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## Colonialism and the politics of epidemiology: The rise of radical nationalism in India

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### Abstract

When the whole world is reeling under the threat of Covid-19, we Indians relive the memory of the recurring experiences of pandemics like cholera, small pox, leprosy, and plague of our colonial past. Beginning with an outbreak in 1812 at Kutch, bubonic plague travelled all over the country with a death toll of more than 2 million by 1903. Despite the alarming casualties in the army and wide-spread epidemics over the years, the colonial government kept blaming the climate of their colony and the lack of cleanliness of its inhabitants. When the first cases of bubonic plague were detected by Dr Acacio Gabriel Viegas, an Indian physician at Bombay [now Mumbai] in 1896, the colonial administration was reluctant to acknowledge it. However, the Epidemic Diseases Act (1897) was soon promulgated, ostensibly to contain the wave of epidemics but it soon became a tool to suppress individual freedom and the right to their bodies. The murder of two British officers a week after the publication of two articles of Lokamanya Bal Gangadhar Tilak in his Marathi periodical *Kesari* on 15 June 1897 led to his prosecution and conviction under Section 124A of the Indian Penal Code on the charges of “feelings of disaffection” in his writing and its allegedly provocative content amounting to sedition. My paper looks at the politics of colonial epidemiology and its far-reaching impact on Indian life as it affected the political rhetoric, radical nationalism and emergence of a public sphere.

**Keywords:** Colonialism – plague – Bal Gangadhar Tilak – *Kesari* – Epidemic Diseases Act of 1897 – Section 124A – sedition – disaffection – radical nationalism

### Résumé

Alors que nous sommes sous l'emprise du Covid-19, nous revivons les diverses épreuves causées par les pandémies comme le choléra, la variole, la lèpre et la peste durant la période coloniale de l'histoire de l'Inde. Déclarée en 1812 à Kutch, la peste bubonique traversa l'Inde et plus de deux millions de personnes en étaient mortes en 1903. Malgré des pertes dans l'armée et de grandes épidémies le gouvernement colonial continua à blâmer le climat du pays et l'absence d'hygiène des habitants. Lorsque le Dr Acacio Gabriel Viegas détecta les premiers cas de peste à Bombay (Mumbai) en 1896, l'administration ne voulut pas admettre la situation. Néanmoins une loi sur les épidémies fut promulguée en 1897, en théorie pour combattre l'épidémie mais très vite pour restreindre les droits individuels. L'assassinat de deux officiers britanniques une semaine après la publication de deux articles de Lokamanya Bal Gangadhar Tilak dans son journal en marathi (*Kesari*, 15/6/1897) entraîna des poursuites et des condamnations au titre de de la section 124A du code pénal sous l'accusation de sentiments hostiles et d'un contenu dit provocateur relevant d'un acte de sédition.

Mon article étudie les politiques coloniales sur les épidémies, leur impact profond sur la vie en Inde en ce qui concerne les discours politiques, le nationalisme radical et l'émergence d'une sphère publique.

**Mots-clés :** colonialisme – peste – Tilak – *Kesari* – loi sur les épidémies de 1897 – section 124A – sédition – refus d'obéissance – nationalisme radical.

## Introduction: Epidemics in India and colonial epidemiology

When the whole world is reeling under the threat of Covid-19, we Indians relive the memory of the recurring experiences of pandemics like cholera, *Kala-azar*, small pox, leprosy, plague and the like of our colonial past. The present pandemic and the measures taken for its containment has revived the Epidemic Diseases Act (1897) and such other enactments promulgated by the colonial government for effective measures of sanitisation, isolation, quarantine, re-location and the like. In fact, the people of the country keep relating to the past in the context of the present and in the midst of the universal panic, the ghosts from the shadowy past come back to life.

In this paper, I seek to examine the politics of colonial epidemiology, the promulgation of the Epidemic Diseases Act for the containment of an epidemic of plague in Bombay and its far-reaching impact on Indian life. I also look at the use of the Section 124A of the Indian Penal Code, which had become instrumental in denying freedom of speech to the Indians; and how the allegations of “feelings of disaffection” and the 1897 trial of Lokamanya Bal Gangadhar Tilak (1856-1920) shaped the political rhetoric, radical nationalism and emergence of a public sphere in colonial India.

During the Medieval Age, a large number of Europeans began coming as traders, perhaps with an agenda of monopolising the economics of this vast subcontinent, and eventually its colonisation. By the early nineteenth century, the British East India Company had consolidated its position in the entire subcontinent and had even started functioning as a government consequent upon the enactment of the Regulating Act of 1773 [the East India Company Act of 1772]; and after Lord Warren Hastings (1732-1818) was appointed as the Head of the Supreme Council of Bengal and the first [de facto] Governor-General of India (1774-1785) (Majumdar et al., 1946).

In the last decades of the eighteenth century, the time when the British were consolidating their new empire, the colonial government had been witnessing recurrent epidemics and communicable diseases of several kinds. Beginning with an outbreak in Bengal, a cholera epidemic spread across India and reportedly, by 1820, 10,000 British troops and a large number of civilians had died. Only about 10% of the officers of the East India Company could survive, between 1760 and 1834, to take their voyage home (“Cholera’s seven pandemics”, 2008). An epidemic of bubonic plague which broke out at Kutch in 1812 soon spread its tentacles to nearby regions like Gujarat and Sind and by 1828-29 reached Pali (Marwar, Rajputana) and Hansi (Hissar, Punjab). There were instances of recurrence of plague or a “plague like” epidemic in a number of regions in the north and the north-west. In *The Plague in India*, Robert Nathan (1868-1921) affirms: “The existence of this centre can be traced back

with certainty to the year 1823, and it has ever since been the scene of outbreaks of varying degrees of severity”; and from there it “travelled all over the country with a death toll of more than 2 million by 1903” (1898, p. 68).

That British India reeled under epidemics and contagious diseases is evident from the various official reports, and the government was not uninformed of them, but they did not initiate any preventive or curative measure for the first hundred years or so.

