required a lesser injection of funds and a convenient mode of administering a newly acquired territory.

## I. Sindh:

### History, Conquest and Evolution of the Colonial Police

Geographically, Sindh is located in the northwest part of the Indian sub-continent and borders with the Punjab on the north, Rajputana on the east, and the Rann of Kutch on the south, the Indian Ocean on the southwest and Baluchistan on the North West. The Baluch rule in Sindh began in 1783, when the Baluch tribe of Talpurs wrested power from the Sindhi Kalhoras.

## 1. The Conquest of Sindh and the Martial Law Regime of Sir Charles Napier.

During the 1820's and the 1830's, Great Britain was apprehensive of a Russian advance through north-west India and policy decision makers, in Great Britain as well as the British high command in their administered territories in India, were of the view that the best strategy was to acquire control of the river Indus. This would act as a natural barrier for the Russian advance, negate the Russian influence in Central Asia,<sup>1</sup> help exploit commercial advantages by achieving an ascendancy in the area and removing the Russian threat altogether.<sup>2</sup> Through pressure tactics, treaties were signed between 1832 and 1834 which freed the navigation of the river from restrictions. Between 1838 and 1841, the Afghan crises assumed importance and there arose an urgent need to despatch troops via the Indus. Thus further British pressure was asserted on the Talpur rulers of Sindh.

At the age of sixty, Major General Charles Napier was posted to India and found himself at last in a position where he could perhaps realise his ambition to fame.<sup>3</sup> The Talpurs neither desired, nor were prepared for war.<sup>4</sup> Napier precipitated a very serious situation which ultimately ended in the two Sindh battles; Miani on 17 February 1843 and Dabba on 26 March 1843. The Battle of Miani was a massacre. The second battle was also extremely bloody with the Talpur army suffering very heavy casualties. By August 1843 the Sindh was formally annexed into British India.

Subsequent to the conquest, a martial law regime was established, Napier was appointed Civil and Military Governor and Sindh began to be administered as a detached province directly under the Supreme Government of India. Napier divided the country into three collectorates, apart from Upper Sindh Frontier which was entrusted to a military commander who discharged military and political duties.<sup>5</sup> Napier's system incorporated the government into four branches: first, the purely military branch or regular troops, second, a force of Irregular Horsemen, ready to march at a moment's notice. The third branch was the Police, who were generally "the point of collisions between the rulers and the ruled."

## 2. The Sindh Police: Mounted and Rural Police

In view of the unsettled situation, Napier's believed a powerful and rugged police force was a must to curb the activities of the tribal *sardars* (chiefs) and ensure their submission. Under his direction, two thousand men, well armed, well drilled, and divided into three classes: one for the town and two for the country were organized as a police corps. The first were all infantry, the last,

infantry and cavalry, and were called the rural police.<sup>6</sup> They comprised a body of infantry, which was dressed, and equipped like other local infantry corps. This militaristic organisation and bearing suited the rural police, they “acquired greater confidence and courage”<sup>7</sup> and on behalf of the colonial power took an active part in “partisan warfare.”<sup>8</sup> On Napier's orders, a large detachment of the rural police was deployed in the hills so as to make soldiers of them.<sup>9</sup> To sustain the rural police, an irregular cavalry, called the mounted police, were distributed between the collectorates and around them. Vis-a-vis the rural district of Karachi, Preedy, the first Magistrate of Karachi, mentioned that the mounted police were “no favourites with the *ryots*,” (peasants) who complained much of “their hectoring, overbearing conduct towards them.”<sup>10</sup>

### 3. Police Manpower and Recruitment Policies: Colonial Expediency

On 15 February 1844, Sir Charles wrote in his journal that all the people employed by the Talpurs were retained by him and he “enlisted an influential pack of scoundrels.” Describing them as “very nice, well behaved, honourable cut throats” Napier remarked that “Dugald Dalgetty himself would be proud of them: five hundred handsome fellows, well mounted and ready to cut their fathers' throats “if he ordered them.” In a letter to Lord Fitzroy Somerset on 26 May 1844, he referred to the police as “too much inclined to be rough.”<sup>11</sup>

Despite the militaristic orientation and nature of the police, it was gradually realised that it was impossible for them by their “unaided efforts, to keep perfect order.” Much depended on the local influence of the *zamindars* (landowner), and the efficiency of the village officers, who, under the Talpurs, had enjoyed the respect of the people.<sup>12</sup>

A number of factors conspired however to increase cattle lifting, defying any solution and continuing to be a serious source of discontentment in the rural areas of Sindh. These factors included an overreliance on *zamindar's* and *wadero's* (influential landlords) to maintain order in the countryside; the negative effects of a policing system that did not incorporate prevention and detection of crime within its priorities; the reluctance of the citizens, especially the *wadero*, in volunteering as witnesses in criminal cases; the ineffectiveness and insufficiency of an alien law and procedures; and finally, the declining socio-economic conditions in Sindh.

### 4. Crime: Prevention, Detection and Punishment

Subsequent to the British conquest, villagers were made responsible for stolen property, and the responsibility was rigidly enforced.<sup>13</sup> The *zamindars* “were held responsible to give notice of any suspicious persons.”<sup>14</sup> In case of difficulty in detection of a robbery, *paggis* (local foot print trackers) were sent for, who “tracked till the tracks were lost in a village, and then that village was called on to take the tracks out, or pay the loss.”<sup>15</sup>

In 1846, 2076 persons were tried for petty offences while 786 persons were tried for serious ones. Out of the latter, 401 were for cattle stealing, that is, more than 51% of these accused were involved in cattle theft. Of the 786 brought to trial for the grave offences, 708 were convicted.<sup>16</sup>

## II. The Problem of Cattle Lifting: The Situation in the Second Half of the 19<sup>th</sup> Century

### 1. The Incidence and Intensity of Cattle Lifting

Cattle theft was widespread in the 1860's. In 1867 the reported cases were 720 in Hyderabad, 1096 in Shikarpur, 416 in Thar and Parkar and 166 in the Upper Sindh Frontier. In 1868, 2152 cases took place in the province with 3382 accused being involved. Out of these 2506 were arrested and brought before a magistrate, 1158 were convicted while 1205 were acquitted. In 1868 in Hyderabad district alone, out of 837 persons connected with cattle theft, 674 were apprehended by Police and convicted while 325 were acquitted. The overall performance of the police was quite good, yet cattle thefts continued unabated. In fact, as far as the rural areas of Karachi were concerned, in 1870 - 71 the problem was simmering and had not attained an endemic form. Edward Charles Marston, the chief of the Karachi police argued that control of cattle theft was due to the fact that a great number of the police were famous trackers.<sup>17</sup>

### 2. The socio - economic contexts and the environmental factors that complicated efforts to prevent cattle theft

Writing about crime in the Sindh during the last few decades of the 19<sup>th</sup> century and the early twentieth century, Sir Edmund Cox Bart<sup>18</sup> observed that there were certain tribes, such as the Jagiranis and Boordis, to whom the activity connected with cattle stealing “was the breath of life.” Similarly, another officer with a very long experience of Sindh, in the 1930's and the 1940's, Kenneth Raye Eates, mentioned in his memoirs, that cattle lifting was perhaps “the most popular past time in Sindh.” Eates had specified that *bhunga* (ransom money) and cattle theft were “closely related occupations, one being the direct outcome of the other. His opinion was that if it were possible to root out the lucrative practice of *bhunga*, cattle theft in Sindh would no longer be an enterprise, run by a widely spread *katku* (criminal) organization producing easy money with little, if any, risk to the *patharidar* (patroniser and protector of criminal elements) behind the scene, who as a rule was a petty *zamindar* or minor tribal *sardar*.<sup>19</sup>

The District Superintendent of Police (SP) in Hyderabad ascribed the increase or decrease in cattle theft to the effects of the seasons. For example, after a

season of drought, when the cattle were miserably poor, this crime had sensibly decreased, and vice versa after a year in which the rainfall had been plentiful, and pasture abundant. Similarly, in 1869 cattle lifting was increasing in the Thar Parkar area mainly because of the numbers of Marwarees and other starving people from different parts of Rajputana, who were “trying cattle lifting as a means of subsistence.” Due to famine in Rajputana, there was looting across the border, which also increased cases of cattle lifting.<sup>20</sup>

In certain areas the intensity of the problem was much more due to various complicating factors. For example, the Upper Sindh Frontier was exposed to the borders of the Punjab, Baluchistan and also the Sindh District of Shikarpur, therefore control of cattle lifting was not a simple matter. Phayre, the Political Superintendent of the Upper Sindh Frontier, suggested that only the combined efforts and, especially coordination by the Political Superintendent of the Upper Sindh Frontier, the Collector of Shikarpur, and the Political Authorities in the Districts of Dera Ghazi Khan, and Bhawalpur, could alone put a stop to this situation.”<sup>21</sup> At that time, both Dera Ghazi Khan and Bhawalpur were beyond the areas conquered by Sir Charles Napier and formed the Province of Punjab.

Colonel Marston rightly stated that the mountainous nature of the country presented ideal facilities to cattle lifters. Another senior officer of the Sindh Police stated that cattle lifting occurred chiefly in dense jungle districts bordering the Indus, where cattle were allowed to graze without supervision. This offered irresistible temptations to numerous vagabonds, who found it “only too easy to remove and dispose of cattle,” which were not even missed by their owners for days. On both sides of the River Indus there was, and still is, very rich grazing and also a great deal of extremely dense forest. Edmund Cox wrote that experienced thieves would “drive a herd of buffaloes to the nearest part of the river, swim them down for many miles, and conceal them in the vastness of the forest on the other side.”<sup>22</sup> In the Thar Parkar area, because of the extensive frontier of 580 miles with the native adjoining states, cattle lifters were active on both sides. This presented to the police every obstacle and difficulty in recovering the property and apprehending the criminals.<sup>23</sup>

### 3. The Mechanics of Theft and Recovery

The modus operandi employed to recover stolen cattle, was simple yet most effective, involving little risk because of the preference of cattle owners to resort to private settlement and pay *bhunga* “rather than evoke the aid of the law and have the trouble of attending tiresome court proceedings fixed very often at long distances from their homes.” The owner, being aware that a report to the

police would result in the loss of his cattle, took the line of least resistance and paid *bhunga*, thereby issuing the safe return of his animals. A settlement was arrived at through one or more intermediaries who operated secretly. The first contacted the owner and arranged the amount of *bhunga* to be paid. The *bhunga* was collected later by this man or another, who told the owner that he would be informed in due course where his cattle would be found. After a few days the owner was contacted by yet another man, who told him that his cattle would be found in a particular pound or forest, invariably some distance away.<sup>24</sup>

The owner on proceeding to the pound named found his cattle impounded under Cattle Trespass Act and was informed by the pound *munshi* (clerk) that his cattle were found grazing in the field of a nearby zamindar, who had them impounded for trespassing on his land. There the matter ended, “after insult to injury,” and he was asked to pay the fine imposed by law for the release of impounded cattle. If the *munshi*, however, was a sleeping partner in the cattle business he would not fail to tell the owner, in confidence of course, that his cattle had done a deal of damage and that the *zamindar*, who was furious was talking about putting in a claim for damage as soon as he found out who the owner was. This technique served a dual purpose. It hastened the departure of the owner, particularly if he was a *bania* (Hindu money lender) and “also kept his mouth shut.” On the other hand, if the *bhunga* was not paid, the stolen cattle were removed at night to a more distant district, where they were sold to *kasais* (butchers).<sup>25</sup>

Eates specified that 60% if not more, of cattle thefts were not reported to the police. On a case being reported, generally after the failure of private settlement, it could be many days or weeks old, with little hope of detection. The extent and intricacies of the problem can be gauged from the fact that everyone, including the police knew how the *katkoo* made most of his money.<sup>26</sup>

Cox threw some light on the role of the police in this complex socio economic malaise: if the owner could not come to reasonable terms with the *katkoo*, he then applied to the police. Perhaps, a head constable would confront the owner with the *katkoo*, and “arranges terms acceptable to both, a little gratification for himself forming part of the bargain.” However, if the constable was a clever man, and desirous of promotion, he injected pressure in some way or other on the agent, and got him to produce the thief. Some evidence capable of convincing the thief was produced one way or another. In the rare case that a thief was convicted, the sentence had a very low deterrent effect in the area.<sup>27</sup>

#### 4. Measures to Control Cattle Theft

Invariably, the measures initiated by the police were repressive in nature. A convenient mode of tackling the problem was to initiate police surveillance on

certain tribes. In 1868, while on tour, the acting Superintendent of Police of Hyderabad arranged, with the assistance of the Divisional Magistrates, for placing numbers of bad characters, belonging to the Khushk, Chandio, Zynpuri, and Bhand tribes under proper police surveillance. Once approved for surveillance by the magistracy, they had to live at certain fixed spots close to the police and where their movements could be watched. Naturally, such a convenient but repressive method would produce beneficial results. One easy measure which Colonel Phayre initiated immediately was to collect scattered Belooch families under responsible *zamindars*, and not to allow any isolated squatlings. Later, he planned to draw up and enforce rules and orders for the *mukhtiakars* (revenue officer), *zamindars*, and police as soon as possible.<sup>28</sup>

Crawford, the acting SP Hyderabad, in 1869, admitted that there were many cases of cattle theft where the police made arrests on very insufficient grounds. The approach of the police was, invariably to “catch somebody, rightly or wrongly,” or apprehend half a dozen, when perhaps only one of the prisoners had knowledge of the theft. The police projected the strategy that cattle theft could only be reduced with a strong hand, and very severe punishment.<sup>29</sup>

In 1869 there were, in the Shikarpur District, 517 cases of cattle lifting, while in 1870, 425 and in 1871, only 281. The Superintendent of Police (SP) of the Shikarpur district had prohibited the alleged cattle lifting tribes from residing in isolated hamlets where the police could exercise no surveillance over them. The SP Shikarpur also enrolled some influential members of those tribes in the police. The District Superintendent of Police in Karachi thought that proper supervision in the shape of roll calls and bringing to book the zamindars, which encouraged cattle lifting, would doubtless result in a decrease of the crime.

Prior to his posting at Hyderabad, Simpson spent a few years at Shikarpur. He was in favour of taking security for good behaviour from the head of the cattle lifting tribes, which would immediately control the crime. Like most police officers, he found the greatest difficulty “in being able to have security taken by the magistrates from ordinary bad characters,” but he blamed the rules laid down by the Criminal Procedure Code and not the magistrates.<sup>30</sup>

### III. Socio-Economic and Socio-Political Factors Complicating the Situation

#### 1. Rule by Collaboration and the *Jaghir* Settlement

Having conquered Sindh, in February and March 1843, a formal Durbar was held by Sir Charles Napier on 24 May 1844. The announcement made was that no *jagirdar* (owner of ancestral land) was to be absent from this great meeting

or he would lose his *jagir* (ancestral land).” The intention of the proclamation and of the *jagir* policy in Sindh was to secure the loyalty of the Baluch chieftains for the British regime by giving them a hereditary title, while at the same time depriving the government of as little revenue as possible. In 1856, B. H. Ellis, the Commissioner for Alienations, initiated a flexible system of selection in the proposed *Jagir* Settlement “to weed out insignificant men” and “retain those of political and social importance” so as to induce them “to take a permanent interest in the stability of the British Government.”<sup>31</sup>

The category of the first class of *jagir* holders was the most privileged and, politically, the most important: almost all of them were from tribes on the borders of Sindh who were never totally subjugated by the Talpurs. A very large area proposed for alienation to the *jagirdars* was in possession of wadero Gaibi Khan, chief of the Chandia Tribe. The colonial strategy of inducting collaborators necessitated a secure and strong position to the Chandias. This was done, by promising their chief hereditary possession of his estates, in exchange for “the fidelity and good conduct of himself and his tribe.” Some of the other tribal sardars granted benefits were the Numerias, the Jokhias and the Kurmati tribe whose entire *jagirs* were re-granted, the chief of Jats, Malik Jehan Khan, and others like Kurram and Emam Bux Marri.

By 1862, the settlement was completed and the equation with the collaborator class was thereby begun. The final list of *jagirdars* that evolved was an example of astute political discrimination.<sup>32</sup> One important reason for the lack of control of crime in general, and especially cattle theft in particular, lay in the mode of colonial government, that is administration of the countryside via collaborating landlords, a theme that is very comprehensively projected, in the context of 19<sup>th</sup> and 20<sup>th</sup> century Sindh, by both David Cheesman and Dr Sarah Ansari. In view of the fact that these waderos were the defacto policemen and decision making in villages depended on their vested interests and priorities, the socio – political balance depended on the *Jaghir* Settlement initiated immediately after the conquest.

## 2. Policing Rural Sindh via the Collaborating Waderos

*Waderos*, along with the *jagirdars* (owners of ancestral lands), ruled rural Sindh. Collaboration with them, triggered by the *jaghir* settlement, was crucial if any government was to succeed. The British acknowledged this and the Government of Bombay declared in 1893 that they were “the medium through which the administration of the province” was carried on in the rural areas and that they were “the interpreters between the government and the general body of the population.” By the end of the nineteenth century, waderos were well

integrated into the local administration and government without them was almost ineffective.<sup>33</sup>

During the mid and late nineteenth century, and even later, small land holders had to keep in the good books of the *waderos*. For *haris* and smallholders, *waderos* were the real power in the land. As observed by David Cheesman, the British authority was remote. It was often physically remote; the nearest P.S. might be several miles away. A man seeking justice there would have to make a long journey on poor roads, tiring himself and wasting time. Instead, "he was more likely to turn to his wadero." Many examples indicated, as mentioned below, that the *hari* had more faith in the *wadero* rather than the police network and that the *wadero* was operating as the defacto police officer.

