

CRIME, CRIMINALITY AND PUNISHMENT IN COLONIAL DARJEELING DISTRICT

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Abstract

Crime is behaviour against the rules of the society by which it achieves the status of crime and individual is treated as criminal. In the pre-colonial period the concept of crime and criminality existed in an elaborate form in texts and scriptures. But the legal perception of crime and criminality in the British period is essentially a colonial construction. They adopted a new method of identifying crime and criminality and of punishment in colonial India. In this article the crimes and criminality in Darjeeling and the methods of imprisonment is highlighted.

Keywords: *Criminality, Britain, Darjeeling, Behavior, Labour, Jail*

Crime is an integral part of a society which existed from the beginning of civilization. It is a social phenomenon. There is no consensus among historians of criminology and social historians regarding the definition of crime and perceptions of criminality. Yet crime can be defined as an action punishable by criminal law in a given society within a particular period of time¹. Crime again, is a behaviour which breaks the acceptable norms of the society. It cannot be defined without reference to any law because no action can be judged without the legal provision of punishment

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for the same. Thus crime is behaviour against the rules of the society by which it achieves the status of crime and individual is treated as criminal.

The pre-colonial definition of crime and criminality existed in an elaborate form in texts and scriptures. But the legal perception of crime and criminality in the British period is essentially a colonial construction. Britain started since the nineteenth century considering the criminals as a separate 'species' and as 'others' in Britain and in the same way they started to treat the Indian criminals. In India they adopted a scientific approach and a method of scientific classification of criminal behaviour was assumed and the conclusion was reached that the Indian society was full of 'hereditary' and 'habitual' criminals². They assumed it too that Indians as uncivilized tribes and are to be reformed through a system of punishment. As Michel Foucault states that by the beginning of the nineteenth century imprisonment was becoming the favoured form of punishment for the 'offenders' in Britain and Europe. Foucault argued that there as a shift towards punishment aimed at modifying behaviour rather than mortifying the body through the infliction of physical pain. Such shift was taken up by the colonial masters in creating prisons and introducing the concept of imprisonment and penal institutions over physical punishment³. In this article an attempt has been made to study the crimes, the changing concept of criminality and system of imprisonment in Darjeeling district in the colonial period.

Crimes in Darjeeling district

After the annexation of Darjeeling from the Raja of Sikkim by the East India Company in 1817 by the Treaty of Titaliya, the town underwent great changes in urbanization and growth. There was increase in population and economy with the introduction of tea gardens in the region. Darjeeling with the beginning of the twentieth century became an important hill station with flourishing tea economy,

tourism and strategically important centre. Immediately after the annexation of the Terai portion of the district in 1850 from Sikkim the southern portion was placed under Purnea district and later the whole area was attached to Darjeeling. At the time of annexation there were Bengali officers called *chaudhuris* who exercised civil and criminal powers in the region. From 1850 both the hills and plains of territory were to be managed by the Superintendent called Deputy Commissioner. With the increase in urbanization in the town and population crimes started to grow ⁴.

As early as 1852-53 W.A. Jackson in his Report on Darjeeling gives a detailed description of crimes in the district. Besides assaults and wounding against persons - 5; abduction -27, petty affray - 57, child lifting-1, suspicion of murder- 2, false impersonation-8, and also cases gainst property , offences against currency and miscellaneous offences such as damaging of crops, gambling and drunkenness etc. Nevertheless, the district of Darjeeling has a lower incidence of crime in Bengal ⁵.

The British with the 'scientific' classification of criminal behaviour came to the conclusion that Indian society was full of 'hereditary' criminal communities. The concept of 'habitual' crime was thus reflected in the passing of Criminal tribes Act, 1871. In the post mutiny period more emphasis was laid on the 'science' in explaining Indian criminality. The colonial officials, however, gathered a different attitude regarding the Darjeeling hills and plains. They connected criminality with race and ethnicity. As Bernard Cohn noted, for many British officials caste, and religion were integral to understanding the Indian people and how their society functioned ⁶. A similar understanding of race was reflected in the statement of L.S.S.O Malley who mentions that, 'As regards criminal cases, the Nepalese , who constitute a large portion of the inhabitants , are remarkably law-abiding and both they and other hill races are very different from the plainsmen in having dislike for

litigation". Incidents of serious crimes were much rare. There were common offences as affrays, assaults and cases of wounding, which are common among a people of considerable courage, a keen sense of honour and quick temper with whom the *kukri* is the national weapon ⁷. It is also mentioned in the Darjeeling district Gazetteer (1947) that, 'Crime was very light in this district . Dacoities occurred only in the Siliguri Subdivision adjoining Nepal where from the wilds of Moorang, maraunders, taking advantage of dark nights during the dry season, try to loot jotedars. There were fear of criminals from Bhutan, Nepal and Sikkim. In 1944 there were 2158 criminal cases which were brought to trial; 206 sentences of imprisonment and 26 of whipping were passed and an amount of Rs. 20,000 was realized in fines ⁸.