There have been a number of narratives in the form of official reports of epidemics in pre-colonial and colonial India, most of which were compiled after the virulent break-out of plague in the late 1890s. However, all colonial narratives on the subject, including Capt. J. K. Condon’s *The Bombay Plague, Being a History of the Progress of Plague in the Bombay Presidency from September 1896 to June 1899* (1900), *The Imperial Gazetteer of India* (Vol. IV, 1909, pp. 475-76) and F. Norman White’s *Twenty Years of Plague in India with Special Reference to the Outbreak of 1917-18* (1918) seem to have followed the most comprehensive one, *The Plague in India: 1896, 1897* (1898), in two volumes, compiled by Nathan<sup>1</sup>, an ICS officer, who worked in the Home Department when he undertook the project of writing the history of plague in India which I will be analysing below.

*India: Its Administration and Progress* (1903), written by Sir John Strachey<sup>2</sup> (1823-1907), a well-known colonial administrator, is a book which is cited in every official narrative because it demonstrates how the British rule had changed India through benevolent colonialism and the civilising mission. Strachey’s work inadvertently reveals a number of lapses in governance, including the “attitude” of the administrative machinery. In his enthusiasm to narrate how things have changed for the better, Strachey talks about the sanitary condition of Calcutta [now Kolkata], the capital of British India, in the 1860s. Strachey writes how “all sorts of filth, even thousands of corpses were thrown into Hugli, including those from prisons and hospitals with the knowledge and sanction of the government which was the main source of drinking water for the people of Calcutta, the capital of British India”

<sup>1</sup> Incidentally, Nathan held such key positions as the Secretary to the India Universities Commission (1902-06), Private Secretary to Viceroy Lord Curzon (1904-05) and Vice Chancellor, Calcutta University (1914) before his return to England. Eventually he came to be known more as a British Intelligence officer who was ruthless in his operations against the Indian revolutionaries in India, Europe and North America. His career of espionage, which began in 1914, ended with his death in 1921. During these seven years or so, he worked with MI5 (g), also called ‘MI5 G Section’, a branch of MI5 created during World War I for intelligence gathering and wartime espionage operation of the Indian revolutionary and seditionist movements in Europe; and later, in North America where Nathan spearheaded the operation against the *Ghadar* Movement (1914).

<sup>2</sup> Sir John Strachey, a close relative of Lytton Strachey (1880-1932), the author of *Eminent Victorians* (1918), was the father of Sir Arthur Strachey, the judge who tried Tilak’s case (1897).

even in 1864, “when Lord Lawrence became the Viceroy” (1903, p.11). Instead of accepting responsibility and tackling the epidemics, the colonial government kept on blaming the poor sanitation, local conditions, climatic factors, and the like. Had it basically not been for the increasing mortality among the “troops”, the government would not have woken up to the gravity of the problem and their responsibility to their subjects. Since the late eighteenth century, casualties among the troops, especially in the North-West were being reported. Allegedly, the death rate among British troops was 6.9%. In the wake of the so-called Sepoy Mutiny, the ‘Royal Commission on the Sanitary State of the Army in India’ was appointed in 1859. The ‘Military Cantonments Act’ was promulgated in 1864 and in order to improve health and hygiene among the troops, a sanitary police force was created under the charge of military medical officers. In 1864, the government constituted sanitary boards in each province to improve the sanitary conditions of the civilian population.

Among the diseases and epidemics, plague proved to be the most troublesome for the government. Its severity and persistence can be realised by the fact that the epidemic had been recurrent in Bombay for a long time. When the port city got infected in August 1896, it could not free itself of the plague until 1923, and even then, the plague came back after a few years. The epidemic appeared to have finally stopped in 1935, but it came back again in 1948 (Seal, 1960, p. 293).

Surgeon-Major-General James Cleghorn, the Director General of Indian Medical Service, and the Sanitary Commissioner, Government of India (1895-98) during the outbreak of plague reported that “the bubonic plague then prevailing in the city was, under certain circumstances, only slightly contagious and infectious” (Nathan, pp. 138-39). Interestingly, he “was brought to admit his basic ignorance about plague” in 1899 only after his retirement in 1898 (Catanach, 1988, p. 150).

The confusion over the causes of the disease of plague and absence of consensus over the prognosis and treatment till the late nineteenth century were the reasons for its devastating and recurring virulence. Unfortunately, the colonial medical administrators seem to have entertained a notion that plague was basically an Indian pestilence.

Nathan, in his *History of Plague* unquestioningly accepts the myths floated by his predecessors like Surgeon-Colonel Hutchinson, formerly Sanitary Commissioner of the North-Western Provinces and Oudh; Dr Francis and Dr Pearson (1854) and Dr Stiven (1854) that “there has existed for a long time past an endemic plague centre on the southern slopes of the Himalayas” known as “*mabamari* or Himalayan Plague”. Though he admits that the “bacteriological origin of this disease has not yet been investigated,” he avers that “its clinical and epidemiological history leave

little doubt that it is true plague” (1898, p.90). Captain Condon further caters to the myth as follows: “(1) *Mabamari* and Plague are identical (2) *Mabamari* is of local origin: capable of transmission from person to person and place to place” (1900 p. xv).

I would like to clarify here that “*Mabamari*” (महामारी *mabAmArI*), is a Sanskrit word, appropriated and used as a *tatsama*<sup>3</sup> word in most of the Indian languages. *The Collins Hindi-English Dictionary* describes the word as “महामारी /mahāmāri/epidemic.” Besides, the word ‘plague’ does not find a place in *A Sanskrit-English Dictionary* (1872) compiled by Monier Monier-Williams simply because it is not an Indian/Sanskrit word. However, it includes महामारी /*Mabamari*, and gives its meaning as “great destroying goddess, a form of Durga, and a spell called from her; Pur. [indicating *purana*]; a pestilence causing great mortality, the cholera” (1899, p. 799). In the Indian languages, *Mabamari* broadly means epidemic of any kind, mostly cholera. That plague does not have an Indian origin can be proved with the simple fact that the word does not have a synonym in any Indian language. Thus, it is a meta-narrative floated by the colonialists that plague is *mabamari*; hence it is of “local origin”.