In 1884, the Collector of Hyderabad had reported that two Sayid's who were responsible for much of the crime around Matiari should be asked to resign from the Municipal Board. The Commissioner, however, pointed out that it would be impossible to enforce the demand if they refused. Instead, he stripped them of their Government honours. This was the strongest action he could contemplate. In 1897, Mayhew had also resorted to a similar tactic to neutralise the challenge posed by the landlords of Kambar. He had advised his subordinates not to accept any hospitality from criminally inclined *zamindars*.<sup>34</sup>

In Tando Allahyar, adjacent to Hyderabad in Lower Sindh, on the night of 29 December 1889, a gang of dacoits broke into the houses of 2 wealthy men and injured six persons, near Tando Allahyar. The landlord Allah Bux hearing of the robbery, proceeded at once with about thirty armed men. Because the villagers were frightened, he took control of the situation and sent men in different directions to warn the neighbourhood, and he made arrangements for the care of the wounded. One of the *jagirdars*, Fateh Khokhar, responded to his call and brought some of his followers to the village. They succeeded in capturing several of them. All this happened before the police put in an appearance. The entire operation was initiated and organised by the *wadero* and the *jagirdar*. The police, who came quite late, had to rely completely on evidence gathered by Allah Bux. The police picked up the prisoners, incorporated what had happened and thereby confined themselves to a clerical role only. The fact was that wadero Allah Bux had produced a large body of armed men, at a short notice, at odd hours of the night, and had apprehended some violent criminals. This indicated the defacto power of the *waderos*.<sup>35</sup>

A *wadero's* word, especially if he was unscrupulous, was sufficient to bring a man to Court. In 1891, in Shikarpur district, one Ghulam Mangrio claimed that he had been seized by the police who, instead of taking him to the police station,

brought him to the *otaq* of Sayid Murid Shah, a local *jagirdar*. The latter tortured him until he agreed to pay Rs. 200 for his release. Col. Mayhew, the Collector of Shikarpur, initiated an enquiry, but it could not proceed because the witnesses were apprehensive of the *Sayid* to give evidence against him. In his frustration, Mayhew declared that “the police were the servants of this troublesome *jagirdar* and disturber of the public peace.”<sup>36</sup>

In 1893, in Larkana district, Budho, a hari, found his brother, Nawaz, critically injured after being struck during a quarrel. Budho went to the village of Tharo Khan and narrated the incident to the *wadero*. Next, Budho went on to Larkana and informed the police. By this time, the *wadero* had already looked into the circumstances behind it. Had it been a simple case of assault rather than murder, probably the *wadero* would have finalised the matter without informing the police.<sup>37</sup>

In 1896, in the Upper Sindh Frontier District, a boy named Safar became the victim of an unnatural offence. He recognised the accused and his family made a complaint to *wadero* Tajo Khan, who ordered his men to bring out all the villagers for an identity parade. Safar, latter, identified one Piru as the accused. Tajo Khan then despatched men to investigate the scene of the crime, which confirmed Safar's story. Piru's tracks were also identified. Tajo Khan therefore instructed the boy's family to report to the police. Unfortunately, Tajo Khan later changed his mind and informed H. C. Mules, Deputy Commissioner of Upper Sindh Frontier, that the actual culprit was Piru's brother, Ditto. Mules believed this and ordered the police to drop the case against Piru. When the police objected, Mules overruled their protests. He emphasised that Tajo Khan was “an old and reliable *zamindar* of the highest respectability,” who had no motive for shielding one brother at the expense of the other. He categorised the police version as a futile effort to undermine Tajo Khan's good faith. The case was sent before a council of elders which convicted Ditto.<sup>38</sup>

In 1897, Mayhew, the Collector of Shikarpur complained that the *waderos* of taluka Kambar were “the instigators of thefts and harbourers of thieves and scoundrels of every sort and description.” He also alleged that the police were at the beck and call of the notables and “the masses feared the *wadero* more than the government.” The background was that while Mayhew had been in camp at Kambar, four of his clerks had been robbed and a *bania* had been attacked and robbed within sight of the camp. Mayhew believed that these crimes were organized by the *waderos* to emphasise that the government was helpless and to indicate that they could do whatever they pleased without fear of detection or chastisement.<sup>39</sup>

### 3. Some Generalisations

From the above it appears that as far as the rural countryside of Sindh was concerned, the police did not have a significant role in law enforcement. If a crime was reported to the zamindar, he investigated it, discovered a suspect and organized the detective work. The police arrived at the final stage to initiate the paper work. One possible conclusion that can be arrived at is that in the 1890's in colonial Sindh, the priority for peasants and small landholders was to develop and maintain a good working equation with the *jagirdar* and the *zamindar* rather than with the area police. A man whom a *wadero* wished to shield was safe from justice, "while *wadero's* themselves could be virtually above the law." Because the police relied on the *waderos* help in order to find criminals, there was not much "they could do if the *wadero* was himself implicated." Giving evidence against the local notables or their minions was the surest way of inviting trouble. Therefore people were reluctant to help the police against the *waderos*. In the absence of support of the *waderos*, government appeared to be substantially weak if not totally ineffective.<sup>40</sup>

### 4. Conclusions

#### **Crime Control was Never a Priority with the Colonial Government**

From the colonial point of view, the *Jagir* Settlement was necessary for inducting collaborators. In the late nineteenth century, rural indebtedness grew steadily and alarmed the British who initiated measures to protect the big *waderos*. Nothing was done to help the poor *hari* who remained perpetually in debt and at the mercy of the *wadero*. Because of a crippling debt, and a lavish style of living, some *waderos* turned to cattle lifting to supplement their incomes and utilised the *haris* as the instrument of this trade.

Since *waderos* were essential for colonial rule, the police and the district officers could do nothing to prevent such activities. Moreover, the countryside was virtually being administered by the *waderos*. Whatever was reported to the police, etc., was at the discretion of the *wadero*. The situation was further aggravated by the codification of law and procedures inducted in the administration of justice. Respectable citizens, and others too, shunned the system because it did not appreciate and incorporate the local socio economic and cultural milieu in its framework of procedures and operations. This directly incapacitated the police. The combined effect of such factors was that, as far as control over cattle theft was concerned, the colonial police in the day to day operations in the countryside was virtually helpless and whatever success it had in the prevention of crime was either due to the repressive content of the law or to the cooperation of the *wadero*.

#### IV. The Wadero – Hari Situation, the Bania and Rural Indebtedness

##### 1. The Rural Power Structure: waderos and haris; the exploitation of the poverty stricken *hari*

Power in the rural areas of Sindh was exercised by the Muslim *jagirdars*, *waderos* or by Hindu *banias* and “the great estates were the roots of the rural power structure.” Land was given over to *haris* (peasants) for cultivation, but the *waderos* could throw him off as and when he pleased and so they were totally dependent on him. Most *haris* did not have the money to acquire items like seed, manure, tools, cattle, etc. Invariably, the *zamindar* loaned him the money which had to be paid back over several years, or paid on leaving the *zamindar's* employ. *Haris* paid the rent at harvest time while the *zamindar* was invariably responsible for paying the government assessment.

Usually the *hari* did not receive his actual share at *batai* (distribution of the crop), because it was reduced by debts and by various deductions made by the *zamindar*, including those for entertaining and bribing government officials, etc. According to Captain Preedy, the Collector of Karachi, in 1847, the *hari's* debt, along with the other deductions made by the *zamindar*, was more than enough to swallow up his share of the grain. In such a predicament, the *hari* required a further loan, both to settle his account and for subsistence, thereby leading to further enhancement of his debt. At the start of the next cultivating season, the *hari* again had to borrow seed and so his debt swelled yet more.<sup>41</sup>

Colonial administrators were quite hesitant to disturb the relations between *zamindars* and *haris* and “viewed rural society through the waderos' eyes.” Therefore the *haris* had no option but to submit to the terms imposed by *zamindars*. As expressed by Cheesman, the local administration depended on the collaboration of *waderos* and so it was essential that the rural power structure should be preserved, with them at the top.

##### 2. The Waderos, the Bania and Rural Indebtedness

The British conquest of Sindh detached Hindus from their dependence on the Baluch *Sardars* and thereby came under the patronage of the British. In the second half of the century, however, British officials reported that many *waderos* were seriously in debt to Hindu *banias*. Around the 1870's Burton assessed the socio economic conditions in Sindh and expressed that “the principal want” was legal and official protection for the Moslem *Ryot* against the Hindu *Sahukar* (money lender), who, “in South African phrase, threatens to eat him up.” This was also confirmed by the Commissioner in Sindh in 1876. In a report, he emphasised that subsequent to the introduction of the Civil Code in

1864, the people foolishly recommenced borrowing from the local bania, until the latter had them completely in their power, and scarcely a *zamindar* in the whole district was, as 1876, free from debt, while many had been sold up and irretrievably ruined.<sup>42</sup>

*Banias* took every opportunity to “exploit the simplicity of their clients, levying interest at excessive rates and mixing together interest and principal.” Towards the late nineteenth century, the burden of rural debt grew exceptionally heavy. By the last decade of the nineteenth century, government opinion all over India became conscious of “the social and political dangers which unrelieved indebtedness could engender.” The British apprehended that the land holdings of the *waderos* could pass to their creditors.

From the point of view of maintaining the existing rule via collaboration, the problem was that “*banias* could not replace *waderos* as the leaders of rural society because, being Hindus, they could not command the respect of the predominantly Muslim agriculturists. Moreover, as a generalisation, Hindus formed only about 22 to 23 % of the overall population of Sindh and were, invariably concentrated in the district headquarter towns, the sub divisional head quarters, or sometimes at the *thesil* or taluka level and it was extremely rare to find them in isolated villages. Rural Sindh was dominated by Muslims. Government therefore took steps to protect the landed magnates of Sindh and preserve the traditional social hierarchy.

Small holders were as seriously affected by indebtedness but, until 1901, it was only the *waderos* who received help from government.<sup>43</sup> The significance of this situation was that in order to maintain their status as a wadero, and even otherwise, there gradually developed an inclination, whether by necessity or greed, to resort to extra legal means in retaining, maintaining and strengthening their power through extra legal means. If such was the design and modus operandi of a criminally inclined wadero, it was not difficult for him to find willing tools for operational purposes. And these were the *haris* who were utilised exploited for crime, especially cattle theft, since this was not only easy to perpetrate but also difficult to detect.

## V. Induction of an Alien Law, Legal Procedures, Criminal Justice, and the Perception of the Waderos

Side by side with the Jaghir Settlement and its inevitable result, that is, rule via collaboration, the ascendancy of the collaborating wadero, and later his involvement in indebtedness, another significant factor that slowly, but substantially contributed its impact to the gradually evolving amalgam of confusion, distrust and negativity, was the induction of legal procedures, the

administration of criminal justice and the induction of an alien law. This anomalous situation had the potential of destabilising rural society because the new enactments negated the past-established mode of deciding disputes pertaining to civil and criminal issues.

## **1. Administration of Criminal Justice and its Impact**

From the beginning, in Sindh, as in the rest of colonial India, the administration of criminal justice was entrusted to a very small number of English magistrates. The system of criminal justice was designed to enable a few hundred civilians to govern a continent, hence it inevitably, had its shortcomings.<sup>44</sup> The first Law Commission was appointed in India in 1834 and the first Law Member, T. B. Macaulay, believed that India's salvation lay in her wholesale anglicization. No Indians were employed as Commissioners, and the law of England was used as a basis. Similarly, the Indian section of the community had no hand in the making of the Indian Penal Code of 1860. Under the High Court Act, a High Court was established in India in 1862. A scheme of pleading and procedure came into force on January 1 1862. The consequence of this was that lawyers and criminals were encouraged to maintain their innocence even when all knew that they were guilty. The law of evidence had been introduced, and gradually the business of producing witnesses became, "a contest, a trial of strength and cunning between the police and the friends of the accused, with little reference to actual happenings." In another context, Morris and Read highlight certain aspects of British oriented justice in the African environment. They cite the Bushe Commission and what it said in the African context was equally applicable to India:

No machinery, however perfect it may be in itself, can perform its primary function of meting out justice to the people unless it takes justice to the people, and administrators despatch it with independence, with certainty, and with skill.

This was a major problem in the Sindh context. Justice was neither taken to the people nor was there any certainty.

## **2. Difficulty in Procuring Evidence**

The villagers, in the 1890's in Sindh, were ready enough to complain in general terms of a gang, but most reluctant to substantiate their statements in a magistrate's court. Cox felt that perhaps the reluctance was not unnatural: "the witnesses would in the first place be taken hither and thither by the police to attend searches in which their property might be found." Later they would be summoned before the magistrate to give evidence, and subsequently before the

Sessions Court, “where they would be badgered and brow beaten by counsel for the defence.” Such a process involved “the greatest possible inconvenience and loss of time and money,” as well as the knowledge that the probable result would be the acquittal of the accused.<sup>47</sup>

Referring to his experience in Sindh, Cox said that he knew natives who were robbed, but flatly denied it, just to save themselves the trouble involved in pressing the case.<sup>48</sup> Another reason for avoiding a court visit was that the complainant or witness did not want to risk incurring the enmity of the relations and friends of the person against whom he gave evidence.<sup>49</sup>

### 3. The Impact of Alien Law and Legal Procedures

On 14 December 1843, Keith Young, the Judge Advocate General, had observed that it was seldom that an offender denied his guilt, adding further that there wasn't one case of murder where the really guilty had not confessed.<sup>50</sup> When Marston, the chief of Karachi police went out for a duck shoot with his friends to the Hub area, two *Baluchis* had aimed their weapons at him with the intention of killing him. When arrested, they did not deny their intentions, in fact, they “brazenly confessed they meant to shoot all the three officers.” Later, they were brought to Karachi and “hanged before a full parade.” According to Charles Marston, no further incident of this sort occurred after this.<sup>51</sup>

The situation, however, was different in 1847, that is, after about four years of colonial rule. Lieutenant James observed that “the *Scindies*, accustomed now to our courts, almost invariably plead not guilty, and summon a host of witnesses for their defence; whereas formerly they seldom denied their guilt.” This had serious implications for policing. In the same context, James had realised that the *zamindars* of Larkana were “daily becoming more averse to interference,” the prevention of crime would therefore solely depend upon the police and other government servants.” He analysed the situation and found that the *zamindars* avoided investigations because it meant becoming a witness in the case and being repeatedly summoned, thereby causing a loss. Secondly, the *zamindars* were not treated well when engaged in the pursuit of thieves and others.<sup>52</sup>

Captain Preedy, the first Magistrate of Karachi, arrived at a similar conclusion and added that the peasants intensely disliked the trouble of attending the courts of justice, that many of them preferred suffering the loss of their property to complaining to the *kardars* or to the police. Keith Young opined that the “fear of being summoned from their homes to give evidence at the trial of thieves and others, renders the people generally unwilling to interfere in any way in police

matters.” The seriousness of the trend had direct implications for the control of crime and in 1868 it was emphasised that police experienced the greatest difficulty in “getting the respectable persons to come forward and give evidence as to the character and habits of men” who were notorious thieves. The District SP Hyderabad stated bluntly that without the evidence of such respectable persons the police could do nothing.<sup>53</sup>

The main factor was that an alien law and procedures had been transplanted on a foreign soil. The social environment of Sindh in the second half of the nineteenth century was not the proper receptacle for experimentation on legal niceties which presumed a certain background and stage of development for the routine functioning of the system. Sir Richard Burton, who was very familiar with the local conditions of Sindh, rightly observed that the requirement was to “revive the *Panchayat*, or native jury of five,” adding further that “labour [should be used] to bring out the capabilities of your subject races, not to Anglicise them.”<sup>54</sup>

John Jacob, the Political Superintendent of the Upper Sindh Frontier, knowing the psychology of the Sindhi and Baluchi and of the other tribes of Sindh was not wrong when he insisted that he would “have no Courts - martial or Articles of War.” He did not want any lawyers among his men. No court martial was ever held in the Scinde Horse. In fact, the functions of a Court Martial were discharged by a “*panchayat*, (council of five)” the senior Indian officer being president and four other members. The proceedings were conducted after their own customs and the sentences required the confirmation of the Commandant before they could be carried into effect.<sup>55</sup>

Most British police officers realised the incongruity of the situation. Around 1920, in a letter to his parents, Curry, who by then had several years of policing experience of Sindh, mentioned that he often felt that the English legal system “was not wholly suited to the requirements of the Sindhi people” and due to this the duties of a police officer became “both complicated and difficult.”<sup>56</sup>

#### 4. The Insufficiency of an Alien Law

An offence committed by any member of a particular tribe could not be detected without the aid and cooperation or the headman. *Jagirdars* and *zamindars* were traditionally helpful to the police, but at times, certain societal peculiarities negated this trend. If, for example, the *zamindar* was a Sindhi and his cultivators were Beloochees, there was no possibility of enforcing the submission of the Beloochee tenants to the authority of the *zamindar* in the matter of reporting offence to him.<sup>57</sup>

The Baluchis had “an intense sense of honour and a violent disposition which, coming together, were incompatible with a modern ordered society.” In 1901, two Brohi brothers killed a man from the Mochi tribe who had “cut off a plait of their niece's hair: insults connected with the hair being considered particularly gross.”<sup>58</sup> A *Jirga* tried the case and observed that the accused “had no choice but to avenge the insult” unless they wished to be held up to “universal scorn and execration by all their fellow tribesmen.” Similarly, Dhani Bux Dombki “tried to avoid killing his wife, Baiti, in punishment for her infidelity, but he was eventually driven to it by the taunts of his neighbours.”