Thus, the British administration set out with a pre-conceived notion that plague was a home-grown disease and their experts insisted that it emerged out of India and China. As late as in 1896, Surgeon Lieutenant Colonel Waters affirmed, “epidemics now-a-days are more and more believed to be due to local conditions and are not simply imported” (cited in Sarkar, 2011, p. 90). Indigenous quasi-historical chronicles were cited to establish its “local” origin<sup>4</sup>. Nathan also agrees with the “conclusion” of Dr Cleghorn, Sanitary Commissioner of India, that “its [plague’s] incidence was greatly due to local conditions” and asserts “how completely this opinion was in accordance with the previous experience of plague epidemics in India and in other countries, and how fully it was justified” (1898, p. 139). The British experts even

sought to prove that the epidemic of Black Death which ravaged some parts of India in the middle ages was actually the plague. George Sussman, in ‘Was the Black

3 A *tatsama* [same as that] word is a loanword borrowed from Sanskrit and used as such by the receiving language (viz. *deshā, rājā, vāyu, agni*)

4 Almost substantiating the “belief of contemporary writers that the Black Death originated in India or China”, Nathan, in *Plague in India* (Vol. I) refers to two Persian narratives -- one by Ibn Battuta and the other by Ferishta -- to prove “the existence of plague in the west of India in the fourteenth and fifteenth centuries” (p. 71). Nathan informs that “Ferishta calls this disease *ta’un*”. Although he [Nathan] is not sure whether these were “epidemics of true plague”, he assumes that plague existed in India in the fourteenth and fifteenth centuries. Nathan had borrowed this evidence from a footnote in the *Gazetteer of the Bombay Presidency* (Volume IV, p. 218), edited by Sir James M. Campbell (1879). The main text, however, clearly says that “the works of the Hindus are said to have no mention of such a disease” (1879, p. 218). Interestingly, the *Gazetteer of the Bombay Presidency* cited James Ranken’s Report on the malignant fever called the Pali plague, which has prevailed in some parts of Rajpootana since the month of July, 1836 (1838), which had used J. F. K. Hecker (1795-1850) as its authority (p. 54). This assumption was carried forward also by J. K. Condon in his *History of Bombay Plague* (1900, p. xii). This can be seen as yet an example of the colonialists’ construction and perpetuation of meta-narratives.

Death in India and China?’ argues: “...a close examination of the sources on the Delhi Sultanate and the Yuan Dynasty provides no evidence of any serious epidemic in fourteenth-century India and no specific evidence of plague among the many troubles that afflicted fourteenth-century China.” (2011, p. 319)

After the appearance of plague in Bombay, Dr Acacio Gabriel Viegas (1856-1933), an Indian private medical practitioner, diagnosed the first case in the slums of Mandvi on 18 September 1896. It is not possible to believe that not a single case had been brought to the notice of any colonial medical officer or administrator in Bombay or Pune where it had already spread. Recent studies reveal that by August 1897 about 1.32% of the population of Bombay, or 10,813 persons, had died of plague (Chandrachud, 2020). In her doctoral dissertation, Natasha Sarkar informs that other medical practitioners had also come across cases of plague. K. S. Engineer, a licentiate of Medicine and Surgery (LMP), claimed to have observed a case as early as on 16 July 1896 (2011, p. 49).

As a conscientious medical practitioner, Viegas realised the urgency of the situation and the need to inform the authorities immediately. However, he knew that his finding would not be accepted unless it was clinically proved. With the help of Dr Cowasji and his nephew Dr Nusserwanji Surveyor, a physician and bacteriologist, Dr Viegas reported his finding which was reviewed by a Standing Committee on 23 September 1896. On 29 September, Lord Sandhurst, the Governor of Bombay telegraphically notified Lord Elgin, the Governor General of India, of an outbreak of plague in Bombay.

Such was the condition of India then that members of scientific missions from Egypt, Germany, Austria and Russia came to Bombay to study and to help in finding ways to contain the epidemic. It is necessary to mention at this point that Shibasaburo Kitasato (1853-1931) and Alexandre Emil Jean Yersin (1863-1943) had already discovered the plague bacillus in 1894, during the Hong Kong epidemic, and the finding was verified through bacteriological investigation. Yersin came all the way from the plague-hit region of Indo-China and reached Bombay by train on 5 March 1897. Waldemar Mordechai Wolff Haffkine (1860-1930), credited with the discovery of anti-cholera vaccine (1892) and later, anti-plague vaccine (1897) was already in Bombay when Yersin came. In ‘From Bombay to Rio de Janeiro: the circulation of knowledge and the establishment of the Manguinhos laboratory, 1894-1902’, Matheus Alves Duarte da Silva informs that during the three months he spent in India, Yersin not only tried to test the serum’s curative power but also used it as a vaccine capable of immunizing people against the plague. According to him, “when Yersin began administering the serum-vaccine, he and Haffkine came into conflict” (2018, p. 5). Yersin and Haffkine, both dedicated bacteriologists, knew each other since their days at the Pasteur Institute in Paris, but they differed in their opinions

so much that they could not work together to help the Indian crisis. According to da Silva, “Haffkine and Yersin’s conflict in India involved both scientific and social issues (2018, p. 5). It may also be mentioned here that both the bacteriologists claimed credit for the discovery of the plague bacillus and vaccine. Interestingly, the medical personnel in India concluded that the efficacy of the vaccination done by Haffkine and Yersin was “inconclusive”. Sarkar informs, “... despite the rapidly developing world of bacteriology, there was no consensus on the method of transmission and dissemination” (2011, p. 90).

The concern for the troops and the outbreak in Bombay were not the only reasons which activated the colonial machinery against the devastating epidemic. As Bombay port happened to be on the international trading route, there was immense pressure on the government of India to contain the epidemic. In ‘Plague, quarantine and empire: British-Indian sanitary strategies in Central Asia, 1897-1907’, Sanchari Dutta explores another compulsion which obliged the British government to take emergent action for the control of plague: “The appearance of plague in Bombay in 1896 revived the thorny issue of sanitary surveillance against Indian shipping. It elicited a massive international response as most countries in frequent communication with India introduced quarantine against Indian ports, with varying degrees of severity” (2009, p.77).

After Bombay, the epidemic of bubonic plague was reported next year in Bengal, Madras, United Provinces, Central Provinces, Punjab, Mysore, Hyderabad, and Kashmir and gradually the whole of India by 1899. By the end of 1903, according to official records, plague had already claimed the lives of about 2 million people; though the administration admitted that the actual figures might be higher (*The Imperial Gazetteer of India*, 1909, p. 475).

Besides the killer epidemics, the whole of the colonial period in India suffered outbreaks of great famines. Outbreaks of epidemics and famine were a regular feature in colonial India. In the late 1890s, the plague came with a terrible famine in the Bombay Presidency. There were horrifying reports in the local newspapers on the famine. *Ramji: A Tragedy of the Indian Famine* (1897), the English rendering of Hari Narayan Apte’s (1864-1919) Marathi work *Kal Tar Motha Kathin Ala* chronicles the suffering of the people and the apathy of the rulers and their officers during the hard times.

It is common knowledge that after the so-called Sepoy Mutiny and the transfer of power from the East India Company to the Queen Empress, things ostensibly went for the better. But it appears that the character of the administration still remained the same. Their priorities were trade and commerce and an overpowering military strength. The colonial government was more interested in the health and hygiene

of the military and paramilitary staff that would safeguard their expansionist and economic agenda.

This attitude can be read in the following excerpt from Sir John Strachey's *India*: "Ten thousand things were demanded which India had not got, but which it was felt must be provided. The country must be covered with railways and telegraphs, and roads and bridges. Irrigation canals must be made to preserve the people from starvation. Barracks must be built for a great European army, and every sort of sanitary arrangement which could benefit the troops must be carried out. The whole paraphernalia of a great civilised administration, according to the modern notions of what that means, had to be provided." (1903, p. 10)

What we notice here in these words is quite representative of the imperialist mindset. Strachey here talks about development which needs to be taken care of, but the two sectors which are primary in any benevolent government – health and education – are missing. The priorities are clearly "the troops" and communications.

*The Imperial Gazetteer* reveals more evidence of such an imperialist agenda. It states that during the period under report, the net expenditure on "the ordinary civil administration" had risen from nearly 14 to 23 crore, "the principal increase being under the heads of police, courts of justice, medical services, education, civil works, and pensions." But the "cost of the army (including military works) had risen from 16 ½ to 26 crore<sup>5</sup>" (1909, p. 198).

### **The Bombay plague, colonial aetiology and discontent over containment**

After Viegas reported the occurrence of plague and the probability of an epidemic in Bombay to the Municipal Commissioner, the first official reaction was somewhat stoic. The government was initially reluctant to acknowledge the outbreak, arguably to save their foreign trade from disaster, as Bombay was on the international trading route. *Room 000: A Narrative of the Bombay Plague*, Kalpish Ratna's<sup>6</sup> well-researched novel recreates the Bombay plague of 1896-97, narrates how the outbreak of plague was public knowledge. A Marwari gentleman tells Dr Viegas: "Sahib, I'm not a doctor like you, and I should not presume to tell you what you already know. In the past month more than fifty have died in my neighbourhood. Hale men and women, every one of them. Rich ghee-fed Marwari Jains like myself, not pathetic starvelings of the bazaar" (2015).

According to Sarkar, "It was evident that the Bombay Government was loath to acknowledge the presence of the dreaded disease" (2011, p. 49). She reveals, how,

<sup>5</sup> One crore = 10 million

<sup>6</sup> Kalpish Ratna is an anagram of the first names of Ishrat Syed and Kalpana Swaminathan, two individuals of medical profession, the authors of *Room 000: Narratives of the Bombay Plague* (2015), *The Quarantine Papers* (2010), *Once Upon a Hill* (2012) and *The Secret Life of Zika Virus* (2017).

the *Lancet*, apparently reflecting "this sentiment", reported "an outbreak of fever, attended by some of the features of what is alleged to be bubonic plague," However, she informs that the *British Medical Journal*, in an article, on the same day [3 October 1896], "discussed the possibility of the disease being plague"; and on the basis of "the identification of the plague bacillus" along with "the detailed clinical symptoms", opined that "it can hardly be believed that there can have been any mistake in diagnosis" (2011, p. 49). Although the government liked to believe that the plague was of "local origin", recent research reveals that it got imported "almost certainly by steamship from Hong Kong" (Catanach, 1988, p. 149). According to Prashant Kidambi, "Central to existing interpretations of the epidemic has been the pervasive assumption that colonial policies aimed at suppressing the disease were principally informed by 'contagionist' etiological doctrine" (2004, p. 249).

The colonial administration swung into action once there was an official acknowledgement of the epidemic. Teams and committees were formed; bacteriologists and scientists were consulted; the "troops" were called in, and measures like sanitization, quarantine and evacuation were executed.

After about six months of the first reported instance of the disease, the colonial state promulgated Act III or the Epidemic Diseases Act on 12 February 1897. On 20 February 1897 the government cancelled the annual Haj pilgrimage. The Muslim community expressed their resentment by submitting a petition of 15,000 Muslims under the leadership of Kazi Ismail Muhri on 23 March 1897. The Government of India empowered the local authorities to take necessary measures for the control of plague and the other epidemics. Under constant pressure from the trading countries, they started exerting all their power for forceful disinfection, evacuation, and even demolition of suspected places. Steps were taken to segregate the infected. Health care, sanitary and administrative officials had the right to inspect or search any suspected person or place and do whatever they thought necessary. Passengers from ships and railways were detained. The local press published news reports of excesses, and racial and class discrimination by the epidemic control teams. There were sporadic instances of popular resistance and even riots in some areas were reported. In no time, the government called in the army to ensure proper enforcement of preventive measures. Nathan argues that it was "the attitude of the populace" that "necessitated the employment of troops" (1898, p. 200).