## 5. Legal Procedures and the Waderos' Inhibitions

Those *waderos*, although well disposed towards the government, sometimes found that, despite the rewards, “help with law enforcement could have its drawbacks.” Once a criminal had been arrested, the matter had to go to a Court, where *izzat* counted for nothing. A *wadero* was treated like any other witness and was liable to suffer the indignity of cross examination by a Hindu lawyer.<sup>59</sup>

During the initial twenty years of British rule, justice was administered by district officers who had wide ranging discretionary powers. Since they knew the *waderos*, they could give more weight to their testimony. The system “suited both the *waderos* and the officials.”<sup>60</sup>

In 1866, the Bombay Code was introduced in Sindh and properly constituted courts were set up. District officers continued to exercise magisterial powers for minor offences, but prisoners could appeal against sentences to superior courts. Judges did not have the same powers of discretion as district officers and “were accustomed to respect established court procedures, to adhere to the laws of evidence and, particularly, to presume the innocence of the accused.” This “attitude was incompatible with that of the *waderos*, who felt their prestige could not bear the dishonour of having their word questioned in public.”<sup>61</sup>

## VI. The Colonial Reaction to an Enigmatic Situation

### 1. Efforts at Subjecting Justice to Administrative Requirements

Sindh officials “chaffed under [the] restraints” of the introduced Bombay Code. Complaints were made that judges were ignorant of the local conditions. In 1870, Commissioner Merewether actually reprimanded R. H. Pinhey, his Judicial Commissioner, for reducing sentences passed on cattle lifters by magistrates, which had come to him on appeal. He reminded Pinhey that the magistrates were district officers who, with their contacts among the people,

“were the best judges of what punishments were appropriate” and further added that local experience was “the only safe guide, applied, of course, within the limits assigned by law.”<sup>62</sup>

## 2. The Judiciary Versus the District Officers

Tension between judges and administrators continued and in 1888, the Sessions Judge of Shikarpur was transferred to Bombay as a result of pressure from the Collector of Shikarpur and other officers. The new Judge, according to the district officers, was no better because “he tried to keep Sindh sentences in line with those of the rest of the Presidency, reducing many of the sentences imposed by district officers, and on occasions setting aside convictions.” He was of the opinion “that the Sindh policy towards cattle lifting, in particular, was too severe,” but the Collector of Shikarpur and the Deputy Commissioner of Upper Sindh Frontier both complained that “the administration of justice had become impossible if such leniency persisted.” The Judicial Commissioner in Sindh supported the district officers on the basis that “cattle stealing was more prevalent in Sindh than elsewhere in the Presidency and so sterner measures were required to suppress it.” Dr. David Cheesman felt that the basis of the above arguments was the “district officers’ anxiety to preserve their working relationship with the *waderos*,” because in 1870 Merewether had alleged that “interfering in a magistrate's sentence reduced him in the eyes of the people and made him less effective as an administrator.”<sup>63</sup>

## 3. Assertion That Waderos Reluctant To Help Police Because of Legalistic Attitude of Judges

District Officers had very often asserted that, in consequence of the legalistic attitudes of judges, *waderos* were becoming reluctant to help the police. The complaints were much more towards the end of the century. In 1904, the Collector of Larkana stated that the *waderos* felt apprehensive of helping the police in catching thieves because they were “disgraced in the eyes of the people and made the laughing stock of all the *badmashes* in the country.” Moreover, their word was disbelieved by the court at the instance of a petty Bania vakil. The Collector of Larkana was also of the view that the problem could be solved via induction of the Frontier Regulations in his district because this would enable him “to commit cases where the evidence was circumstantial or uncorroborated to a *jirga*, (Council of Elders) instead of a court.” *Jirga* members could ascertain the details of a case through their contacts and experience as tribal leaders, in a manner that was not possible in a regular court.<sup>64</sup> Such a demand was initiated by various Sindh officers at different

stages. The colonial government, however, was only prepared to “tolerate such a compromise with legal principles in frontier regions where tribal customs hindered the normal administration of justice.” In other areas “the solid panoply of law courts had to be maintained.”<sup>65</sup>

## **VII. The Cattle Theft Problem from About 1900 to About 1926**

### **1. The Situation 1900 To 1920; the Findings and Efforts of John Court Curry**

On taking over as Assistant Superintendent of Police (ASP) Hyderabad in 1911, John Court Curry of the Indian Police cadre realised the glaring failure of the police to arrest a considerable number of the cattle thieves and other criminals, against whom they had evidence. Curry was shocked to learn that Janu Machi, a notorious cattle thief, was said to be under the protection of the Mounted Police Head Constable of the Outpost at Tagar, within whose jurisdiction Janu Machi lived. However, the position was that sometimes the police employed known bad characters to help them to trace other bad characters when required in the course of police investigations. If a police officer found a man useful in this way he might become favourable disposed to him, “even going so far as to protect him from arrest when under suspicion of committing a crime himself.”

Curry came to the conclusion that cattle theft was not only “a great economic misfortune but a great social evil.” The big landlords or zamindars and the chiefs of tribes, had immense power and influence over the men of their tribe or village or the people who cultivated their land. They secured themselves “against other men's proteges by protecting notorious cattle thieves and by employing them to recover any animals stolen from them or their people.” These proteges received stolen cattle from considerable distances and when the owners succeeded in tracing them would often return them on payment of a considerable part of their value as ransom.<sup>66</sup>

This appeared to Curry to be a complex problem and it was difficult to see how the evil system could be eradicated. One method was to “apply the measures allowed by law as firmly and consistently as possible.” Unlike many other police officers, he realised that the system of requiring known receivers to give security to be of good behaviour clearly had a very limited effect. Some other techniques were to seize cattle found in their possession as suspected stolen property and to arrange for police patrols to look out for animals being taken in their direction under suspicious circumstances.

The social conditions of the people were seriously affected by the extraordinary intricacy of the traditional customs connected with cattle theft and the recovery of stolen cattle. Writing about the first two decades of the 20<sup>th</sup> century, John Court Curry mentioned that the losses caused by cattle theft had had such a serious effect on the economic life of the country that the Commissioner in Sindh had issued orders “that the whole subject should receive close attention from all sub-divisional magistrates and senior police officers.”<sup>67</sup> In view of the seriousness of the problem, by 1910 – 11, a special force of fifty men, with headquarters at Hyderabad, known as the Riverain Police, had been initiated, on an experimental basis, for patrolling both banks of the river with a view to suppressing this form of crime.

When Curry took charge of ASP Riverain Police, he realised that warrants of arrests against about 50 of the Khosas were pending. They had in many cases used violence against people who had attempted to interfere when they were driving off their cattle. Earlier, one Dural Khan Khoso, a nephew of a tribal chief had been appointed in the Sindh Police. A party was formed under the command of Sub Inspector Ghulam Hussain Shah with Dural Khan and Ismail Shah as his assistants and in about three months they arrested all the wanted Khosas. This had a good effect on the general situation.

Curry analysed the complexities of cattle theft and realised that gangs of half a dozen men would go by rail to a point 100 miles or more upstream from their homes and, watching their opportunity, they would drive a herd of buffaloes into the river at night. They would cover about thirty miles during a night, hide themselves and the buffaloes in the thick jungles and forests on the river banks by day, repeating the process until they arrived at a suitable hiding place near their homes. This became an enormously profitable form of crime for the thieves as a good buffalo was worth 5 or 6 months income to an ordinary peasant or herdsman.”<sup>68</sup>

Another tactic used by Curry was to arrange for the animals in the possession of a notorious cattle thief who lived on the edge of one of the riverain forests to be seized on suspicion. A herd of buffaloes, a few cattle and half a dozen camels were seized and taken to the cattle pound. The local police were then sent out to inform villagers for several miles around about this seizure. About 100 men came to look at these animals during the next 2 or 3 days and in a few cases they claimed that some of the camels or buffaloes had been stolen from them. In the majority of cases the owners had not reported the loss of their property to the police but had made enquiries through local receiver dealers with a view to recovering their animals by paying the customary ransom. The results, once

more, provided evidence of the serious economic and social consequences of this very unsatisfactory condition of affairs.

Curry was very keen to solve the problem of cattle theft and initiated some proposals to expand the Riverain Police, but the government was always unwilling to incur an expenditure of this kind unless a very strong case could be made for it. As an alternate strategy, he took permission to draw an advance of about Pounds Sterling 200 from the government to enable him to purchase a launch himself. Again, due to financial stringency, the proposals for the extension of the Riverain Police up and down the river were not sanctioned. Government was very frugal in incurring expenditure of this kind and there were many other calls on the meagre police budget.<sup>69</sup>

By 1914, Curry was so frustrated by not being able to control cattle thefts that on 24 January he noted in his tour diary that cattle theft was “like a game of chess” which he had been playing for 4 years and had “said check, check, all the time, but got no further.”<sup>70</sup> Before he could try any other technique, Curry was promoted to act as District SP Sukkur, a very sensitive and prestigious assignment in the Sindh Police, especially for a newly promoted IP officer. Unfortunately, the subsequent officers neither had the enthusiasm, will, the energy and dedication to take on the problem of cattle lifting in the manner that John Court Curry had tackled during his posting as ASP of Rural Hyderabad and next as ASP Riverain Hyderabad.

## **2. The Origin and Background of the Committee Initiated to Inquire Into the Question of Cattle Lifting in Sindh.**

The Committee to inquire into the question of cattle lifting in Sindh was set up

As the result of correspondence which originated in a reference made in 1923 to the Judicial Commissioner of Sindh by Mr. P.E. Percival, C.I.E., I.C.S, then Sessions Judge of Hyderabad, who was deeply impressed by the prevalence of organized cattle theft in Sindh and by the failure of existing methods to check it.<sup>71</sup>

Another proximate cause of the initiation of the committee to enquire into cattle thefts “was the overcrowding of jails in Sindh, due in no small measure to the imprisonment of suspected cattle thieves under Chapter VIII, Criminal Procedure Code.” As of 13 August 1926, the population of Sindh was 3,280,000 while the jail population was 3275, that is, about 1 in 1000 was in jail in Sindh. Compare this with the population of the Presidency, which was 15,956,000 while the jail population was only 9000, or about 0.58 in 1000.<sup>72</sup> As far as jail inmates were concerned, about 1000 were Chapter VIII men each costing Rs 146 a year for a total of Rs 146,000.

On Friday January 29, 1926, P.R. Cadell, the Commissioner in Sindh, announced that the Government had appointed a Committee to inquire into the question of cattle lifting in Sindh and to recommend measures for the prevention of the practice. The Committee contained four official members and seven non official members.<sup>73</sup> The Chairman of the Committee was Mr. I. H. Taunton, Esq., of the Indian Civil Service (ICS), and the official members were Messrs. Smith, Superintendent Sindh Railways, Hardasmal Uderdinomal, former Collector and District Magistrate (DM) Nawabshah, Jagatrai Isardas, Police Prosecutor, Mirpurkhas District. The non-official members were Rao Sahib Udharam Shewakram, *zamindar* in Hyderabad district, Abdul Wahid Shah, *zamindar* in Tharparkar District, Seth Mohamed Jaffer Rhimtullah Khowja, a *zamindar* of Karachi District. On March 31, 1926, the Chairman and Members of the Cattle Theft Committee submitted<sup>74</sup> the result of their enquiries into the question of cattle lifting in Sindh in the form of a report, to the Commissioner in Sindh.

However an interesting aspect was that certain non official members of the cattle theft committee had disagreed on certain issues, aspects and recommendations of the official members. These dissenting non-official members of the Committee were Mahomed Jaffer Rahamatallah Khuwajo of Mirpur Bathoro, Khan Bahadur Jan Mahomed, Member Legislative Council, Khan Sahib Haji Ali Hassan of Hakro, Abdul Wahid Shah, Nur Mahomed Shah, Zamindar of Digri and R. S. Udharam Shewakram, zamindar of Guni.

### **3. The Situation 1920 To 1930; the Extent of Cattle Lifting in Sindh and the Findings of the Committee to Inquire Into the Crime of Cattle Lifting in Sindh.**

#### **(i) 1925-26: Extent of the Menace of Cattle Lifting in Sindh**

An idea of the extent to which cattle lifting prevailed in Sindh between the second and third decade of the twentieth century, may be gleaned from the fact that in 1925 over 1800 thefts of cattle were reported to the police, involving property worth more than Rs 230,000. In the preceding year, reported cattle thefts amounted to 2,003 cases, the value of the stolen property being Rs 216,000. However, the real situation was very different. According to a very moderate estimate some 20,000 thefts of cattle were committed every year in this Province, and live-stock worth considerably more than two million rupees was annually lost by the public.<sup>75</sup>

#### **(ii) Acute Reluctance of Victims in Reporting the Crime of Cattle Theft at Police Stations and Reasons for Such Attitudes.**

As of 1926-27, it was estimated that

Not even 10 % of the actual crime of cattle theft was reported to the Police and that as many as 90 cases out of every 100 were not reported at all. However, out of the 10 cases reported to the police, five might be true and the rest were made from revenge.<sup>76</sup>

A note of dissent from the non-official members of the Cattle Theft Inquiry Committee referred to the trouble and expense caused to the complainant or his supporters on feeding the Police with all their horses and retinue during the investigation of the crime; the difficulty and trouble to the complainant and prosecution witnesses involved in attending hearings protracted over weeks and in producing cattle at each hearing during the pendency of the trial; the little or no prospect of the complainant of getting his cattle or compensation even where the trial ended in conviction. According to these dissenting members, these factors explained very simply why the owners of stolen cattle were reluctant to report the theft to the Police, and instead were willing to get his cattle back on payment of a *bhung*.

While appearing before the Cattle Theft Committee proceedings, Mr. Stewart, the District SP Hyderabad, commented on the reason that victims of cattle theft withheld reports to the police. These people felt that there was little probability of the property being traced through the police and therefore the owners paid *bhung* to the thieves to recover from them the stolen property. He added that the custom of paying *bhung* had very much increased. On 17 February 1926, Mr. Stewart also observed that the people who lost their cattle did not report to the police because they had to incur expenditure and to wander about for attending courts.<sup>77</sup> The delay in the disposal of cases of cattle theft was quite prolonged and triggered off a lack of credibility in the machinery of the administration of criminal justice. In February 1926, the District SP Hyderabad pointed out, during the proceedings of the cattle theft committee that several cases had been dragging on since 1923. Moreover, the Sub Divisional Magistrate (SDM) had not prefixed their dates of camps and consequently the witnesses had run from one place to another. He therefore preferred that the case should be tried in the Courts of Resident Magistrates. Another reason, and Mr. Stewart was quite frank on this issue, was that reports were withheld from the police because the expenses of Police camps fell on the complainant at the scenes of investigation. In view of this situation, cattle theft had considerably increased.

## **VIII. Causes of, and Factors Aggravating, Cattle Lifting in Sindh.**

### **1. Main Causes of the Menace of Cattle Lifting in Sindh.**

Four well known aspects or conditions that gave rise to the prevalence of cattle theft were economic, geographical, social and administrative.<sup>78</sup> The most

important of these was the economic factor. The cattle theft committee observed that the majority of habitual thieves were from the *hari* class, many of whom found “a life of crime easier and more profitable than the cultivation of land” in which they had no proprietary right or security of tenure. Cattle theft was especially common in and adjoining barren and mountainous tracts where cultivation was, as of 1925, impossible, and it increased everywhere in a year of low inundation.

The second important factor was geographical. The river Indus flowed through the length of Sindh and this facilitated the disposal of stolen cattle “by enabling thieves to elude the tracker.” The thick forests on either bank of the Indus and the Khirthar range to the west were also “impervious to foot-prints” and furnished “almost inaccessible strongholds for the *patharidars*,” whose operations were further facilitated by the existence of Native States, which enclosed Sindh on all sides, and to which stolen animals could be taken for sale “with little fear of pursuit or detection.”

Regarding the social factor that aggravated the problem, this could be sub divided into five aspects. The first was the “slovenly habits” of cattle-owners who allowed their animals to graze during the day time unattended, or in the charge only of a small boy, and penned them insecurely at night. Another aspect was the laxity of public opinion which so far from abhorring the crime of cattle-lifting, regarded the successful thief “with something approaching admiration” and was reluctant to assist the police in effecting his arrest. The third factor responsible for the then situation was the combination of these two factors with the attitude of many *zamindars*, who thought that their prestige was enhanced by the influence they were able to exert upon *badmashes* (disreputable elements), and felt obliged to keep a few thieves amongst their followers for their own safety and also for the purpose of harassing a neighbour in the event of a quarrel. Two more causes combined with the above amalgam and these were the low standard of education among the poorer classes and the existence of the *patharidar*.

The crime situation, as far as cattle lifting was concerned, received a boost due to certain administrative anomalies and these, the cattle theft committee report categorized into four sub heads. The first was the paucity of police stations and out posts which made the reporting of a complaint difficult and lead the public to prefer the easier way of *bhung*. Similarly, the delay in the disposal of criminal cases played a severely negative role as by exposing crown witnesses to continued pressure from the accused or his friends often led to a failure of justice while the harassment to which complainants were subjected to by

numerous fruitless Court attendances increased their reluctance to report offences. The third aggravating influence was corruption which was “rife in the lower ranks of the police and their inefficiency and apathy in investigation.” Last, a major factor was the frequent inadequacy of sentences for cattle theft.

## 2. Other Causes which Aggravated the Situation

Apart from the corruption and incompetence of the Police, the non official members of the cattle theft committee gave a comprehensive list of ten factors that were also responsible for the increase in cattle theft. The first was the delay in the disposal of cases owing to elasticity of the Evidence Act and the Criminal Procedure Code, and also owing to Magistrates and Sub Divisional Magistrates being in most cases pre-occupied with Revenue work. Another was the misapplication of Chapter VIII in some cases against innocent men or petty thieves instead of against notorious *patharidars* and *badmashes*. The third factor responsible for the increase in cattle theft was the vast powers and support enjoyed by the subordinate police which made them “overawe even the magistracy and respectable zamindars” if they did not accommodate them. In addition to this, the inadequacy and elasticity of the provisions and procedure of Chapter VIII when applied to real *badmashes* especially in the security and appeal provisions created a negative impact on the efforts to control this crime. The fifth was the paucity of police stations and out posts making immediate lodging of a complaint difficult.<sup>79</sup>

An important factor responsible for lack of control on cattle thefts pertained to the reluctance of a police officer to accept more complaints than he could investigate especially “where he was not influenced to do so by other considerations.” As far as this aspect was concerned, the note of dissent explained that in view of the conditions inherent to cattle theft, the *taluka* (Sub Section of a Sub Division) police could hardly successfully investigate more than 10 or 12 cases per month whereas the actual number of reported and unreported offences ranged between 10 to 50 times that number. The seventh aspect that created hurdles in the control over cattle theft was the absence of any control or influence of the magistracy over the police, while the eighth was the unsatisfactory and ill paid *paggi* (foot print tracker) system. Another cause was the promotion of subordinate police officer being dependent not on his honesty and efficiency in most cases but upon the influence and good will he enjoyed with his superiors which were necessarily dependent upon his being able or otherwise to make good *rasai* (meeting expenditure incurred on the tour / camp of senior officers). The tenth and the last factor mentioned in the dissenting note was the exposure to prosecution to which a bribe giver was “subjected to the same extent as the receiver” under the prevailing law.<sup>80</sup>

### 3. Why Cattle Theft Continued to Flourish

By March 1926 many members began to ask why cattle theft had continued to flourish to such an extent. Some members of the cattle theft committee felt that “no earnest and organised effort” had been made to grapple with the problem, and whatever measures, had earlier been adopted to check the crime had only “been sporadic and half-hearted.” They had therefore proved to be inadequate and unsatisfactory, and in some cases the very measures themselves had aggravated the malady instead of eliminating it. The dissenting members in the committee thought that the immunity from punishment which the thief had enjoyed, was responsible for the increase in the crime and had been more due to administrative defects than to anything else.<sup>81</sup>

As far as the causes of cattle theft, especially its magnitude in Sindh was concerned, the Commissioner would put the social conditions, namely, the slovenly habits of cattle owners, the laxity of public opinion and the attitude of *zamindars*, as the most important factors responsible for the menace and far outweighing all the rest. He observed, and these remarks were more directed at the note of the dissenting members, that certainly more emphasis should have been laid on the habits of cattle owners, the majority of whom took no trouble whatever to safeguard their property, but apparently expected the police to do it for them. He added that “if they were as careless of their ornaments” as they were of their cows “there would be nearly as many jewels stolen” as there were cattle.