Under the command of Major Paget of the Durham Light Infantry (DLI), 893 officers and soldiers, both British and Indian, assumed duty on 12 March 1897. A Plague Committee, under the chairmanship of Walter Charles Rand was formed by the Governor of Bombay. Rand, an ICS officer, then Assistant Collector of Satara, was made the Plague Commissioner for Pune, its suburbs and the cantonment area. The Governor's order said that the enforcement should be done without affecting

the sentiments or the religious practices of the communities and the female members should be examined by women only; but the officials and troops engaged in the containment of the epidemic did not follow the guidelines. N. G. Jog describes their modus operandi as follows: "Suspected patients were summarily taken to hospitals and their relations to segregation camps. Houses were forcibly entered and defiled; valuable property was destroyed; and bonfires were made of furniture, clothes and bedding under the guise of disinfection. The Tommies seem to have taken it all as great fun" (1962, p. 50). Sarkar informs that the infected or the suspected persons were forcibly separated and shifted either to isolation wards or hospitals, and their family members were asked to vacate their dwelling places. The authorities did not assume responsibility for the abandoned houses, and on their return, people often found their properties looted or destroyed. "The government's heavy-handed approach began to drive many people out of the city, which only caused the plague to spread even more" (2011, p.136).

Narrating the atrocities committed by the British soldiers in "their maddening zest for combating the plague", Keer says that they "took no notice of the sacred places, kitchens and the privacy of the people. A healthy man from the street, a woman in the kitchen, a child from the cradle, were seized and thrown into the hospital on a mere shadow of suspicion". Thus, the Government measures carried out by the agency of the British soldiers "were instrumental in accentuating popular misery, discontent and harassment" (1959, p. 117).

Gopal Krishna Gokhale (1866-1915), eminent scholar and freedom fighter, wrote a letter to *The Manchester Guardian* in which he alleged that the citizens of Poona had suffered from the excesses committed by the soldiers. Jog cites an excerpt of Gokhale's letter as follows:

"In defiance of the rules of the Plague Committee, the British soldiers entered kitchens and places of worship contaminating food and spitting upon idols or breaking them and throwing them into the street... But that was not the worst. Women were dragged into the streets and stripped for inspection under the pretext that there was not enough light in the houses. My correspondents, whose words I can trust absolutely, report the violation of two women, one of whom is reported to have committed suicide rather than survive her shame." (1962, pp. 51-52)

The over-enthusiastic "troops" did not think it necessary to body examine the white people but did not spare Indians even in high position. For example, when Justice Badruddin Tyabji (1844-1906), a judge of the Bombay High Court was returning from Matheran after the Christmas holidays, he was detained at Bombay station for body examination, while his European subordinate was allowed to go away with his native servants. Tyabji was travelling first class with the necessary health certificate

with him. Tyabji had even complained about insult and annoyance experienced by his daughters at the hands of plague officials when travelling by train from Bombay to Baroda on 17 June 1898 (Sarkar, 2011, p.135).

It was alleged that in the Bombay region women passengers were physically examined on the platforms in the public view. The *Gurakhi* reported such an incident at the Kalyan station and commented that it was "revolting and outrages all etiquette" (cited in Sarkar, 2011, p. 93)

### **A Violent Retaliation: The Murder of Rand and Ayerst**

In popular perceptions, Rand, the civilian officer in charge of the Plague Committee for Pune had been ruthless in his zeal for executing the measures for the control of the epidemic. Along with his military aide Lieutenant C. E. Ayerst and the troops under the command of Major Paget, he apparently violated the guidelines in complete disregard of the individual's right to privacy and their body. The discontent was wide-spread, and often anticipated violent reactions, but Rand, in his report, claimed differently: "The members of the Plague Committee concur with Major Paget in the high opinion he has expressed on the conduct of the troops, both Native and British. The discipline of the troops when at work in the city was excellent, and the utmost consideration was shown both by officers and men for the religious and social customs of the inhabitants" (Nathan, 1898, p. 201). Rand further reported that the situation was different in Pune, "where disloyal persons endeavoured to work on the feelings of the people which were naturally excited by the operations, carefully and considerately though they were carried out, by the invention of malicious tales of oppression and violation of religious and social custom" (cited in Nathan, 1898, pp. 201-202). Rand had put the blame on "a section of the Brahman community, including some of the most influential men of the city" who "were disinclined to support any measures that emanated from an official source, and were more likely than not to work against any operations that might be set on foot by the Government to deal with the emergency" (cited in Nathan, 1898, p. 202).

On 22 June 1897, an act of violence took place which became a turning point in the course of history. While returning from the celebration of the Diamond Jubilee of the coronation of Queen Victoria at the Government House at Pune, Rand and his aide Ayerst were fatally shot, respectively by Damodar Hari Chapekar (1870-98) and his younger brother Balkrishna (1873-99). While Ayerst, who was shot on the head, died at the instant; Rand, who was shot under the left shoulder blade, succumbed to his injury at the David Sassoon Hospital on 3 July 1897. On the tip-off of two friends of the Chapekars, Ganesh and Ramchandra, the so-called Dravid Brothers, Damodar was arrested and his confessional statement was recorded on 8 October 1897. Balkrishna, who had shot at Ayerst, was apprehended in January 1899 and

tried for murder. Vasudeo (1879-99), the third among the 'Chapekar Brothers', also an accomplice, was still at large. Vasudeo, Mahadev Vinayak Ranade and Khando Vishnu Sathe killed the Dravid Brothers on 9 February 1899 to avenge their treachery and were arrested the same evening while trying to shoot at and kill a police constable called Rama Pandu. All the accused were tried in a Pune court and found guilty. Damodar was hanged till death at the Yeravada jail in Pune on 18 April 1898; Mahadev Vinayaka Ranade and Khando Vishnu Sathe on 9 February 1899; Vasudeo on 8 May, Mahadev Ranade on 10 May, and Balkrishna on 12 May 1899. Sathe, another accomplice, was sentenced to 10 years rigorous imprisonment because he was a minor at the time of the crime.

### The Tilak Trial: Deliberations over "disaffection" and sedition

Tilak, the owner and editor of the *Kesari* was arrested on 27 July 1897, and along with Hari Narayan Gokhale, the printer, he was prosecuted "in respect of certain articles appearing in the said newspaper [i.e. "*Kesari*, a vernacular newspaper of Poona"], under section 124A of the Indian Penal Code and any other section of the said code which may be found to be applicable to the case" (*The Indian Law Reports*, p. 113).

It is worthwhile to ponder why Tilak was arrested on 27 July 1897, about a month after the murders of Rand and Ayerst, even before the accused in the crime were arrested and at a moment when he was nominated to the Legislative Council.

It appears from the sequence of events that the colonial government had long been annoyed with Tilak for his relentless criticism of the government policies and their officers in his newspapers, and was looking for an opportunity to contain him. The murders took place hardly a week after the publication of the reports of the Shivaji festival and an anonymous poem, allegedly written by Damodar Chapekar, in the *Kesari*. The link between Tilak and Chapekar was not difficult to concoct.

The nationalist constituency believed that the myth of the Tilak-Chapekar nexus was created by the so-called Anglo-Indian press, and some officers in the colonial administration. According to Jog, "... it was the panic among officials and the vilification by Anglo-Indian journals following the murders which really provoked the Government to arrest Tilak. *The Times of India* led the pack by publishing extracts from Tilak's writings, garbled and distorted from their context" (1962, p. 55). Protesting the vilifications, Tilak wrote to *The Times of India*:

The shocking tragedy at Poona may have obscured your judgement. But you have entirely misrepresented my conduct as both a journalist and a private gentleman during the time the plague operations were in force in Poona.... I think I am enti-

led to say that you are doing me sheer injustice by representing that either myself or my paper did anything to excite disaffection among the people.... Unlike you, I could not shut up my eyes to complaints and grievances which, from personal knowledge, I was convinced were real and well-founded. Anglo-Indian journalists like yourself can be hardly induced to take the right view of the question. (cited in Jog, 1962, pp. 55-56)

Although Tilak and Chapekar knew each other, there was, apparently, nothing to prove Tilak's complicity in the murders of Rand and Ayerst. Chapekar was very critical of Tilak and his friends, the Congress, and the reformers of his times. In addition to stray references to him, his autobiography, originally written in Marathi<sup>7</sup>, has a full chapter called: 'My estimate of Tilak and Khare'. He writes how he wanted "to punish Tilak" (*Autobiography*, 1897, p. 994) because he [Chapekar] was not allowed to speak in a meeting which Tilak was presiding and had even sent a wrestler to drive him out. "This sanctimonious individual [Tilak] is the dear friend of the beef-eater Daji Abaji Khare ... with whom he takes meals without any hesitation", he accuses. Besides, Tilak is "neither a Hindu nor a Yavan" and "neither a thorough reformer nor is he thoroughly orthodox" (*Autobiography*, 1897, p. 994). And Chapekar concludes, because of these reasons, "we have no good opinion of him" (*Autobiography*, 1897, p. 995).

Chapekar's autobiography reveals how he grew up with traditionalist views and entertained very strong feelings against everything English, including biscuits and tea, and nurtured a self-righteous and self-imposed sense of responsibility for punishing those who, in his view, were violating the traditional Hindu ways. His *Autobiography* is replete with statements which express his extremist politics. "Statements such as this," Elie Kedourie avers, "which abound in his autobiography, show this terrorist to have been not naively traditional but rather deeply touched by the rhetoric of traditionalism as it was purveyed in the vernacular press by Western-educated politicians" (1970, p.113).

Tilak, who was present at the jubilee celebration as an invitee was reportedly "shocked" by the murder, and wrote that a community should not be targeted just because "a fanatic took into his head to perpetrate a horrible deed which we all of us equally deplore" (Jog, 1962, p. 53). According to Sukeshi Kamra, "Tilak was not found to be involved in acts of physical violence against the government or, indeed, the European community, nor was the connection with revolutionaries of the Bombay Presidency proved, by the government's own admission" (2016, p. 559). Bal Ram Nanda rightly opines, "Tilak was prosecuted for the 'seditious' tone of certain articles in the *Kesari*, but it was obvious to all that he was being made scapegoat

<sup>7</sup> The original autobiography of Damodar Hari Chapekar, along with his poems and letters in Marathi have been compiled and published as *Hutatma Damodar Hari Chapekar Yanche Atmavrutta*, V. G. Khobrekar, ed., Bombay: Maharashtra Rajya Sahitya Samskriti Mandal, 1974.



for the authorities' failure to capture Rand's assassins. Governor Sandhurst and his officers were resolved to make an example of Tilak who appeared to them the epitome of the defiant Brahman elite of Poona" (1977, p. 118). Even Tilak himself had anticipated this after the assassinations: "The Anglo-Indians have thrown off their usual dignity and have turned to the law of the jungle. I am afraid some of us must be prepared to be sacrificed on the altar of their wrath. I expect they will lock me up soon (cited in Kamra, p. 554fn).

Was Tilak, then, prosecuted and punished because of the reports of the Shivaji festival and the articles in his newspapers which supposedly provoked some young men to such an extent that they killed two British officers? Perhaps not so. By the time of his 1897 trial, Tilak was already known for "his frequently bold critique of government policy and actions, and controversial in an emergent nationalist public sphere for his Hindu conservatism" (Kamra, 549). Tilak had become a threat to the colonial state because he was aggressively vocal as a speaker and writer. As a journalist, he brought in the media as a public platform to ventilate popular opinion. According to Jog, "A loud, daring and scathing critic, Tilak was a terror to the bureaucrats and his opponents. ... He fearlessly exposed Government officials by unearthing their secrets and by ruthlessly attacking their high-handed policy. He irreverently attacked the weak points of those who toadied Governors and bureaucrats and who spoke or acted against people's interests" (1962, p. 102).