### 4. Findings of the Cattle Theft Committee. The Complex Socio Economic Context That Triggered Off Cattle Theft

The members of the cattle theft committee were clearly of the opinion that the evil of cattle theft in Sindh was in a large degree caused by economic and geographical conditions and this negated official efforts towards control of this menace. If improvement was to be initiated, the requirement was to spread of education and a sense of public duty, and also enhance culture, wealth and population, which they anticipated would follow subsequent to the planned construction of the mega – project on the Indus River at Sukkur, that is, the Lloyd Barrage. They felt that the Barrage would be followed by extensive cultivation, and the *hari* would thus be occupied during the winter months in which he was idle as of 1925-26. In the futuristic situation visualized by them, “a succession of poor inundations,” when hunger drove men to crimes, would become a thing of the past.”

## IX. Assessment of the Cattle Theft Problem: 1926 to 1946

### I. Excessive Powers With Police Under Criminal Law, Yet Crime of Cattle Theft Could Not Be Controlled.

#### i. Delegation of Excessive Police Powers in Criminal Law

Although criminal law delegated enormous powers to the police, to the extent of initiating repressive measures, it is interesting to note that cattle lifting could not be curbed despite the rigorous application of such law and powers. Briefly, we shall first indicate the powers delegated to police officers and magistrates.

There is a long list in sections 54 and 55, of the Criminal Procedure Code (Cr.P.C.), of persons whom any police officer may arrest without an order from a magistrate, and without a warrant. Even a person who has committed a non cognizable offence may be arrested, if he refuse to give his name and address, or he gives a name and address which the police believe to be false. While section 61 of the Cr. P.C. lays down that no police officer shall detain in custody a person arrested without warrant for more than twenty four hours, in actual practice in Sindh, the man was detained and the police officer refrained from making any formal arrests for as long as he could, perhaps even three or four days.<sup>82</sup>

Vagrants, and persons without obvious means of livelihood, and who could not give a satisfactory account of themselves, could be placed before a first class magistrate who would require such a person to show cause as to why he should not give security for good behaviour for a year. For hardened criminals, the provisions of the code were stricter. If anyone who had been ordered to give security was unable to do so, he went to jail instead. These sections were, however, misused by the police and Sir Edmund Cox mentioned that cases were not unknown where a landholder had a dispute with a tenant about rent, and he got the police to run him in under Chapter VIII as a *budmash*, "by way of bringing him to his senses." Another unique aspect in the law in colonial India was that a person could be proved as a habitual offender by furnishing evidence of general repute or otherwise. This could lead to a grave danger of injustice being done to innocent persons. Cox echoed the colonial view in his assertion that the intention of the law was excellent, but the way in which it was carried out was often farcical. Knowing full well that an oppressive law in the hands of a corrupt and high handed police would be misused, Cox required a reduction in the arbitrary powers of the police and an enhancement in the efficiency of the personnel.

Some criminals, though punished, were in the habit of committing the same crime again. Hence special provisions that subjected them to enhanced punishment were made in section 75 of the Indian Penal Code. When this measure failed to have a deterrent effect on them, they were dealt with under the Criminal Procedure Code. In that case a magistrate was authorised to take security of good behaviour. An accused person liable to increased punishment was tried first for the subsequent offence, and if he pleaded guilty or was convicted on that account, he was then tried for the previous conviction. Sections 30 and 348 of the Cr. P.C. stipulated that the cases in which the accused had previously been convicted were to be transferred to the Court of District Magistrate for a preliminary enquiry. Thereafter, they were to be tried by the Court of Sessions. This meant loss of time and great inconvenience and expense to the witnesses. Hence complainants and witnesses were apprehensive of such court procedures, and therefore police had difficulty in checking the activities of habitual offenders. To get over these difficulties the Government modified the existing law, first in 1873 and then in 1893 and took measures to place the habitual criminals under police surveillance. Under Section 565 of the Cr. P. C., persons convicted a second time of serious offences relating to coin and against property, were, after their release from jail, to be subjected to police supervision for a maximum period of five years.<sup>85</sup>

British police officers in India realised that by sending up persons suspected of dacoity before the magistrate to be bound over for good behaviour the district could be kept fairly quiet. Cox, understanding the socio economic situation, however, felt that the implementation of such a law had severe complications because *zamindars* would try to implicate *haris* who wanted their rightful due or were in the process of making demands which the *waderos* were not prepared to yield.<sup>86</sup> But was this the real problem? If so, then the solution was firstly, not to allow the *zamindar* to misuse the law by implicating innocent *haris* or where they had already harassed the *hari* by taking advantage of this law, to take legal action against them. Logically, the problem should have ended subsequent to such proceedings. But were such proceedings initiated on a large scale? The answer is no! In fact, very few *waderos* were ever taken to task for their misuse of the law or the police. The reason for this would be obvious when we realise that rural Sindh was being administered by the colonial power via the collaborators, the *waderos* and the *jagirdars*. This would be discussed later.

## ii. The Feelings of the District Officers

Unfortunately, instead of analysing the complex nature of the problem and the inept handling of the case by corrupt investigating officers of the police department, the standard technique of the District Officers was to attribute police failure to the prevalence to the light sentences in vogue. In addition, the police view was that the frequent convictions upset on appeal were also a factor in the failure to curb this crime. Simpson, a seasoned officer, wrote in his report that cattle lifting was such an alluring crime in the Sindh that it could only be reduced “with a strong hand and nothing but very severe punishment have any effect.” He added that the cattle lifter had a “glorious time of it, and was well aware of the fact.”<sup>87</sup>

## iii. Police Inefficiency and Involvement

According to Colonel Phayre, “a *Jamedar* (Head Constable) of the Shikarpur Police, named Kubool Khan,” was said to be the chief manager of the trade in stolen camels around the borders of Thar, near Meerpur Mathello. The technique was that camels stolen in the districts on the right bank of the Indus were crossed to the left, at the ferries of Kashmore, Gehilpur, Khaee, Gobla, Bunnur, Dhuree and others. Phayre believed that the police force was “far too weak” for the area of responsibility, and was aware that some of them were “confederate with the *zamindars*,” and had failed its duty. Due to this petty thefts had been condoned, bribes taken, and in one instance a complainant was wrongfully imprisoned, and only released on paying a certain sum. The District Magistrate, Shikarpur, however, isolated the correct reason for the enigmatic situation. He emphasised that “cattle disappear right and left”

and that flocks of goat were “carried off and never traced.” He admitted that the police were too fond of telling the owners to go and search for their cattle themselves and if a trace be found to return when assistance would be given and offer the sufferer a stray cattle receipt.<sup>88</sup>

Stealing cattle from one another was also resorted to by various zamindars out of enmity, and these men kept professional thieves in their employ. Although most of the cattle thieves were known to the police, there was not much that they could do about it. Colonel Simpson ascribed police ineffectiveness “to the state of the law” due to which they were “quite unable to deal with them.” Moreover, convictions for theft were seldom obtained because thieves were “rarely caught red handed,” and it was

“next to useless to proceed against them under Chapter 8 of the Criminal Procedure Code,” as evidence was unprocurable in a population who were “all engaged in the same game.”

#### iv. **The Negative Results Due to Complex Judicial Procedures.**

In connection with the difficulties in detecting cattle thefts, the Superintendent of Police of the Upper Sindh Frontier emphasised that when the owners had, with the assistance of the police, recovered the missing cattle, they often compromised the matter with the thieves and declined to recognise the animals, knowing that they would be restored to them after the police went away. He also lamented that thus many stolen animals recovered by the police for which they got no credit and many criminals whom the police had found in possession of stolen cattle eluded justice. Police officers attributed the low percentage of convictions to collusion between the complainants and the prisoner's friends whilst the case was awaiting trial.<sup>89</sup>

Simpson however realised that for every case then brought to notice, many were compromised. Apart from being looked upon as good a trade as any other, the main problem, according to him, was that the victim “would sooner by paying a small sum” to recover his animals, rather than be put to the trouble of reporting his loss, have it investigated by the police, than be taken before a Magistrate, perhaps having to travel many miles to give evidence before the Sessions, and thus be kept from his home for many weeks, “all for a result which he might have attained at a very small sacrifice.”<sup>90</sup> Here Simpson had analysed the problem in the correct perspective.

## 2. **Police Corruption and Its Impact on Cattle Lifting**

### i. **Corruption in the Police Posted in the Interior of Sindh**

An idea of the extent of police corruption that pervaded the Sindh environment in the first four decades of the 20<sup>th</sup> century can be assessed from the debates and discussions during the March 1932 session of the Bombay Legislative Assembly. Apart from discussing the very serious situation in the towns of Karachi and Hyderabad, Member of the Legislative Assembly, Haji Mir Mahomed Baloch<sup>91</sup> also threw light on the pathetic situation in the interior of Sindh. According to him, in all Districts there were *patharies* and thefts of cattle and of properties were committed through these *patharies*. He asserted that this had been proved before the

government earlier also. Police were involved with these patharidars. As and when complaints were made to the police they went out to make enquiries and then they settled down in the village. Police demanded *rasai* from the *zamindar* of the village who had to provide fowls, eggs, fodder etc., for them. After three or four days, the poor *zamindar* spent Rs.100 or 150 on the police which he had saved to pay the Government taxes.

**ii. Disciplinary Action against Police Officials Conniving at Cattle Theft; the Nexus between Police and Zamindars.**

While appearing before the Cattle theft Inquiry Committee, in reply to a question regarding action taken against police officials conniving at cattle theft, Mr. Stewart, the District SP of Hyderabad, said that since 1925 when he took over charge of Hyderabad District, he had dismissed as a disciplinary measure two sub inspectors and reduced two others. He had also suspended one Head Constable and reduced another. These officers belonged to Hyderabad town force. Before him, his predecessors Messrs. Smith and Kidd had dismissed one Sub Inspector (S.I.) of Tando Mahomed Khan and the latter had suspended one S.I. against whom he was making enquiries. Mr. Stewart also added that there had been no material improvement in the standard of police even after an improvement in their pay and prospects.<sup>92</sup> He gave the opinion that “the public were responsible for corruption in the police force as it was forced upon the police officers.” His second comment spoke in volumes on the reputation and integrity of zamindars when he said that “he would give credence to a constable's word in preference to that of a zamindar's.”

**iii. Weaknesses of Police Administration and Remedies Suggested for Police Corruption.**

Many witnesses who appeared before the Committee had laid stress on the inefficiency and corruption which prevailed in the lower ranks of the police force, and regarded this as the principal cause of the prevalence of crime and of the reluctance of the victimised cattle owners to have resort to Police aid.<sup>93</sup>

The Committee acknowledged the existence of these evils, but were unable to suggest any short cuts to improvement, and had hope only in the spread of education and culture, which experience had shown to be true remedy for official corruption. According to them, and this was a relevant

point, it was “idle to demand a higher standard of morality in the police” than was found in the public which surrounded it, and added that the most energetic district officers had “been baffled in their attempts to eliminate dishonesty among their subordinates.” The Committee, after expressing their helplessness, stated that they could only offer such suggestions as seemed practicable in the existing conditions of public life in Sindh, which it was beyond their power to alter.

#### **iv. Suggestions Made by the Committee**

In order to reduce corruption and also enhance the efficiency of the Police, the Committee, at page 19 of their Report, stressed the importance of appointing experienced Superintendents to the heavy districts of Upper Sindh, which on account of their climate were apt to be unpopular with the senior members of the service. They had hopes that many of the recommendations in their report would tend to decrease corruption and increase efficiency. They cited the fact that Police were usually unable to trace stolen cattle, and this was one of the main reasons why owners preferred to adopt their own measures for recovering it. Their hope was that the system of tattooing cattle which they had recommended would facilitate detection and thus encourage the lodging of complaints with the Police. Earlier they had suggested some restriction on the number of Chapter VIII cases to be sent up in future. Since these cases were a fruitful source of bribery, any reduction in their number should be accompanied by a corresponding decrease in that evil. Similarly, according to them, there had been a pronounced tendency among Sub Inspectors to rely on Chapter VIII as an easy alternative to the investigation of substantive complaints. Their proposal, therefore, to restrict Chapter VIII work within certain clearly defined limits would not only give them more time for investigation, but compel them to undertake it, with the result that their detective efficiency would improve with the increased experience thus gained. However, the Committee report pointed out that “improved efficiency should also follow an increase in their numbers,” which besides allowing them more time for the general performance of their duties, would enable the unarmed reserve to receive proper training.

### **X. Other Causes of Corruption Aggravating Problem of Cattle Theft.**

According to the dissenting note of the non official members,<sup>94</sup> the first and the foremost cause, the existence of which was acknowledged by the official members also, was “corruption, bribery and extortion” which were “rife to such an extent in the Police, the agency for the suppression of crime and the maintenance of law and

order, as not only to make it almost worthless for the suppression of the crime of cattle theft, but also a potent factor for its increase.” This, they said, had been made abundantly clear from the evidence of official and non-official witnesses before the Committee.

They argued that it was corruption that made the Police let off detected thieves. It was corruption that was responsible for their failure to run in under section 110 notorious *badmashes* and *patharidars*, from whom they received “regular annuities and all kind of assistance at the time of *rasai*,” and challaned instead innocent men or petty thieves, who could even be dealt with under substantive cases. Such victims were sometimes “victims of personal *zid* and enmity of the police and their favourites,” and sometimes were a scapegoat to save the real *patharidars* and *badmashes*, and thus justified their own existence. It was corruption that made the police reluctant to record and investigate offences. According to these dissenting members, it was corruption in police that subjected the complainant whenever investigation took place, into great expense and trouble and “not unoften even a victim to Police harassment and extortion.” Moreover, they argued, that it was corruption in short, that not only gave immunity to the real thief and *patharidar* from punishment, but even encouraged him to ply his nefarious trade with impunity. This discouraged the owner of stolen cattle from invoking the aid of Police, and impelled him to resort to other courses. The dissenting members of the Committee observed that there was, no doubt, some corruption in the magistracy but corruption in the Police became “an irresistible incentive to corruption in the magistracy.”<sup>95</sup>

These members argued that this corruption was again attributed to many obvious causes, however, they insisted on one important aspect. This was the prevalence of *rasai* (the financial cost of administrative arrangements during official tours) during the tours and *shikars* (hunting trips) of Divisional and District Officers and annuities to their establishment which opened the door for corruption to the subordinate police. They wondered whether this sensitive and crucial aspect was ever hinted at in the Annual Police Administration Reports of the Province submitted to Government.

## **1. Weaknesses of Police Administration and Remedies Suggested. Refusal to Investigate Complaints.**

A serious aspect that aggravated corruption and led to inefficient practices was the refusal by the police to investigate complaints. Stolen cattle was often taken from the jungle while grazing and this afforded a Sub Inspector, who through laziness, overwork or other motive was unwilling to accept a complaint, an opportunity of entering it as falling under section 403, Indian Penal Code, in the non cognizable register or of refusing investigation under section 157, Criminal Procedure Code. Their advice was that Sub Inspectors should be

directed exhaustively to investigate all complaints of cattle theft unless and until they could definitely show that constructive possession had actually passed from the complainant before the alleged offence was committed, the fact that an animal had been sent out to graze not being regarded as a surrender of possession. The Committee had suggested a circular to Magistrates that should contain instructions that the compounding of section 403 cases should not ordinarily be permitted, and that no final report of cattle theft should be classified as non-cognizable on the ground that the offence committed was one of criminal misappropriation and not of theft, unless it was definitely proved to their satisfaction that constructive possession had actually passed from the complainant.<sup>96</sup>

## **2. Remedies for Police Corruption and Inefficiency. Non Official Members Did Not Agree With Opinion of the Official Members.**

Some remedies had been suggested by the Committee regarding police corruption and inefficiency. However, there was some disagreement between the official and the non official members of the Committee. The non official members were clear on the issue that they could not by any means accept the dictum which the official members had laid down, namely, that it was “idle to demand a higher standard of morality in the Police” than was found in the public which surrounded it. In addition the non official members disagreed with the statement of the official members that it was “beyond the Government's power to alter the existing conditions of public life in Sindh” and finally the view of the official members that therefore no improvement was possible “beyond looking to spread of education and culture” which experience had shown, “to be the true remedy for official corruption.”<sup>97</sup>

The dissenting members expressed that the police certainly ought to be, if it was not, “an example to the public by their own conduct.” Moreover, if they themselves sank to the level of law breakers instead of standing high above every one else as custodians of law and order then they were not only unfit to be entrusted with that task but also incapable of performing it. These members asserted that the responsibility of this state of affairs would lie not on the public which had no hand in their appointment, promotion and determination of their emoluments, but on the agency which employed them. The dissenters in the committee felt that if Government initiated measures with a grim determination to combat the evil and made an earnest endeavour in the directions suggested by them, it would, they were very confident, be possible to reduce both corruption and cattle theft in a very large degree, if not altogether to eradicate them.