In 1882, Tilak was targeted by the government for creating public opinion through his papers on the injustice meted out to Sir Shivaji VI, the Chhatrapati [king] of Kolhapur by Mahadeo Barve, the *Karbbhari* [Regent], in complicity with the government. Barve filed a case of defamation against Tilak and his associate Gopal Ganesh Agarkar. On 16 July 1882 the jury found them guilty and sentenced them to four months imprisonment.<sup>8</sup>

The provisions of the Section 6 of the Cotton Duties Act of 1896 made it obligatory for "every mill in British India, upon all cotton goods produced in such mill", to pay "a duty at the rate of 3½ per centum on the value of such goods" ... "upon all cotton goods produced in such mill" (Dutt, 1904, p. 543). It came as a blow to Indian weavers. According to Romesh [Chunder] Dutt, this was "an instance of fiscal injustice,"... "unexampled in any civilised country in modern times" (1904, p. 543). Bipan Chandra informs how public opinion was created against this taxation by the newspapers, especially Tilak's *Mabratta*. Tilak, "thundered" in the 9 February 1896

issue: "Never before since the Government of this country was transferred from the East India Company to the Queen-Empress was perpetrated an act of injustice as flagrant as the readjustment of the cotton duties in favour of Lancashire" (2010,

<sup>8</sup> For more details on this case, see Athalye, D. V., *The Life of Lokamanya Tilak*, Poona, Annasahib Chiploonkar, 1921, pp.23-26.

pp. 220-21).

Tilak did not spare even Lord Elgin (1849-1917), the Viceroy of India (1894-99) for his insensitiveness. When the people were in distress due to famine and epidemics throughout the country, Elgin had been touring the provinces under the Empire and receiving ovations. On 27 November 1896 while he was receiving a grand ovation at Baroda [now Vadodara], dead bodies of 50 persons reportedly killed in an accident at a public garden were still lying unattended. Tilak criticized Viceroy Elgin for the demonstration of "the unjust grandeur of Her Imperial majesty" when the subjects were in distress; and because "the Viceroy did not have a moment's thought" for the fifty persons who were lying dead. He further wrote in his paper, "But the prevailing situation is such that there is absolutely no one to bring the Viceroy, who is practically the Emperor of India, to book" (cited in Keer, 1959, p.110)

According to Vishwanath Prasad Varma, in 1897, during the Diamond Jubilee celebrations of Queen Victoria, Tilak wrote three articles in the *Kesari*. In the article written on 22 June [the very day Rand and Ayerst were attacked] he stated that "India's arts and industries had declined under the British rule" and "the various economic enterprises and investments in India, under the ownership and management of the foreign capitalists, only created a delusion of prosperity" (1958, p. 17).

Tilak was possibly the only leader, especially in the Bombay Presidency, who had been strongly criticizing the government. His writings became all the more scalding during the plague operations. On 4 May 1897, he wrote in the *Kesari* that Her Majesty the Queen, the Secretary of State and his Council should not have issued orders "for needlessly practicing *zulum* [atrocities] on the people of India without any special advantage to be gained" and "the Bombay Government should not have entrusted the execution of this order to a suspicious, sullen and tyrannical officer like Rand. For this one cannot sufficiently blame the Home Government as well as the Bombay Governor" (cited in Jog, 1962, p. 51).

Tilak admitted that "from a scientific point of view segregation is of great use" for the containment of plague, but he also warned the administration of "the adverse notions of the community about hospitals, the usual way in which the rulers conduct themselves towards the ruled and diverse other reasons"; and the popular perception "that a hospital means a place for killing persons has taken deep root in the community". He further wrote, "This terror about the hospitals has been aggravated by the acts of some of the unscrupulous policemen" (cited in Jog, 1962, p. 51). He also wrote in the *Mabratta* that "Plague is more merciful to us than its human prototypes now reigning the city. The tyranny of Plague Committee and its chosen instruments is yet too brutal to allow respectable people to breathe at ease" (cited in Jog, 1962, p. 51).

As seen above, a week after the publication of the reports of the Shivaji Festival and the other articles in the *Kesari* on 15 June, the plague commissioner Rand and his aide Ayerst were attacked while leaving the governor's reception given in honour of the Diamond Jubilee of Queen Victoria's reign. The government seized upon the opportunity to implicate Tilak in the case. Though it was not explicitly stated in the charge sheet, they strove to imply that Tilak had instigated the murders through the *Kesari* articles and reports of the Shivaji festival, provoking "disaffection".

It is evident from our discussions above that Tilak had no connection with the first political murders of colonial India nor was he in any way involved in any such conspiracy. There had been intense discontent among people arising out of the insensitive handling of the epidemic, not to speak of the terrible famine, widespread poverty and the harassment caused by various enactments promulgated by the colonial government. The assassination of Rand was not an isolated case. Sarkar informs that the resentment against the plague regulations and excesses of its insensitive executors was wide spread and the plague officers were called "brutes", "butchers", "barbarous" and "wild bulls". According to her, "The final outcome of these emotions was open violence" (2011, p. 92).

### **Tilak Trial: Rhetoric of radical nationalism**

The arrest of Tilak was obviously an instance of the government's panic at the rise of the rhetoric of radical nationalism. I have held in my earlier papers and books how the Indian writers had strongly demonstrated resistant nationalism since the early years of colonization. The works of some of the Indian writers had even been proscribed and the government sought to discipline the writers through repressive means. That the government was against freedom of expression is evident from the acts and legislations they implemented in the nineteenth century itself. Lord Macaulay (1800-59) had prepared the draft of the Indian Penal Code (1837) on the model of the British Penal Code. However, owing to some mysterious reason, Section 124A, which had provision for "the intention to incite 'disaffection'" was not incorporated when it was legislated. This section, famously known as the Law of Sedition was added later on by virtue of the Indian Penal Code (Amendment) Act, 1870 (Act XVII of 1870, Sec. 5). The 1897 case against Tilak was the second instance where the term 'sedition' was used. The first case was in 1891, against Jogendra Chandra Bose, the editor of *Bangabasi*, for criticizing the Age of Consent Bill. However, the proceedings were dropped after Bose tendered an apology. Tilak was the first Indian to have been convicted for written words.

During Tilak's 1897 trial, there was a lot of argument on the meaning and intent of the term "disaffection". Justice Arthur Strachey (1858-1901), a very young judge

then, arguably misinterpreted legal terms. Tilak was pronounced guilty by the jury. Among the nine members of the jury, the six Europeans found him guilty against three, comprising of two Hindus and one Parsi. Chandrachud summarizes the issue in the following manner:

Justice Strachey's charge to the jury defined sedition very differently from how it was understood in England. There, since around 1832, a speech was only considered seditious if it encouraged listeners to violently revolt against the government. In the Bombay High Court, on the other hand, Justice Strachey said that sedition means the "absence of affection" towards the government, i.e., even making listeners hate the government was enough to be considered seditious. This ruling, issued at a time of widespread panic when British India was battling the plague epidemic, survived for decades thereafter. Scores of Indian patriots were sent behind bars for sedition on the basis of Justice Strachey's words. (2020)

The 1897 prosecution began a discourse over such terms as "disaffection" and "sedition". Tilak himself was the victim of this law two more times: in 1908 and in 1916. In June 1908, he wrote two articles, 'The Country's Misfortune' and 'These Remedies Are not Lasting' in the *Mabratta*, and signed a statement along with other leading personalities in support of Prafulla Chaki and Khudiram Bose, who had inadvertently killed two European women at Muzzafarpur on 30 April 1908 in place of their target Douglass Kenford, the District Judge. Tilak was arrested on 24 June 1908 and swiftly convicted and deported for six years to Mandalay in Burma [presently Myanmar](1908-1914).

In 1916, Tilak was prosecuted again for the "seditious" speeches he made after founding the Home Rule League on 28 April 1916. The District Magistrate of Poona served a notice to Tilak on 22 July 1916, asking him to execute a bond "for his good behaviour for a period of one year" (Jog, 130). Surprisingly, the District Magistrate, who had issued the notice himself presided over the trial when it came up for hearing on 7 August 1916; and as expected, he held that "Tilak wanted to disaffect his audience against the Government" and directed him to execute the bond (Jog, 130). Tilak appealed to the Bombay High Court. His case was heard by Justice Batchelor and Justice Lallubhai Shah on 9 November 1916 and he was exonerated. Justice Batchelor set aside the judgment of "the learned Magistrate" of the trial court, and held: "Following Mr. Justice Strachey's original pronouncement to the Jury in *Queen-Empress v. Bal Gangadhar Tilak* (1897) I.L.R. 22 Bom. 112, 151 he has held that 'disaffection' is the equivalent merely of 'absence of affection'. It is, I think, equally plain that this construction of the word 'disaffection' is opposed to all ordinary English usage in words compounded with the particle 'dis'" (1916, p.1). Justice Shah observed, "... it is clear from the various passages in the speeches that the avowed object of the petitioner was to create a public opinion in favour of

Home Rule for India and to induce the hearers to join the Home Rule League” and he wanted to achieve this through “constitutional means” (1916, p.7).

Observations made by the lawyers and judges in these cases foreground the role of language, translation and interpretation of the nationalist rhetoric inside and outside the courtrooms. The trials exhibit the engagement of the jurisprudence less with legal but more with academic interpretations of words and phrases like “disaffection”, “loyalty”, “sedition”, etc. Besides, the rulers did not know Indian languages well enough, and unraveling the different layers of meaning lost in translation was yet another sphere where selective interpretations became contentious. In such cases where a text was used as incriminating material, the dependability on translations and their interpretations by the British lawgivers raised a number of concerns. It is clear from the footnotes and explanations of the translated versions in such cases that the Oriental Translators (job title of the translators appointed by the colonial government) sometimes failed to translate words and expressions in English and would provide multiple synonyms as well as elucidations leaving the texts open-ended. Interestingly, in the 1897 case, the court had obtained one “free translation” and another “literal translation”, and there had been hermeneutical deliberations on “the context”, “true meaning”, “intention, “a conflict of evidence as to the meaning of a particular expression”, “the spirit of the original” and the like (1897, p. 143).

The colonial government made use of the sedition law many more times, and nearly all the cases like those against Tilak were based on written words. Robert Darnton, referring to the 1897 Tilak case rightly observes, “... this courtroom and later ones were transformed into a ‘hermeneutical battlefield’” (cited in Kamra, p. 547).

The late nineteenth century epidemic of plague, colonial epidemiology, nationalist resistance and radical rhetoric gave new dimensions to power equations in the public sphere as well as to the politics and economics of colonialism. The convictions of Tilak were widely reported in India and abroad and most of the moderate and nationalist newspapers as well as intellectuals and political leaders came out with sympathetic reactions, thus taking resistance nationalism to a wider public sphere. Tilak’s conviction was deplored in India and abroad. Being a renowned writer, especially as the author of *The Orion or Researches into the Antiquity of the Vedas* (1893), dedicated to Max Muller, Tilak enjoyed international acknowledgment. It is due to the appeals of his admirers like Max Muller (Athalye, 1921, p.101) and organisations like the Howard Association, London [‘Howard League for Penal Reform’ since 1921] (Jog, 1962, p. 60) to Queen Victoria that Tilak got better treatment in the prison and his prison term was reduced. Thus, Tilak’s convictions, in a way, made a case for colonial India in the rest of the world.

Vishwanath Prasad Varma looks upon Tilak as “a political extremist” (1958, 19), who “accepted legal methods of agitation” and believed that “political thought can be characterized as nationalism founded upon ‘Democratic Realism’” (1958, p. 24). Kamra sums up “the 1897 trial”, as:

... an originary moment in the history not just of radical nationalism, but of nationalist rhetoric in general. It secured the view that discursive violence was a criminal offence. Many more nationalist and patriotic texts in subsequent decades, with no hint of militant vocabularies, would also be subject to the same legal process and outcome. (2016, p. 558-59).

Thus, the institution of the Epidemic Act, the immoderation of the colonial administration during the containment of plague and execution of Section 124A with overtones of “sedition” eventually became a turning point in the colonial history of India. The association of written/spoken words with political violence which began with the sedition case against Tilak in 1897 and the political rhetoric used during and after the several prosecutions against him not only made Tilak the most popular -- even a mythological hero -- in collective perception, it also made meaningful and stronger the concepts of radical nationalism and political extremism. It gave a new direction to the freedom movement through his famous call for “Swaraj” or self-rule enabling M. K. Gandhi and the later leaders to engage the public space for dissemination of political ideas through written and spoken words.

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