### 3. **Rasai: the Fountain Source of Corruption.**

The dissenting members of the cattle theft committee held the view that “the fountain source of corruption” was *rasai*. It was the *rasai* of his superior officer during his camp or *shikar* which provided “the first temptation even to the uninitiated and unwilling subordinate officer to have recourse to corruption.” It was because of this that a corrupt officer secured the good will and patronage of even an honest superior officer in this most subtle manner. Through this mode he continued to thrive on corruption in all directions in a most fearless manner and enjoyed immunity. This, according to them, would be obvious if any Sub Inspector was asked after the camp was removed from his headquarters. He would say that he had spent amounts on *rasai* ranging from Rs.200 to Rs. 1,000 on each occasion. And he would immediately justify his malpractices for the necessity of meeting those expenses on pain of promotion being stopped or of transfer to a worse charge. He would “quote instances where first class *rasai* making Sub Inspectors” had been promoted as efficient and those who had “failed to do so, reduced, as incapable and inefficient.”<sup>98</sup>

### 4. **Police Corruption: Government to Provide Direct Incentives for Honesty. Note of Dissent by Hardasmal U.**

On 31 March 1926, on the issue of police corruption, Mr. U. Hardasmal, a member of the cattle theft inquiry committee, initiated his note of dissent and argued that there should, in addition, be some direct incentive to honesty.<sup>99</sup> He also pointed out that the view generally expressed in the evidence before the Committee that sufficient weight was usually not attached to honesty as a qualification deserving of recognition or even consideration, and that promotions and rewards were based entirely on other considerations. His suggestion was that an officer known to be above corruption should, unless disqualified by inefficiency, be encouraged as far as possible by the grant of special promotion or reward. At the same time, one known to be corrupt should after due warning be openly condemned.

### 5. **Chapter VIII Should be Applied to Police Officers Also. Suggestion of Dissenting Members of the Committee.**

The non official members, in their dissenting note, stressed that it was “necessary that strong measures should be employed to combat this deep rooted evil of corruption,” because the existing ones had “admittedly proved to be a failure”. These members, “after much thought and serious consideration” recommended that “the provisions of Chapter VIII, section 110 of the Criminal

Procedure Code, should be applicable to such Police officers also, of the rank of *thanedars* (incharge of a police station) and Sub Inspectors as were “ostensibly living beyond their means,” and enjoyed, “a general reputation for being corrupt.”<sup>100</sup>

The non official members observed that it may be urged that officers of Government would “be dangerously exposed to onslaughts from the public” and that no one would like to serve in the Police with this sword of Damocles hanging over his head, but this fear was equally shared by Government officers with the most honest and respectable folk of the public, who were also exposed to the same danger by the operation of the same enactment against the public at large.

#### **6. Public Responsible for the Corruption in the Police. The Views of Mr. Stewart, District SP Hyderabad.**

While the onslaught of the dissenting members of the Committee was on corruption and bribery in the Police, there was another side to the story and this pertained to the *zamindars* and the *jagirdars*. It was interesting that the bulk of the dissenting members in the Committee were themselves either zamindars or jagirdars. On 15 February 1926, when Mr. Stewart,<sup>101</sup> the District SP Hyderabad, appeared before the cattle theft inquiry committee, he was of opinion that the public were responsible for corruption in the police force as it was forced upon the police officers. His assertion was that “he would give credence to a constable's word in preference to that of a *zamindars*.” Again on 17 February, during the Committee's hearings, Mr. Stewart commented that *zamindars* were more responsible for the evil of cattle theft. He argued that *zamindars* themselves spoiled the police, although there were several good *zamindars* also. This responsibility was divided between the *zamindars* and the police. Mr. Stewart, in reply to another question, said that

By keeping proper control over lower subordinates in the police good results could be obtained and more reliance could be placed on police constables than on respectable *zamindars*, because the former could be dismissed from service and they were more responsible to their superior authority.<sup>102</sup>

While the *zamindars* and *jagirdars* agenda appeared to be to put the entire onus for the malaise on the police, there is reason to believe that the problem was endemic in both the groups and, further it was due to the synchronization of the aims and objectives of both the jagirdars and zamindars on one side and the police on the other that the problem of cattle theft defied a solution. It is

interesting that on 20 August 1938, G.Y.S. Farrant,<sup>103</sup> the District SP Hyderabad, observed that “the real trouble” with cattle lifting was that the subordinate Police had “given practically no thought to prevention” and had “relied on zamindars for getting police work done.” He added that the time had then arrived when police officers, particularly police station staff had to get down to facts and do some real police work by proper police methods. He had lectured to officers on this subject and on the provisions of the Cattle Theft Act and section 109 and 110 Cr. P. C.

## **XI. Jagirdars, Zamindars and Patharidars: Role in Cattle Theft**

The cattle theft inquiry committee found that many *haris* did not feel breeding cattle alone was sufficient to compensate for the deprivations in their life, and so they turned to crime. They found a life of crime easier and more profitable than the cultivation of land in which they had no proprietary right or security of tenure. The committee members also found that the patrons of thieves were usually big *zamindars* who, apart from sharing the profits, employed the thieves to overawe the countryside and bully the other *haris*. The report of the committee revealed that some *zamindars* thought that their prestige was enhanced by the influence they were able to exert upon *badmashes* (bad characters), and felt obliged “to keep a few thieves among their followers for the purpose of harrasing a neighbour in the event of a quarrel.”<sup>104</sup>

This aspect finds support in the research of David Cheesman who realised that because protection was needed against the thieves, some *waderos* took it upon themselves to harass their weaker neighbours simply to remind them how indispensable it was to be well protected by their *wadero*. A similar view was expressed by the Commissioner in Sindh. He observed that cattle lifting was a regular industry in Sindh, and the *haris* could be used to track down or drive off cattle thieves and dacoits. This enabled the *waderos* to protect and assist their neighbours because many of the former were in league with cattle thieves who were often their own *haris*.<sup>105</sup>

### **1. The Committee to Inquire Into the Crime of Cattle Lifting in Sindh Did Not Define or Elaborate on the Word “Patharidar.”**

It was unfortunate that the committee report, especially the dissenting note of the five non official members, nowhere defined the word *patharidar*.<sup>106</sup> The word seemed to have been “loosely used, to cover several distinct species of scoundrel,” and some confusion has arisen due to this lapse. It was pointed out that there was, on the one hand, the professional organizer of theft and receiver of stolen cattle. He was probably a grazier or a small *zamindar*, of no great status or importance in himself, but “dangerous by virtue of his control over

badmashes and his power of terrorising witnesses.” Sometimes again it merely meant the chief of a gang of badmashes, that is, of cattle thieves. Again, at times the word was used, chiefly by the police, of a *zamindar* who harboured thieves among his servants, *haris* or tribesmen, and protected them against the law on all occasions.

## 2. Evidence of SP Hyderabad Before the Cattle Lifting Committee. Why and How Patharidars Got Scott Free.

The District SP Hyderabad opined that *patharidars* were generally landless people and as a rule, were rich people. Due to the delays and protracted complexities in procedural formalities in the cases against them in courts they managed to go free.<sup>107</sup>

This view gets support from the recent memoirs of Dr. Mujtaba Hassan, Inspector General of Police, who, in the 1950's, worked first as District SP Thar Parkar as well as DIGP Hyderabad. He was of the view that cattle theft was committed under the patronage of some *waderas*, who were known as *patharidars*. On the one hand they would get the cattle stolen through their agents, and later, a message was sent to the victim that if he wanted to have his cattle back he had to pay a specified sum. The victim was warned simultaneously that in case he was foolish enough to report the matter to the police, the animal would be slaughtered and no trace, what so ever, will be available. Normally this “threat worked and the matter was mutually settled.” Due to this, very few cases were reported to the police.<sup>108</sup>

Since the *hari* was completely at the mercy of the wadero, he usually consulted the *wadero* before reporting a cattle theft or any other matter to the police. The *wadero*, in order to perpetrate his influence, used his local power and contacts and settled the matter without the agency of the police. However, an interesting aspect pointed out by Dr Hassan was that often the wadero utilized the incident to settle scores with his enemy. The *wadero* would tell the complainant to name the *wadero's* enemy as the suspect while lodging the first information of the case at the police station and “thus his enemy was harassed and humiliated by the police.”<sup>109</sup>

## 3. February 1926: The Key to the Control of Cattle Theft Was the Control of Patharidars and Some Zamindars. Requirement Was to Raid Big Patharies

During the proceedings of the committee, replying to a question by Mr. Hardasmal, Mr. Stewart said that the power to control *patharidars* should be

vested in the District Superintendent of Police. *Azamindar* would not be able to control a *patharidar*. Some *zamindars* were themselves *patharidars*. He was in favour of confining *patharidars* in distant places like Jamrao.<sup>110</sup> In reply to Mr. Smith that a special staff should be kept in Sindh to find out the *patharis* and their connecting links, Mr. Stewart said that this would produce a permanent effect provided the staff worked directly under DIGP.

More than two years subsequent to the cattle theft committee report, in December 1928, Mr. H.M. Haslehurst, MBE, IP, the District SP Hyderabad, noted in his office Confidential Register that in order to curb and control cattle lifting, the most important form of crime in Hyderabad district, he had tried three methods of prevention since 1924. The first was the induction of Chapter VIII cases against known bad characters, second, the registering of *bhung* cases as “special cases” under section 215 of the Indian Penal Code and, thirdly, raiding *patharis*. He categorically stated that only the last, that is, raiding *patharis* was really effective for reducing cattle lifting in Sindh.<sup>111</sup>

Haslehurst explained that subordinate police officers were prone to pay too much attention to minor or sub *patharidars*. While action against such minor *patharidars* was, of course, useful, the only way to get at the root cause of the trouble was “to devote special care and attention to a few, big *patharidars*” who were “keymen” in the chain of *patharis* running throughout Sindh. He assessed that there were probably not more than 6 or 8 such leading *patharis* in each district, and the cases would be correspondingly big and corresponding personal care and supervision on the part of the SDO's and district SP would be necessary. In this context, we come across a very interesting observation of another district SP of Hyderabad. On 13 July 1930, Mr. J.E.V. Mason,<sup>112</sup> the District SP Hyderabad noted that he disagreed with the theory of Mr. Haslehurst that there were only six to eight leading *patharidars*. His view was that the real question was who was not a *patharidar*?

#### **4. Responsibility to Control Cattle Theft Was With *Zamindars* and Police; the Necessity of Eradicating the *Patharidar*.**

On 18 February 1926, Stewart, the District SP Hyderabad opined that owners of land were rarely *patharidars* and that the role was assumed by landless people generally. He also stated that *zamindars* were more responsible for the evil of cattle theft. The responsibility was divided between the *zamindars* and the police.<sup>113</sup>

The members of the cattle theft inquiry committee believed that much could be accomplished forthwith by executive action in regard to the other aspects of this evil. First and foremost was “the paramount necessity of eradicating the *patharidar*,” who, with his patron, was the cause of the whole problem. The

*pathari* was “the ganglion of the nervous system” which gave to cattle theft in Sindh “its special character of organised crime.” It was felt that if these clearing houses of stolen property could be broken up and their owners placed under some form of restraint, then the organization whereby stolen cattle were transported in an incredibly short time from one end of the province to the other, would collapse, and cattle-thieving would assume a sporadic form and manageable proportions. The patron of the *patharidar* was often a *zamindar* owning large estates and enjoying honours from Government, while the *patharidar* himself was “usually to all outward seeming a man of perfect respectability,” who was never prosecuted for theft. This was so despite the fact that his occupation was well known to all his neighbours, but on the contrary received “protection not only from his patron, but even from the police either in return for a periodical subsidy or for services rendered in the detection of other crime.”<sup>114</sup>

The members of the Cattle Theft Committee made recommendations dealing with branding that was aimed at suppressing the *patharidar* and paralysing his activities; and to these proposals they attached the utmost importance. While the members fully realized that some of them involved expenditure, but they assumed from the fact of their own appointment that Government appreciated the gravity of the situation, and were prepared to spend something on grappling with it.

#### **5. Cattle Theft Committee Members Suggested the Maintenance of History Sheets for Patharidars.**

A suggestion of the Committee was that “history sheets be maintained for *patharidars* and a few selected characters,” as a part, though not an essential part, of the material on which Chapter VIII cases were based.<sup>115</sup> Another recommendation was that no case should be sent up which had “not been personally and actually investigated by the District Superintendent of Police or his Assistant or Deputy, and that these Officers should whenever possible themselves give evidence in Court.” The members of the Committee realized that the procedure suggested above was likely to be opposed by many Magistrates and Police Officers. To strengthen their argument, the Members pointed out that Chapter VIII had “never been used in the Punjab as a specific remedy for cattle theft,” yet that evil was “not more rife there than in Sindh,” where it had been employed on a large scale for years.

An assumption of the Committee was that by placing restrictions on a system which was so full of abuse and corruption, the moral tone of the police would be

raised and they would be impelled to greater efforts of detection and investigation, which would “in the long run more than compensate for the very doubtful advantages” accruing from the then indiscriminate use of Chapter VIII. It was the considered view of the Committee that wholesale action under Chapter VIII had proved a failure as a permanent remedy for cattle theft, and they thought that other remedies should be tried.

#### **6. The Measures to be Taken Against the Patharidar. Action by the CID.**

One aspect rightly pointed out by the members of the Cattle Theft Committee was that “apart from the protection afforded to the *patharidar* by *zamindars* and the police,” the chief cause of his immunity was located in the fact that his activities were of wide extent, while those of the police were limited by the frontiers of their districts.<sup>116</sup> The *patharidar* had recognized lines of communication with his agents in adjoining talukas. However, the Sub-Inspector in whose beat he lived neither knew who these agents were, nor had any efficient means of collecting evidence against him from other districts.

The committee members realized that there was often a lack of co-operation between the police of adjoining districts. The consequence was that only in the rarest cases was action taken against a *patharidar*, and that too at a cost in time and money which was usually not justified by the result. Raids on *patharis* were more successful; but experience had indicated that the cattle seized in these raids had usually been brought from other districts, so that no information as to their owners was available. Since owners were not identified, prosecution was difficult, and generally all that could be done was to attach the cattle under section 550 Criminal Procedure Code. Despite action under this section, the *patharidar* was often able to put up his own relations to make spurious claims to the property, with the result that some at least of it was awarded to them by the Court.<sup>117</sup>

### **XII. The Declining Efficiency of Paggis**

In view of their expertise in detecting crime via following the tracks of the accused and also making a comparative analysis when the footprints of such accused got mixed up with others who may not be involved in the offence being followed, the role of the *paggi* was crucial and continued to be almost till the first half of the 20<sup>th</sup> century. Especially significant was their contribution in the detection of cattle theft and due to this expertise the induction of *paggis* in the police was of substantial significance.

### 1. **Assessment of the Role and Importance of *Paggis* Immediately after the Conquest of Sindh.**

Immediately after the conquest of Sindh, several *paggis*, natives of the country, were maintained by Government, and attached to the police in each district. Captain Young cited an instance of some robbers that were tracked a distance of nearly 200 miles by Lieutenant Marston and some of his police, and were eventually arrested with the stolen property in their possession. Lieutenant Marston emphasised that very rarely any thief escaped from a *paggi* once his footsteps had been seen by him.<sup>118</sup> Burton believed that not only was he the only detective the country could afford, but he also formed “an uncommonly efficient force.” Their expertise was so accurate that “if a soldier has deserted, a house has been robbed, or a traveller has been cut down, show him a footprint, and he is sure of his man.”<sup>119</sup>

### 2. **1920's in Jacobabad. Skill and Proficiency of *Paggis* Despite Lack of Education.**

Charles Marston<sup>120</sup> recollected that the Jacobabad police had the best *paggis* obtainable in Sindh and the greater portion of the success was won by “these wonderful men.” According to him they were simply marvelous and their talent was mostly inborn. He recalled the astounding cases of detection by *paggi* Mir Khan. One day he was sitting on the parapet of the public well in the town and he recognised the footprints of the murderer who had committed a murder in a nearby village six years ago and the accused. He had arrested him and placed him in confinement. If a conviction was to be obtained this *paggi* would have to undergo the severest examination in footprints to convince the Judge. However, after the comprehensive evidence given by the *paggi*, the result was a conviction of transportation for life. Later he got a letter from the Judge asking him to look after this *paggi* “for he was worth taking care of.”

Charles Marston confirmed that the *paggis* were all illiterate but so were some Inspectors of Police. The *paggi* would take a hurricane lantern, jump on their horses and bring a criminal in on the following morning.

### 3. ***Paggis* in Sindh Were Professionally Remarkable**

While studying the dissenting note of the non official members, Mr. W.F. Hudson, the Acting Commissioner in Sindh,<sup>121</sup> observed that it was quite incorrect to say that the trackers were only police touts and puppets and were

generally ignorant of their work. He insisted, and rightly so, that many Sindh trackers were very efficient, and their work was so remarkable that the great difficulty was to make the Sessions Court believe that it was genuine. It would probably pay to increase their remuneration which was certainly inadequate at that time. He added that when the financial position improved, the Deputy Inspector General would be asked to investigate the question.

#### **4. Deterioration in the Professionalism and Expertise of Paggis**

As was the case in the 19<sup>th</sup> and early and mid 20<sup>th</sup> century, most of the cases of cattle theft were detected by the police with the help of trackers. Dr. Mujtaba Hassan, a former Inspector general of Police, indicated that these *khojis* (paggis or trackers) were illiterate and mostly belonged to Kohli and Bheel tribes. Their knowledge of tracking was hereditary and it is so perfect that they could “accurately tell if somebody was riding the animal in question or if it was pregnant.” Once a *khoji* saw the footprints of a man or an animal, they remembered its peculiarities for a long time and could identify it if they came across it again. By following the footprints for miles together, they located the criminal and the stolen cattle. *Khojis* were engaged by the police department in all police stations where cattle thefts were common. In addition most of the smugglers were arrested with the help of *khojis*. Dr Hassan, however, observed that unfortunately, around the late 1960's, the *khojis* and *paggis* became involved in smuggling.<sup>122</sup> However, there were specific reasons for the gradual and obvious deterioration in their expertise.

##### **i. Lack of Recognition to the Importance of a Trackers Work**

The non-official members of the committee, in their dissenting note had observed that as the direct means of detection of theft and recovery of stolen property the tracker played “no small part.” They regretted that full recognition was not accorded to the importance of trackers work and quoted a Punjab Police Officer: “a Tracker can mar a case and save a criminal by simply closing his eyes to what is to him an open book.” This, they added, was also corroborated by a number of police witnesses. According to some of the committee members, as of 1926, the available trackers were only police touts and puppets and were generally ignorant of their work. They recommended that the selection of trackers should be made under the personal supervision and a practical test of their

knowledge by the Deputy Superintendent of Police and Superintendent of Police personally. Another suggestion was that each police station must command the whole time services of competent trackers in sufficient numbers.<sup>123</sup>

## ii. Meager Pay

As far as pay was concerned, during the first two decades of the twentieth century, the majority of *paggis*, on an average, got only Rs. 6 or Rs. 7 per month. In February 1926, while appearing before the Cattle Theft Committee, Mr. Stewart advocated enhanced pay for the *peris* (another name for *paggis*).<sup>124</sup> It is interesting that the dissenting members of the cattle theft committee observed that the *paggi* system was unsatisfactory as well as ill paid. As of 1926, the pay of a tracker was Rs. 5 to 15 and the dissenting members of the committee categorically stated that it was “most inadequate and disproportionate to the importance of their work.” Their suggestion was that it should at least range from Rs.15 to 25 per month. Apart from the pay, these *paggis* should be entitled to liberal rewards for good work.<sup>125</sup>

## iii. Sindhi Unwilling to Follow Tracks of Stolen Cattle Leading to Hilly Areas Inhabited by Baluchis.

Curry narrated that during 1912 – 13, while posted to rural Karachi, wished to see Kohistan because it was constantly said that large numbers of stolen cattle from the Indus valley were taken into the Kohistan and that as some rain had fallen that year there were greater facilities for the thieves to graze cattle in the hill tracts. Commenting on the orientation and attitudes, Curry expressed that “generally speaking, Sindhis from the plains were unwilling, if not afraid to follow the tracks of stolen cattle into the hills which were inhabited by Baluchis.” One reason was that the “Baluchis were more courageous than the Sindhis although they were not physically superior to them.”

Curry<sup>126</sup> was keen to visit the Thano Bula Khan area or the Kohistan, because he had heard allegations of people in the Indus valley who had suggested that the Kohistan under the Malik, the Chief of the area, “was an Alsatia of thieves and that there was a constant drain of cattle away from

Sindh into the Hills.” However, McCulloch, his senior, the district SP satisfied him that this was an unreasonable exaggeration. There were cattle thieves among the hill people as there were among all the communities of Sindh and the movements tended to be one way. The hill men would steal cattle from Sindh but Sindhi thieves as well as Sindhi trackers would not venture into the hills.

### **XIII. Societal Shortcomings: Cattle Lifting Tolerated by Zamindars**

#### **1. Attitude and Outlook of Society in Sindh on the Issue of Crimes in General and on Cattle Lifting in Particular.**

The newspaper, Sindh Observer,<sup>126</sup> in its issue of 18 October 1926 summed up the enigmatic situation in Sindh by arguing that the morality then prevailing in Sindh was the morality of Robin Hood. Hence it was futile to try by expensive Government machinery, or otherwise to “change that morality in the twinkling of an eye or even in the course of several years.” This argument was substantiated by the note in the committee's report of the non-official *zamindars* on their view as to the real nature of the problem.

The moral tone among the *zamindars* and men is at present very low.... Misunderstandings result in reprisals in cattle lifting...*Zamindar's* give protection to habitual thieves and *pathariwallas* (that is receivers). Those incorrigibles who are not hitched to any well to do *zamindars* are not many.

In view of the above facts, the newspaper commented that in Sindh, it was not possible for the government to rigidly to enforce the ordinary law. The realistic aspect was that for the Sindh public to reform itself, as suggested by non-official committees, was hopeless. Sindh was still in the reign of Robin Hood, and all that officials and non-officials could do was to try in small ways to mitigate the hardships to individuals of this form of self-determination.

#### **2. Cattle Lifting Tolerated and Supported in Varying Degree by the Zamindar Class. View of Mr. Rieu and Also the Commissioner in Sindh.**

In his comments on the dissenting notes of the non official members, the Commissioner in Sindh stated that the principal obstacle to the suppression of this widespread and highly organized system of cattle thieving and blackmail

was the fact that the evil was “not only not actively condemned” but was even tolerated and countenanced by public opinion and that the system had “the support in varying degrees of the zamindar class.”<sup>128</sup> Moreover, the smaller *zamindars* actively participated in it by serving as intermediaries between the owners of stolen animals and the *badmashes* and *patharidars*. Some of them were hardly distinguishable from regular *patharidars* while others were “probably content with the influence and power” which they acquired in that capacity and the opportunities which these operations offered for intrigue and retaliatory action against neighbouring rivals.

The Commissioner also agreed with a view held by some sessions Judges as well as by Mr. Rieu, the Judicial Commissioner in Sindh, that the larger *zamindars*, either from mistaken ideas of prestige or “sometimes for less creditable motives,” would generally protect the criminal element among their own *haris* or the *badmashes* who owned allegiance to them. Unfortunately, there existed comparatively few *zamindars* who were absolutely free from its influence and reactions. Mr. Rieu also made the strong statement, to which the Commissioner agreed, that rural society, in Sindh, was “completely permeated by the system,” the economic effect of which were incalculable. The existence of this menace was an evil of the first magnitude and could not be “regarded otherwise than as a blot on the administration.”

### 3. **Cattle Lifting a Blot on Sindh Society Rather Than on the Sindh Administration. Requirement of Arousing Public Opinion. Sindh Society Was Responsible for Failure of Eradication of Cattle Theft.**

The dissenting note of the non-official members had stated that the prevalence and the intensity of cattle theft in Sindh was a blot on the administration. While agreeing that the prevailing situation on the menace was indeed a blot, the Commissioner in Sindh observed that it was a blot not on the administration of Sindh but “on the rural society, and rural society alone.”<sup>129</sup> His argument was that it was not fair or just to expect the Sindh Police and the Sindh Magistracy to eradicate a class of crime, which no one really regarded as a crime, and which practically every one encouraged “either directly or indirectly.” He added that it was not only the Mahomedan *zamindars*, cultivators and graziers who were in it, and that many of the worst and most successful receivers were Hindu *banias*. Cattle theft and taking of *bhung* were “in fact almost village pastimes,” and provided “the one regular excitement of monotonous village life.” He strongly advocated that the only way to curb or reduce cattle theft was the

“creation of a healthy public opinion,” but public opinion was “not going to be created by increases in police establishment or by the use of Chapter VIII.” The Commissioner was of the view that it was time that they “faced facts in regard to cattle theft,” just as they had “faced them in regard to the murder of Baluch women.” He raised the rhetorical question as to whether it was a blot on the administration that Government had long ago, as the result of bitter experience, “given up the idea” that the killing of an unfaithful Baluch wife was murder, and must be dealt with as such? As far as the complexity of cattle lifting was concerned, the problem was inherent, both in the Sindh society as well as in the Sindh Police and the Sindh administration. However, the Commissioner asserted that the blot in both cases was on society ----- and so it was in 90 per cent of the cattle theft cases. He further argued that it would remain so until society mended its ways. The administration, according to him, could “do nothing really effective save by an expenditure of public funds which would be entirely unjustifiable.”

**4. Reporting of Cattle Theft Cases Much Less. People Did Not Regard it as a Crime and Wanted to Recover or Adjust the Loss via Private Negotiations.**

Regarding reporting of cases, the Commissioner in Sindh asserted “that as regards the extent of the evil, the '10 per cent' estimate of reported cases” was really only guesswork, and should be regarded as such. He added that there was no doubt that a great deal of cattle theft was not reported, sometimes because in many cases the police station or out-post was a long way off, and police inquiries involved a good deal of trouble, but still more “because the people regarded cattle theft as a civil wrong” which could “best be adjusted by private negotiation.”<sup>130</sup>

**5. Even Where Accused Was Genuine, the Evidence Given by Cattle Owners Was False.**

Even in the case of true *badmashes* the evidence against them, was nearly always false. There was always the possibility that the actual victims of theft had either already recovered their property by paying *bhung* or still hoped to do so. Even if they came forward to give evidence, the accused or their friends did not hesitate to intimidate them into silence. Hence the trials developed into “solemn farces,” in which the Court recorded, and sent men to jail on evidence which all the parties involved in the case knew to be false. In such a situation, the demoralising effect of this on every one concerned, and the injury done to the name of British justice could “hardly be exaggerated.”<sup>131</sup>

#### **XIV. Ineffectiveness of Preventive Sections of Criminal Law: Chapter VIII Proceedings Did Not Act As a Deterrent.**

In December 1928, Mr. Stewart, the District SP Hyderabad noted that Chapter VIII proceedings had temporary effect on the reduction of crime. Moreover, this technique of control was not particularly efficient except as a last resource when evidence of definite cognizable cases was not forthcoming.<sup>132</sup>

##### **1. Ineffectiveness of Chapter VIII Proceedings and Other Measures. Urgent Necessity of Inducting Innovative Preventive Measures.**

The members of the committee to inquire into the crime of cattle lifting<sup>133</sup> anticipated that if their main proposals were accepted, they would deal a shrewd blow at the *pathari* system, and cattle theft would be reduced to manageable proportions and lose its distinctive character of organization. These members also felt that the energies of the district police and the proposed wholesale resort to Chapter VIII proceeding against insignificant *haris*, which, earlier, had been almost the sole form of action taken to suppress cattle theft, should be abandoned forthwith. Some witnesses who appeared before the Committee thought that Chapter VIII had no effect on crime: others thought it caused temporary improvement: hardly any, regarded it as a satisfactory remedy, while all were agreed that the method of its application in Sindh was “accompanied by grave abuses. The Committee members thought that the stage had arrived when such abuses should be frankly admitted, and steps taken if possible to find a substitute for this practice which brought discredit on the administration and could not but have a demoralising effect upon the police, the magistracy and the public.

Elaborating on this problem, the report added that the principal objection to the then method of using section 110 in Sindh was that it was employed as a penal proceeding, with the avowed object of sending men to jail, by way of an easy alternative to substantive cases, the investigation of which was “beyond the powers or energy of the police.” In addition, the Committee felt that this use of the section was, in their opinion, “quite foreign to the spirit of the law and perversion of its framers' intentions.” Chapter VIII was clearly meant to be, and was everywhere else used as, a series of preventive provisions that contemplated the taking of character, the imprisonment of whom was “intended to be the exception rather than the rule.” Despite this, in Sindh it was learnt that in one year as many as a thousand people had been sent to jail under this chapter.<sup>134</sup>

## **2. Role of Magistrates in Scrutiny of Chapter VIII Cases and Strict Implementation of Security Proceedings.**

The Cattle Theft Committee Members were convinced that if Chapter VIII work was restricted in future to the comparatively narrow sphere, as suggested by them, there would be “a measure of certainty” that no case would be sent up without reasonable cause. Hence, “to secure the maximum of effect from the limited number of cases instituted,” trying Magistrates should be reminded of their power of requiring security for 2 or 3 years instead of for only 12 months. This power was seldom used, but if it were invoked more often, the Committee felt that it would be beneficial and would tend to remove the complaint that the effect of Chapter VIII on crime was only temporary. In addition, magistrates should also be instructed to scrutinize the qualifications of sureties more closely before accepting security, and to give the police an opportunity of stating any facts which may render the proposed sureties unsuitable.<sup>135</sup>

## **3. Determined Effort Required to Put an End to the Abuses Inherent in the System. Chapter VIII to be Applied Strictly to the Patharidars and Selected Few Incurable Thieves.**

In view of the inherent and persistent scope for abuse of the law in the system then prevailing to check cattle theft, the Committee was strongly of opinion that “determined effort should be made to put an end to these abuses.” They assessed that Chapter VIII work in future should be aimed almost entirely at the patharidar and the comparatively few incurable thieves who surrounded him. The report added that it was clarified that if the activities of these ring leaders were curtailed, organized cattle theft would cease automatically, and it would “no longer be necessary to incarcerate the hundreds of small fry” who were annually sent to jail at that time.<sup>136</sup>

## **4. Restriction on Chapter VIII Cases Proposed by the Committee Inquiring Into the Crime of Cattle Lifting in Sindh.**

A suggestion was made by the Committee that restriction be imposed on the use of Chapter VIII cases to cases personally investigated by District Superintendent of Police, Assistant Superintendent of Police or Deputy Superintendent. In view of its sensitivity, the Commissioner in Sindh had the matter analysed and assessed in depth.<sup>137</sup> He observed that Mr. Covernton, the District Magistrate of Nawabshah, doubted whether it was possible but had no objection to the experiment being made. Mr. Sorley, an ICS officer, disagreed generally with the views of the Committee, but did not oppose the

experiment being tried for a limited period. Mr. Willis and Mr. Hamid Ali, both ICS officers, agreed generally with the Committee. Mr. Healy, a police officer, was of the view that preventive action under section 110, Criminal Procedure Code, was “the only weapon” which the police had been using hitherto. It had “unfortunately been grossly abused,” but the fact was that every police station in Sindh outside Karachi City was understaffed to an extent which rendered the attainment of even “minimum efficiency impossible.” Hence he advocated the total abandonment of Chapter VIII proceedings against cattle thieves, and insisted upon the police charging offenders with specific offences.

**5. The Jail Congestion Situation Prevailing in Sindh. Very High Percentage Were Criminals Hauled Up Under Chapter VIII Proceedings.**

The Commissioner was in general agreement with the observations that jails were filled to capacity with inmates much exceeding the sanctioned strength for which these jails had been made. He cited figures to the effect that on 1 of January 1927, the jail accommodation in Sindh provided for 2,600 prisoners. However, “the actual jail population was 2657, and of these 622 were imprisoned under Chapter VIII.” He added that it was highly probable that in addition to this, there were several hundred undertrials in the sub-jails and lock-ups. The Commissioner therefore argued that this was “a far greater blot on the administration than the number of cattle thefts,” and one that could “be much more easily wiped out.” Unfortunately, the imprisonment of hundreds of men every year on evidence which Magistrates, police, and witnesses all knew “to be partially or entirely fabricated,” even if the charge itself was true, was, according to the Commissioner, a scandal which could not “be allowed to continue any longer.”

**6. Too Much Reliance by Police on Provisions of Chapter VIII of the Cr.P.C.**

In a comprehensive analysis of the problem, the report of the committee that inquired into the problem of cattle lifting<sup>138</sup> listed five other objections to the prevailing system, then enforced by the police, to curb and control cattle thefts. The first objection was that the police tended “to rely unduly, indeed almost entirely, on chapter VIII as a means of suppressing cattle theft.” The ramification of this was that due to such circumstances improvement in methods of investigation could not be expected, “and in such a soil the seeds of

intelligent action against the evil” were “not likely to germinate. Another objection was that Chapter VIII was “practically never used against the real organiser of cattle lifting, but only against the humble folk” who were his tools. Since there were innumerable such men available, the inevitable result was that crime went on incessantly, “notwithstanding the enormous expense of time and money incurred year after year by Government in conducting Chapter VIII prosecutions, and in maintaining jails crowded with Chapter VIII prisoners.”

## **XV. 1925-26: The Criminal Tribes Act: Earlier Practice of Application of the Act and the New Strategy.**

### **1. Enbloc Notification of Certain Tribes for Action Under Criminal Tribes Act.**

As of 1925-26, the issue of extended action under the Criminal Tribes Act, or the Act VI of 1924, was already before Government. In those days, *patharidars* and cattle thieves were drawn from so many tribes, both Sindhi and Baluchi, hence it was formerly considered impossible to notify any particular tribe or sub-tribe under the Criminal Tribes Act, on the ground of conspicuous addiction to cattle lifting, and it was thought that in Sindh the Act should be used only against wandering gangs of Bauriahs, Sansis, etc., who committed coining and house breaking offences, but did not indulge in cattle theft. However, investigations during the year 1925-26 by a Special Officer had indicated that there were certain well-defined sections of tribes, such as Jatois and Bozdars, who were “suitable for notification enbloc and internment in agricultural and reformatory settlements.” His proposals for the establishment of such Settlements were already under consideration before Government. The cattle theft committee suggested that they would only add a recommendation that the Criminal Tribes Settlement Officer be appointed as early as possible.<sup>139</sup>

### **2. Utilise Criminal Tribes Act For Action Against Patharidars by Restricting His Movements or Confining Him to a Settlement.**

The cattle theft committee members thought that the Criminal Tribes Act could be made a most useful weapon against the patharidar and his associates. Three or four persons were sufficient to constitute a “gang” for the purpose of notification under section 3, and their suggestion was that the ring-leaders in as many *patharis* as possible should be so notified. Care would be required in preparing the case for notification in each instance, but they felt that the

enquiries of the Special Criminal Investigation Department force, supported by information obtained from Police records and local zamindars would furnish sufficient material to justify notification. It would depend on circumstances and the nature of the evidence available in each case whether this procedure should be followed in preference to substantive prosecution of action under Chapter VIII.

Specifically, the committee members members<sup>140</sup> suggested that following notification, a patharidar should be dealt with by restricting him under section 11 (i) (a) to within a radius of, say, five miles from his home; or he should be settled in a place of residence under section 11 (i) (b) which might be either at the police station nearest to his home or at some remote town in or even outside the Province, or he may be confined in a Settlement under section 16. The members of the committee observed in their report that confinement to a Settlement was “the only really effective means of controlling a *patharidars*,” and it was preferable to the others from a sociological point of view, in as much as the criminal would come under the reformatory influence of the Settlement Officer, and be enabled to earn an honest living, with the ultimate prospect of becoming a small land owner.

Their main objection to restriction and settlement in a place of residence was that the Police were not strong enough to enforce them properly; and if a large number of persons throughout Sindh were subjected to restrictions which were only nominal, contempt for the law would be engendered. Moreover, a patharidar restricted to the neighbourhood of his own home or settled in a place of residence near it, would certainly remain in communication with his old associates,” even if he did not actually assist them.

The members of the committee realized that milder methods should be given a trial before recourse was had to the drastic step of internment in settlements, and in any case, until these were established there was no alternative to restriction. In view of this situation, they recommended that *patharidars'* gangs should after notification be in the first instance restricted to a radius of five miles from their homes. If this was instituted, the difficulty of providing means of livelihood would not then usually arise, as they would be able to continue in the occupations of grazier or cultivator which they had earlier followed in name. However, if such restriction proved ineffective, internment in an agricultural or reformatory settlement should follow.<sup>141</sup>

### 3. Enhanced Punishment for Criminal Tribes.

The cattle theft committee members realized that the offence of theft under section 379 did not appear in Schedule I to the Criminal Tribes Act and it was

clearly not desirable that all kinds of theft should be punished under section 23 thereof. However, in view of the probability that many cattle thieves would be notified under the Act in future, they suggested that legislation be undertaken to include in Schedule I to this Act, section 379 of the Indian Penal Code. A necessary amendment would be that for this purpose 'cattle' should include also camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, rams, ewes, sheep, lambs, goats and kids. In this connection, the Commissioner in Sindh responded with the remarks that no one objected to this proposal, which could be adopted, if Government thought there was any hope of the Legislative Council accepting it. In addition, Mr. Percival strongly supported this suggestion and was prepared to accept it instead of his original proposal to enact a new section 379-A of the Indian Penal Code.<sup>142</sup>

## **XVI. The Criminal Tribes and the Application of Criminal Tribes Act. The Actual Situation, 1925 to 1943**

In September 1925, prior to the establishment of the committee to inquire into the crime of cattle lifting in Sindh, H.B. Kidd, the District SP Hyderabad, noted that the proposed introduction of the Criminal Tribes Act on a large scale in Sindh would probably have a good effect. In December 1928, although there were many members of criminal tribes, the provisions of the Criminal Tribes Act had not been applied to Hyderabad district. Mr. Haslehurst, MBE, IP, the District SP, felt that, at that time, it was sufficient for the Sub Inspectors to know them and keep a watch on their movements.<sup>143</sup>

### **1. Criminal Tribe Members Were Being Recommended for Registration. These Were Phannani Khosas of Dadu and Hyderabad Who were considered as a Dangerous Community.**

As of 16 March 1933, Mr. A.J.W. Sanson,<sup>144</sup> the District SP Hyderabad, observed that at that time, there were 44 members of Criminal Tribes on the Register and two of these were in Settlements in the Presidency. Between 70 and 80 more had been recommended for registration and also all Phannani Khosas of Dadu had been recommended from Hyderabad District as Dadu would not take action. Once they were registered they would all apply to be transferred to Dadu District as their permanent homes were there. Bhaurias were also being registered. Sanson also noted that if proper supervision could be maintained the registration of all the Criminal Tribe members would certainly have an excellent effect. However, it would not be long before these people found out that they could still carry on in their evil ways in spite of being registered and then the situation would deteriorate further.

On 25 October 1935, Mr. C.W.E. Uren,<sup>145</sup> Indian Police (IP), the District SP Hyderabad, stated that the question of registering the Phannani Khosas was still under consideration. They belonged to Band Viro in Dadu District, but approximately six months in each year they grazed their cattle in forests in the Hala taluka of Hyderabad District. They were a dangerous community and the SP felt that some supervision over their movements was very necessary. However, he was doubtful whether the Hala police would have either the time or the inclination to pay much attention to them. The Head Constable of Khanot Outpost had earlier been assaulted by these Phannani Khosas.

**2. 25 October 1935 to 5 October 1937: Crime on the Decrease Due To Action Against Cattle Lifters. Phannani Khosas Registered as a Criminal Tribe. Threat of Internment at a Settlement Made the Criminal Tribes Act Effective.**

Since all measures had either failed or produced inadequate results, the administration had resorted to the application of the Criminal Tribes Act on alleged cattle lifters. As of 25 October 1935, C.W.E. Uren,<sup>146</sup> the District SP Hyderabad, noted, in his Confidential Register maintained in his office, that extensive registration under the Criminal Tribes Act was “bound to have its effects.” He felt that while over 200 cattle lifters of the Tando Division had then been notified, they could expect further relief when Phannani Khosas were dealt with in the Hala Sub Division. By 1 March 1937, the Phannani Khosas had been registered, or were being registered. Mr. W.C. Edward, IP, the District SP Hyderabad, stated that “about 40 of them ---- all incredibly old and decrepit ---- came to appeal against this harshness.” However, these persons could not explain where all their young men were.<sup>147</sup>

Edward asserted that he was not yet fully convinced of the “efficacy of mere registration and restriction.” This meant weekly reports at the nearest PS in the case of Criminal Tribes. However, if the threat of internment in a settlement was backed up with these preliminaries, then he felt that the Criminal Tribes Act “might be of some real use.” He expressed that whenever he was applying the Act, he always had an uneasy feeling that he was “probably helping some zamindars to gratify a private spite, or some police officer to turn a dishonest penny.” Finally, on 5 October 1937, G.Y. S. Farrant, M.C., IP, the District SP Hyderabad, stated that a proposal for sending about 36 members of the Criminal Tribes to the settlement at Sukkur was being considered. However, all these men would need to have many previous convictions and consequently there would not be so much chance of a *zamindar's* vengeance causing injustice.<sup>148</sup>

### **3. 20 August 1938 to 10 July 1943: Cattle Theft in Hyderabad District. Too Much Reliance on Zamindars. Requirement to Do Some Real Police Work by Police Methods.**

In August 1938, as far as Hyderabad district was concerned, cattle thieving was almost the same. The Criminal Tribes Act was not having the effect that Farrant, the District SP, expected. This was so not because its provisions were ineffective, but because they were not properly understood and therefore not properly worked. Moreover, the real trouble with cattle theft was that the subordinate Police gave practically no thought to prevention and had relied on zamindars for getting police work done.

On 20 August 1938, Farrant<sup>149</sup> realised that the time had come when Police Officers, particularly PS had to get down to facts and “do some real police work by proper Police methods.” He disclosed that he had lectured to officers on this subject and on the provisions of the Criminal Tribes Act and section 109 and 110 Cr. P. C. In addition, he had internally reorganized Police with, he felt, good results. However, active and systematic patrolling was essential and this was being done in Hyderabad City and would be insisted on in the *muffasil* (rural areas) as they had 2 Mounted Head Constables at each of the twelve Outposts, which were being converted into nominal Police Stations. The unfortunate aspect was that as of 10 July 1943, cattle lifting continued. The District SP Hyderabad felt that this probably would go on increasing slowly as the price of cattle continues to increase.<sup>150</sup>

## **XVII. Branding and the Registration of Cattle as a Measures to Curb/Control Cattle Theft**

Around 1914, when serving as Assistant Superintendent of Police (ASP) at Hyderabad, dealing with the rural areas of the district and desperately trying to find a solution to curb the crime of cattle lifting in Sindh, John Court Curry initiated a plan for a systematic branding of animals, the branding to be recorded at police stations and arranged in such a way that thieves would be unable effectively to alter or destroy the marks.<sup>151</sup> Unfortunately after Curry was transferred the post of ASP Riverain was abolished as a measure of economy. Moreover, the Sub Divisional and District Officers did not view and tackle the issue of cattle lifting with the same zeal and spirit.

### **1. Branding and Registration of Sales of Cattle. Validity of Objections to Branding of Cattle.**

According to the cattle theft committee members, branding and registration sales were interdependent. Voluntary branding with a hot iron was practiced to

some small extent in Sindh and certain tribes and many individual owners had their own private brands. However, these brands were not part of a general system and they aroused no suspicion in places remote from their origin and are therefore of little value in assisting in the recovery of stolen property. Thefts of branded cattle occurred freely, however, the impression prevailed that the presence of a brand did to some extent protect the animal against theft.

In 1926, the committee members realized that the trend of the evidence recorded on the issue of registration and branding of cattle had evoked among zamindars, among the general public and in the ranks of experienced Government officers very marked differences of opinion ranging from “frank opposition through benevolent and yet sceptical neutrality to, in a few instances, cordial support.” Due to this, the Committee exercised “the utmost caution in arriving at a decision on the subject.”<sup>152</sup>

The two objections that were serious were, firstly, that branding may lead the cattle thieves to dispose off the cattle in the adjoining States and, secondly, that while the disposal of stolen cattle may become unprofitable for the thief, branding may have no impact on the system of *bhung* on which cattle theft flourished and would continue to flourish.<sup>153</sup> According to the committee, much stolen cattle already found its way out of Sindh and it was possible that branding would “compel *patharidars* to look further a field for their profits.”

## 2. Voluntary Tattooing of Cattle and Registration of Sales. Remarks of District Magistrates and District and Sessions Judges. Opinion of the Dissenting Non Official Members.

Regarding the issue of voluntary tattooing and cattle registration of sales made by the committee, the Commissioner in Sindh requisitioned the opinion of the District Magistrates and Sessions Judges was also obtained. Mr. Covernton considered the suggestion “entirely impracticable and ineffective,” if it was to be voluntary and suspected that it would never or hardly ever be carried into effect. Mr. Sorley did not “expect much good to come of it” and questioned whether it would be “worth all the trouble and labour” it would involve. Mr. Willis said that the officers whom he had consulted considered that compulsion would be necessary for success. Mr. Green did not anticipate much success, though he thought it might be given a trial if Government would sanction the necessary expenditure. Mr. Healy did not give any opinion as to the chances of success, but agreed that “registration must be accompanied by tattooing.”<sup>154</sup> Having perused the copious literature and evidence placed before the Committee, the dissenting members had no hesitation in arriving at the conclusion that branding and registration whether voluntary or compulsory were not likely to succeed to a very great extent in reducing crime “in the peculiar conditions and circumstances responsible for the offence.”<sup>155</sup>

## **XVIII. Pessimistic Views of Government Officers on Control of Cattle Theft and on the Report of the Cattle Theft Committee.**

### **1. Strong Measures Required.**

Towards the finalization of the draft report, it was obvious to all the committee members that there was not much hope in the measures considered and assessed for control of this crime. The zamindars, waderos, government officers, including police officers, district magistrates as well as session judges, realized the hopelessness of the situation and the general pessimism that pervaded whenever and wherever the issue of cattle lifting was discussed. The 7 January 1926 issue of the Sindh Gazette, issued from Karachi, observed that the evil of cattle lifting not only existed but it was necessary to be put down with a strong hand. Ordinary measures would not succeed. If this could be done, the Government would be "earning the heart felt gratitude of the peasant class" if they arranged to root out this evil.<sup>156</sup>

### **2. July 1930 to July 1943. Three District SP's of Hyderabad Did Not Have Any Hope in the Recommendations of the CT Committee.**

The pessimistic atmosphere in the context of cattle lifting continued even after the submission of the report by the committee. On 13<sup>th</sup> July 1930, Mr. J. E. V. Mason,<sup>157</sup> the district SP Hyderabad wrote in his Confidential Register that cattle lifting was too big a question to write on and the recommendations of the Cattle Theft Committee had been "brought into force --- though hope for no benefit." Similarly, on 16 May 1935, Mr. A. J. W. Sanson,<sup>158</sup> the District SP Hyderabad, noted that cattle lifting was still the chief form of crime in the District. Chapter VIII cases, gang cases and Criminal Tribes Act were all being utilized to try to put a stop to it. Vigilance Committees had also been instituted. However, Sanson was quite pessimistic and observed that it would be a long time before cattle lifting ceased to be the chief form of crime. What was the situation in July 1943, that is, more than 17 years after the cattle theft committee had submitted its report? In a note in the Confidential Register in his office, on 10 July 1943, K. H. W. Best, the District SP Hyderabad, admitted that crime was on the increase and that cattle lifting continued and probably this would go on increasing slowly "as the price of cattle continues to increase."<sup>159</sup>

### **3. Crux of the Complex and Entangled Problem**

While District SP Best may have been pessimistic, he also pointed out that the police, everywhere in Hyderabad, both City and District, were, even in July 1943, very under-resourced. Proceedings under section 110 Cr.P.C. were

difficult to complete successfully as the persons against whom action was taken were more often than not people of influence ---- generally bad ---- and no one would come forward to give evidence for fear of reprisals. In fact, the fundamental problem was that nothing had changed! What the District Superintendents of Police and the District Magistrates had said in the 1870's, 1880's and 1890's continued to be the regretful statement of their successors in the early decades of the 20<sup>th</sup> century. Even in the 1940's the situation had not changed!

We have noted, in the early to mid 1960's, the observations of Dr. M.M. Hassan, an officer of the Police Service of Pakistan, working as the District Superintendent of Thar Parkar, that the problem of cattle lifting was severe and continued to resist strategies aimed at control. The writer of this article, himself, having worked, both in upper and lower Sindh, from the early 1970's onwards, also faced the same problem. Later, in the 1980's or the 1990's, if cattle lifting did not demand the same quantum of attention it was not because the problem had reduced, rather that other more severe problems had accumulated that demanded the attention of district officers. Moreover, there were more lucrative avenues of crime for the deviant elements in the rural society. The answer, then, perhaps lies in a broad spectrum approach to the problem wherein the values, orientation and approach of society towards this category of crime becomes more assertive, rather than evasive, the genuine problems of policing, of law courts and procedures of evidence and the overall working of the administration of criminal justice is streamlined according to the requirements of the people and the prevailing situation.

### End Notes

1. Huttenback, R.A., *British Relations with Sindh 1799-1843, An Anatomy of Imperialism*. Berkeley, 1962, University of California Press. See pp. 18, 19. Henceforth referred to as Huttenback, 1962.
2. Yapp, M.E., *Strategies of British India, Britain, Iran, and Afghanistan 1798-1850*. Oxford, 1980, Clarendon Press. See p. 445.
3. Lambrick, H.T., *Sir Charles Napier and Sindh*. Oxford, 1952, Clarendon Press. See pp. 60, 61. Henceforth referred to as Lambrick, 1952.
4. Cadell, Sir P, *History of the Bombay Army*. London, 1938, Longmans, Green and Co. See p. 179.
5. Khuhro, H, *The British Administration of Sindh Between 1843 and 1865: A Study in Social and Economic Development*. University of London, Ph. D. Thesis, 1965. Henceforth referred to as Khuhro, 1965. See pp. 28, 29.

6. Napier, Sir W., *The Life and Opinions of General Sir Charles Napier*, (4 vols.). London, 1857, John Murray. See Volume IV, pp. 9, 10. Henceforth referred to as Napier, 1857.
7. Napier, Sir W., *History of General Sir Charles Napier's Administration of Scinde, and Campaign In The Cutchee Hills*. London, 1851, Chapman and Hall. See pp. 23, 24. Henceforth referred to as Napier, 1851.
8. Ibid.
9. Parliamentary Papers, 1854, Volume XLIX, Item XII, [H], Police, p. 274. Henceforth referred to as PP 1854, Volume XLIX.
10. PP 1854, Volume XLIX, Item XII, [H], Police, Reply to Query No. 2, Item XII, [H], Police, p. 270. Three Magistrates, the equivalent of District Magistrates, were appointed by Napier at Shikarpur, Hyderabad and Karachi, the last being the most important.
11. Napier, 1857, Volume III. See pp. 35, 36, also 105 and 181, 182.
12. Holmes, T. R., *Sir Charles Napier*. Cambridge, 1925, University Press. See pp. 98, 99.
13. PP 1854, Volume XLIX. Item XII, [H], Police, Rathborne, Magistrate of Hyderabad, Reply to Query number 2, p. 269.
14. Ibid. Goldney, Magistrate of Shikarpur, p. 270.
15. Ibid, Rathborne, p. 268.
16. Ibid. Commissioner's Report on the Condition and Mode of Administration in the Province of Sindh, No.3886 of 1847, Political Department, 31<sup>st</sup> December 1847. See p. 53. Also see Return of Criminal Trials held in the Province of Scinde during the year 1846, item XI, [G] Criminal Justice, p. 261.
17. Bombay Government, New Series, Annual Police Report Sindh, 1868, p.132, Statement III, Serial No. 11, Item, Cattle Theft. Also refer to Selections from the Records of the Bombay Government, No. CXXXI, New Series, Annual Police Report for the year 1871, Province of Sindh, Bombay, Printed at the Government Central Press, 1873. Colonel Edward Charles Marston, District Superintendent of Police, Karachi, to Colonel W. L. Merewether, Commissioner of Police in Sindh, letter no. 115 of 1871 dated 7<sup>th</sup> March 1871, see p. 7. Edward Charles Marston was the founder of the Karachi Police who worked as the Chief from 1843 till about 1872. Edward Marston, as a young Lieutenant, had saved the life of General Napier at the Battle of Miani and for this he was rewarded with the post of chief of Karachi police.

18. Cox, Sir Edmund, *My Thirty Years in India*. London, 1909, Mills and Boon, Ltd. See p. 84. Henceforth referred to as Cox, 1909. Edmund Cox worked as District SP in Shikarpur and next in Hyderabad, two of the most sensitive districts of Upper and Lower Sindh and later was posted as the first Deputy Inspector General of Sindh when this post was created in 1903. He is the author of about 7 books, two of them being on Sindh, and has a detailed account of the problems that he encountered during his policing career in Sindh.
19. See Eates Papers MSS/EUR/ E 314/12, Chapter XVII, p. 1. The Eates Papers at the Asia, Pacific and Africa Collections of the British Library, London, were deposited by Kenneth Raye Eates, an officer of the Indian Police with an experience of at least three decades in the Province of Sindh, as a Deputy Superintendent of Police and for a long period as Superintendent of Police in the Criminal Investigation Department of the Sindh Police.
20. Bombay Government, New Series, Annual Police Report, Sindh, 1869. Tyrwhitt, Political Superintendent Tharparkar District to Merewether, Commissioner in Sindh, 13<sup>th</sup> April 1870, No 90 of 1870, p. 68, paras 9, 10. Henceforth referred to as Annual Police Report, Sindh, 1869. Also see p. 69, para 20, and p. 72, para 34.
21. Annual Police Report Sindh, 1868. Phayre to Merewether Commissioner in Sindh, p. 47, para 24.
22. Cox, Sir Edmund, *Police and Crime in India*. London, 1910, Stanley Paul and Co. See pp. 302, 303. Henceforth referred to as Cox, 1910.
23. Annual Police Report, Sindh, 1868. Tyrwhitt, PS Thar and Parkar Dist. to Merewether, Commissioner in Sindh, 16th March 1869, No.75 of 1869, Judicial Department, p. 61, para 15,
24. Eates Papers MSS/EUR/ E 314/12, Chapter XVII, p. 1.
25. Ibid, pp. 1, 2.
26. Cox, 1910. See p.300.
27. Ibid, p. 301.
28. Annual Police Report Sindh, 1868. Phayre, Political Superintendent, Upper Sindh Frontier to Merewether Commissioner in Sindh, 22 March 1869. See p. 47, para 27 and p. 48, para 28.
29. Annual Police Report Sindh, 1870, Judicial Department. Simpson, SP Hyderabad to Merewether, Commissioner in Sindh, p. 21, para 18, No. 132 of 1871.
30. Annual Police Report Sindh, 1868. Simpson, District SP Shikarpur to Merewether, Commissioner in Sindh, 11 March 1869, p. 38, para 9.

31. Khuhro, Dr. Hamida, *The British Administration of Sindh Between 1843 and 1865: A Study in Social and Economic Development*. University of London, Ph. D. Thesis, 1965. See p. 82. Henceforth referred to as Khuhro, 1965.
32. Khuhro, 1965, see pp. 136, 137 and p. 148.
33. *Proceedings of the Sindh Commission*, Karachi, Judicial Department. Bombay Government Resolution No. 115, 17 May 1893, 1893, File 1, Vol. III, Part II, compendium, 108, p. 935. Also see Cheesman, D., *Rural Power and Debt in Sindh in the Late Nineteenth Century 1865 - 1901*. University of London, 1980 Ph. D. thesis. See p. 267. Henceforth referred to as Cheesman, 1980.
34. *Proceedings of the Sindh Commission*, Judicial Department. District Superintendent of Police, Hyderabad memo 10 March 1884, file 2, 1884 Volume I, compendium 9, and Collector Hyderabad to Commissioner in Sindh, 12 March 1884, Commissioner in Sindh to Collector 20 March 1884. See also Mayhew, memorandum 17 Dec. 1897, file 1, 91897, Vol. IV, part II, compendium 48, p. 757.
35. *Ibid.* District Superintendent of Police, Hyderabad to Collector, Hyderabad, 2 July 1890, file 2, 1890 - 1891, volume 1, part 1, compendium 2, pp. 69 to 72. Also refer to Cheesman, 1980, see pp. 70 and 98.
36. *Ibid.* Mayhew, Collector, Shikarpur, not dated, file 2, 1892, Volume II, compendium 50, pp. 166, 167.
37. Cheesman, 1980, p. 98.
38. *Proceedings of the Sindh Commission*, Judicial Department. H.C.Mules, Deputy Commissioner, Upper Sindh Frontier, Report of Jirga at Jacobabad, 28th April 1896, file 1, 1896, Vol. III, part II, compendium 16, pp. 475 - 481.
39. *Ibid.* Mayhew to Commissioner in Sindh, 11 Dec. 1897, Vol. IV, part II, compendium 48, pp. 739, 747.
40. Cheesman, 1980, p. 100. Also refer to *Proceedings of the Sindh Commission*, Judicial Department. Mayhew deposition, not dated, pp. 751 to 754.
41. Cheesman, 1980, see pp. 6 and 52. See *Parliamentary Papers*. 1854 XLIX, Reply to Query No. 9, Preedy, Collector Karachi, see p. 86. Also refer to *Pre Mutiny Records of the Government of Sindh*. A. Young, Memo on the Batai System, 23rd March 1851, p. 486.
42. Burton, Sir R. F., *Sindh Revisited with Notices of the Anglo-Indian Army, Railroads; Past, Present, and Future, etc.*, in two volumes. London, 1877, Richard Bentley and Sons. See Volume II, see p. 318. Sir Richard Burton was in the army of Sir Charles Napier during the conquest of Sindh. Being a linguist, he acted as the official interpreter with Sir Charles Napier. He wrote several books on Sindh. Also refer to *Parliamentary Papers*, 13, LVIII, 1878. Report by Sir W. Merewether, Commissioner in Sindh, on *The Administration of The Frontier District of Sindh*,

30th September 1876, Reorganization Of The Western And North Western Frontier Of India. See p. 43.

43. Cheesman , 1980, see pp. 2 and 269, 270.

44. Cox, 1910, See p. 77.

45. Woodruff, P., *The Men Who Ruled India*, The Guardians. London, 1954, Jonathan Cape. See Volume I, pp. 318, 319.

46. Morris, H.F. and Read, James S., *Indirect Rule and the Search for Justice*, *Essays in East African Legal History*, Oxford, Clarendon Press 1972; see p. 295.

47. Cox, 1909, see pp. 215 and 242.

48. Cox , 1909, see p. 215.

49. Hollins, S.T., *No Ten Commandments*, *Life in the Indian Police*. London, 1954, Hutchinson.

50. Scott, A.F. (Editor) *Scinde in the Forties*. London, 1912, Constable and Co. Ltd.

51. Marston, C. *Memoirs of General Marston*. Written, most probably, in 1935. A typed copy is available in the Lambrick Papers, MSS.EUR. F 208/114 at the Asia, Pacific and Africa Collections of the British Library, London. See pp. 15,16. Henceforth referred to as *Memoirs of Major General E.C. Marston*. Charles Marston was the son of Edward Charles Marston, the founder of the Karachi Police. He worked in the Sindh Salt Department and then joined the Sindh Police and he was commended for his performance in Thar Parkar during the first Hur Insurgency. Later he worked as the Superintendent of Police in the Upper Sindh Frontier at Jacobabad.

53. James, Lieutenant H. (1847) Report on the Pergunnah of Chandookah. In *Parliamentary Papers*, 1854, House of Commons, Vol. XLIX, Item V. See pp. 136, 137.

54. PP, 1854 XLIX . Reply to Query, Preedy, Collector Karachi, see p. 270; also p. 86 of PP, 1854 XLIX , Reply to Query, K. Young. Also refer to Acting SP Hyderabad to Commissioner in Sindh, Bombay Government, Annual Police Report, Sindh, 1868, see p.24.

55. Burton, Sir R. F., *Sindh Revisited with Notices of the Anglo-Indian Army*, 1877, Volume II, p. 77.

56. Record Book of the Sindh Irregular Horse. Jacob to Frere, 11th April, 1855, see Volume II, p. 255.

56. See Curry, John Court, *The Joys of the Working*, *Memoirs of an Indian Policeman*, 2 Volumes, 1968. Manuscript Memoirs, see Volume I, p. 98. Henceforth referred to as Curry, 1968. John Court Curry was posted as ASP Malir in rural Karachi around 1909 and later worked as ASP Naushero Feroze, ASP Riverain Hyderabad, ASP Karachi City, Acting SP Sukkur, Acting SP Larkana, SP Special Branch, Karachi. During the mid 1930's Curry took early retirement went back to England and later migrated to New Zealand. He is the author of *The Indian Police*, a historical and analytical account of the origin and developments of policing in India and has details of crimes and incidents in Sindh. However, his memoirs, mainly pertaining to his policing career contain the most comprehensive socio economic and socio cultural analysis of the complexities in policing rural Sindh.
57. Madan, C., *Indian Police, Its Development Upto 1905, An Historical Analysis*. New Delhi, 1980, Uppal Publishing House. See pp. 165, 166.
58. *Proceedings of the Sindh Commission, Judicial Department, File 1, 1901 Vol. iii, Part 1, Compendium 13*, pp. 89 to 91. Acting Judge, Saddar Court, Sindh to Secretary Government of Bombay, 10 June 1901.
59. Cheesman, 1980, see pp. 32 and 111.
60. *Papers Relating to the Indebtedness of the Zamindars of the Muncher Lake in Sindh, 1874*. Merewether, Commissioner in Sindh to Governor and President in Council, Bombay, 28th October 1872, see p. 5.
61. *Bombay Act XII of 1866: An Act to Declare the Constitution of the Courts of Civil and Criminal Judicature in the Province of Sindh*. See Cheesman, 1980, p. 112.
62. *Proceedings of the Sindh Commission, Judicial Department, file 1, 1870, Volume II, part II, compendium 21, para 5*. Commissioner in Sindh to R. H. Pinhey, Judicial Commissioner, Sindh, 11 May 1870.
63. *Proceedings of the Sindh Commission, Judicial Department, 1889*. A. Mayhew, Collector Shikarpur to Remembrancer, Legal Affairs, Bombay, 5 July 1887; see Volume III, compendium 54, pp. 309, 320. Also refer to Cheesman, 1980, p. 112.
64. *Proceedings of the Government of Bombay, Revenue Department, Lands 1905, January - June, Confidential Proceedings*. Collector Larkana to Commissioner in Sindh, 9 September 1904, para 2. Also see *Bombay Regulation III of 1892: Sindh Frontier Regulations, 1892*. Jirgas had the power to establish guilt and recommend a sentence or compromise to the DM ; they did not have the power to punish.
65. Cheesman, 1980, p. 114.

66. Curry, 1968. See Volume I, 83.
67. Ibid, pp. 53 and 62, 63.
68. Ibid, pp. 95 and 99.
69. Ibid, pp. 100, 101 and 104.
70. Ibid, p. 134.
71. Cattle Theft Committee Report. Cattle Theft Committee's Office, 31st March 1926. From, the Chairman and Members, Cattle Theft Committee to the Commissioner in Sindh. Chairman of Committee: I. H. Taunton. See p. 1, item 2. A copy of the report is available in the Manley Papers (MSS/EUR/E 324), Box I, at the OIOC. London. Henceforth referred to as Taunton Report.
72. Confidential Notes on the District Hyderabad being item no. 1 in the List of Confidential Documents in the Office of SSP Hyderabad. Note on Effect of Chapter VIII on Jail Expenditure, by Mr. H.B. Kidd, IP, District SP Hyderabad dated 23<sup>rd</sup> August 1926, p 422. Henceforth this file will be referred to as Confidential Notes, Item One, District SP Office, Hyderabad.
73. See The Sindh Official Gazette, Extraordinary. Published By Authority, Karachi, Friday, January 29, 1926, Page 173. Part I, Notification by the Commissioner in Sindh, Judicial Department, Government House, Karachi, 26<sup>th</sup> January 1926, Press Note.
74. Taunton Report.
75. Ibid. P. 1, Part II, Extent and Causes, item 3, Extent. Also see Sindh Observer, page 3. The Robin Hoods of Sindh, Remedies for Cattle Thieving, 18<sup>th</sup> August 1926.
76. Taunton Report, 1926; pp. 37, 38, item 20, Vigilance Committees. Evidence of SDM Hotchand before the CTC.
77. Sindh Observer Gazette, 18 February 1926, Cattle Theft Committee, Hyderabad District S.P.'s Evidence, Superior Calibre of Educated Sub Inspectors. Responsibility of Zamindars and Police.
78. Taunton Report. P. 1-2, Part II, Extent and Causes, item 4, Causes.; quotes throughout this section are from this Report.
79. Ibid, Notes of Dissent. Genesis and Causes, Other Causes, p. 30.
80. Ibid, Other Causes, p. 30.
81. Ibid, Genesis and Causes, p. 29.
82. Cox, 1910. See pp. 104, 105, 106.
83. Cox, 1910. See pp. 107 to 109 and 117.
84. The Code of Criminal Procedure of 1872, sections 505, 506.

85. See Government of India, Report of the Indian Police Commission, 1902 - 03, para 131 and 133. Also refer to Madan, C., Indian Police, Its Development Upto 1905, An Historical Analysis. New Delhi, 1980, Uppal Publishing House. See pp. 201, 202. Henceforth referred to as Madan, 1980.
86. Cox, 1909. See p. 216.
87. Annual Police Report Sindh, 1870, Simpson, District SP Hyderabad to Merewether, Commissioner in Sindh, p. 21, para 18, No. 132 of 1871.
88. Annual Police Report Sindh, 1868. Phayre, Political Superintendent, Upper Sindh Frontier to Merewether Commissioner in Sindh, 22 March 1869, No. 452 of 1869, Judicial Department, p. 45, para 14 and p. 47, para 20. Also peruse Annual Police Report Sindh 1888 for similar remarks at p. 35.
89. Annual Police Report Sindh 1868. Crawford, Acting Superintendent of Police, Hyderabad to Merewether, Commissioner in Sindh, p. 25, para 38.
90. Ibid. Simpson, Dist. SP Shikarpur to Merewether, CIS, 11 March 1869, p. 38, para 8.
91. Refer to the Bombay Legislative Council Debates, 1932 Vol. XXXIV, Part XVIII, Official Report, Wednesday March 9, 1932. Bombay, Printed at the Government Central Press, 1932. Henceforth referred to as BLC Debates March 9, 1932. See page 1098.
92. Taunton Report.
93. Ibid. Weaknesses of Police Administration and Remedies Suggested; item 31, Remedies for Police corruption and inefficiency, pp. 18, 19.
94. Ibid. Notes of Dissent. Genesis and Causes, Administrative causes, page 29.
95. Ibid.
96. Ibid. Weaknesses of Police Administration and Remedies Suggested; item 32, Refusal to investigate complaints, page 19.
97. Ibid. Note of Dissent, p. 32, item 6, Remedies for Police Corruption and Inefficiency
98. Ibid, p. 33, item 8, Rasai.
99. Ibid, pp. 25, 26. Note of dissent by Mr. U. Hardasmal, Member, on Police Corruption, 31<sup>st</sup> March 1926.
100. Ibid. Note of Dissent, pp. 33, 34, item 10, Punishments.
101. Daily Gazette, 17 February 1926, Cattle Theft Committee, Official Evidence, Causes of the Crime, Suggested Preventive Measures report submitted by the Correspondent on February 16.

102. Sindh Observer Gazette, 18 February 1926, Cattle Theft Committee, Hyderabad District S.P.'s Evidence, Superior Calibre of Educated Sub Inspectors. Responsibility of Zamindars and Police.
103. Confidential Notes, Item One, District SP Office, Hyderabad. Note on Special Forms of Crime, Methods of Prevention and Suppression, by Mr. G.Y.S. Farrant, MC, IP, District SP Hyderabad dated 20<sup>th</sup> August 1938, pp 226, 227.
104. Taunton report, see pp. 1,2,3.
105. See Cheesman, 1980 and also Proceedings of the Govt. of Bombay, Home Department, 21 and 31 March 1927. Memo, 10 July 1925.
106. Taunton Report, page 4, item 14 (1).
107. Sindh Observer Gazette, 18 February 1926, Cattle Theft Committee, Hyderabad District S.P.'s Evidence, Superior Calibre of Educated Sub Inspectors. Responsibility of Zamindars and Police.
108. Hassan, Dr. M.M., An Inspector General's Diary, Royal Book Company, Karachi, 1996. See p. 52. Henceforth referred to as M. M. Hassan, 1996.
109. Ibid, p 52.
110. Taunton Report. Jamrao was then in Sanghar Taluka of Nawabshah District, virtually on the border with Khaipur State on one side and bordering with Jaisalmer State.
111. Confidential Notes, Item One, District SP Office, Hyderabad. Note on Special Forms of Crime, Methods of Prevention and Suppression, by Mr. H.M. Haslehurst, MBE, IP, District SP Hyderabad dated December 1928, p 219, 220.
112. Ibid. Note by Mr. J.E.V. Mason, District SP Hyderabad dated 13<sup>th</sup> July 1930, p 221.
113. Sindh Observer Gazette, 18 February 1926, Cattle Theft Committee, Hyderabad D.S.P.'s Evidence, Superior Calibre of Educated Sub Inspectors. Responsibility of Zamindars and Police.
114. Taunton Report. P. 2-3, Part III, The Patharidar and the Measures Against Them; item 5, the patharidar.
115. Ibid, item 7.
116. Ibid, item 6, Action by the Criminal Investigation Department.
117. Ibid.
118. Ibid. See Reply to Query by Preedy, p. 270, by Keith Young and by Marston, pp. 273, 274, 275.
119. Burton, 1877, Volume I, 183.
120. Memoirs of Major General E.C. Marston.

121. Taunton Report. See p. 15.
122. M.M. Hassan, 1996, pp. 53, 54.
123. Taunton Report. See p. 35.
124. Ibid.
125. Ibid. See pp. 29, 30 and 35.
126. Curry, 1968. See pp. 112 to 115, chapter 11.
127. Sindh Observer, page 3. The Robin Hoods of Sindh, Remedies for Cattle Thieving, 18<sup>th</sup> August 1926.
128. Taunton Report, page 2, item 8.
129. Ibid, item 9.
130. Taunton Report, pp. 3, 4, item 11 and 13.
131. Ibid, p. 4, Part III, The Patharidar and the Measures Against Them; item 7, Chapter VIII Restrictions on.
132. Daily Gazette, 17 February 1926, Cattle Theft Committee, Official Evidence, Causes of the Crime, Suggested Preventive Measures report submitted by the Correspondent on February 16. Also see Confidential Notes, Item One, District SP Office, Hyderabad. Note on Effect of Chapter VIII on Jail Expenditure, by Mr. P.M. Stewart, IP, District SP Hyderabad dated December 1928, p 422.
133. Taunton Report. P. 4, Part III, The Patharidar and the Measures Against Them; item 7, Chapter VIII Restrictions on.
134. Ibid.
135. Ibid, item 8, Instructions to Magistrates regarding. See pp. 5, 6.
136. Ibid, item 7, Chapter VIII Restrictions on.
137. Ibid, item 14 (3).
138. Ibid, p. 4, Part III, The Patharidar and the Measures Against Them; item 7, Chapter VIII Restrictions on.
139. Ibid, item 10, The Criminal Tribes Act. Pp. 8, 9.
140. Ibid, p. 9.
141. Ibid.
142. Ibid, p. 8, item 14 (8).
143. Confidential Notes, Item One, District SP Office, Hyderabad. Note on Special forms of Crime, methods of Prevention and Suppression, by Mr. H.B. Kidd, IP, District SP Hyderabad dated September 1925, p 215. Also see Note by Mr. H.M. Haslehust, MBE, IP, District SP Hyderabad dated December 1928, p 259.

144. Ibid. Note by Mr. A .J. W. Sanson, IP, MC, IP, District SP Hyderabad, 16<sup>th</sup> March 1933, pp 259, 260.
145. Ibid. Note by Mr. C. W. E. Uren, IP, District SP Hyderabad dated 25<sup>th</sup> October 1935, p 261.
146. Ibid, p 422.
147. Ibid. Note by Mr. W. C. Edward, IP, District SP Hyderabad dated 1<sup>st</sup> March 1937, p 261.
148. Ibid. See Notes by Mr. W. C. Edward, IP, District SP Hyderabad dated 1<sup>st</sup> March 1937, pp 224, 225 and by Mr. G. Y. S. Farrant, MC, IP, District SP Hyderabad dated 5<sup>th</sup> October 1937, pp 261, 262.
149. Ibid. Note by Mr. G. Y. S. Farrant, MC, IP, District SP Hyderabad dated 20<sup>th</sup> August 1938, pp 226, 227.
150. Ibid. Note by Mr. K. H. W. Best, IP, District SP Hyderabad dated 10<sup>th</sup> July 1943, p 228.
151. Curry, 1968. See Volume I, p. 103.
152. Taunton Report, Part IV. Item 14, Branding and registration sales are complementary, page 10.
153. Ibid, Part IV. Validity of these objections; item 18, p. 13.
154. Ibid, see p. 26.

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