Police administration

In 1854 the police administration of the district was apparently superior to that in the districts of Regulation Provinces. About the same time , the district had police stations and sub ordinate *chowkis* manned by personnel as in Sadar (Darjeeling)P.S. there were 1 Darogah, 1 Jemedar , 17 Peons ; In Matigara P.S. there were 1 Darogah, 1 Jemedar , 10 Peons ; etc. The report gives a detailed description of the various police stations and the personnels taking care of it. Police administration in the district has been steadily strengthened since then and in 1860 prior to the constitution of a regular police force, police personnel in Darjeeling , as reported by the Deputy Commissioner , consisted of 16 Indian officers and 102 footmen ⁹. According to W.W. Hunter, at the end of 1872 the regular police had the strength: 1 District Superintendent, 35 sub-ordinate officers, and 177 foot police constables. According to these figures, there was 1 police man to every 5.79 sq. miles of the district area, and one to every 445 persons of the population ¹⁰.

In 1907 for the law and order administration of the district was divided into 4 police thanans or circles, namely, Darjeeling, Jorebangla, Kurseong and Siliguri. Besides these there were 4 independent out-posts and 23 dependent outposts, including 11 patrol posts. The regular police force consisted of a District Superintendent of Police, 5 Inspectors, 24 Sub Inspectors, 2 Sergeants, 49 Head Constables and 351 constables. In addition to this there were daffadars and chaukidars in the village level. Owing to the mountainous nature of the area and the difficulties communication, the force was proportionately stronger than other parts of the province, there being one policeman for every 2.7 square miles and for every 576 persons. The cost of maintenance in 1905 was one and one-fourth lakhs¹¹.

Changes were visible in the administration in 1944 when the district was divided into three circles in charge of Inspectors, twelve police-stations under the sub inspectors and 26 police outposts. The regular police force consisted in 1944 of a District Superintendent of police, a Deputy Superintendent, 6 inspectors, 33 Sub-inspectors, 2 Sergeants, 46 Head Constables, and 521 Constables. In the hills the police are almost all Nepalis, recruited from Jimdars, Murmis, Mangars and Gurungs. In the plains area of the District there is a rural force of village watchmen consisting of 24 daffadars and 142 chaukidars. In the hill portion of the District there were no chaukidars or daffadars. Their duties were performed by ordinary policemen¹².

The district frontiers were guarded by a chain of police patrol posts to watch criminals and the foreigners crossing the borders. There were posts at Debiganj, Adhikari, Naxalbari, Raniganj Panighata, Mirik and Tanglu. The posts on roads leading to Sikkim are, Lodhoma, Singla, Rangit, Rangpo and Pedong. There was only one post on the Bhutan frontier. The Drajeeling Police had to prevent criminals from

escaping to Nepal as extradition from Nepal is difficult and rarely successful. The cost of maintenance in 1943 was Rs. 3, 13,000¹³.

Violence and Protests

The British notions of what constituted a serious criminal offence impacted upon their perception of Indian morality. During the colonial period, the British definitions of criminal offences were being broadened and property crime and larceny were increasingly considered to be serious offences carrying severe penalties. David Arnold has pointed out that, 'crimes of violence and protests that threatened the security of property received the most attention from colonial authorities while serious crimes such as murder and sexual crimes went unheeded'¹⁴. There were incidents of violence in Kurseong and Siliguri Subdivision, where tea garden labourers protested and in 1921-22 the tea garden labourers had boycotted foreign goods. There were violence and protest in the hills from 1931 to 1939. Lebong became the scene of a murderous attempt on the Governor of Bengal, Sir John Anderson. Later, such political protests took place in Siliguri Subdivision as in 1942, there was a riot and police had to fire. There were numerous protests by the All India Gurkha League and the Darjeeling District Communists among the tea garden workers since 1943. The Radical Democratic Party also organised successful strike among the railway workers in 1944. The police in each of the cases took severe steps to maintain law and order without disturbing the property of the area¹⁵.

Prison administration

India experienced a shift in the process of punishment by inflicting imprisonment for criminals instead of pain. Arnold stated that the British began to condemn India's harsh and cruel penalties such as branding, whipping and mutilation¹⁶. Arnold

established that the prison system in India grew out of the British preoccupation with maintaining law and order and the desire to ensure economic viability¹⁷. The main punishments which were now being presented as an alternative way to effectively discipline prisoners, which demonstrated a correlation between Britain and colonial India, were promotion of separate confinement, labour and education. These three aspects of prison discipline demonstrated the shift away from physical punishment and reflected the desire to change the behaviour of prisoners rather than simply punish them¹⁸.

In the nineteenth century, separate confinement and certain amount of solitude were seen by the British as an effective scheme for encouraging prisoners to reflect upon their situation and supposedly learn the error of their ways. But the Darjeeling jail as reflected in the report of Jackson gives a different picture. He writes that “the space allotted for the convicts is very small in proportion to their numbers..... The average number of prisoners now is between 40 and 50 and the average number of sick for the past two years is about 12 per cent. The convicts are fed by rations and are employed chiefly on the roads”. In 1907 the situation improves and there was a district jail in Darjeeling, and small subsidiary jails at Kurseong and Siliguri. The latter have accommodation for 24 and 8 prisoners, respectively and merely lock-ups in which prisoners sentenced to imprisonment for a fortnight or less are confined. The District Jail was an old fashioned building which could contain 130 prisoners; there were cells for 11 prisoners, and barracks without separate sleeping accommodation for 119 prisoners, including the hospital which contains 10 beds, a building reserved for 9 under trial prisoners, and another intended for European prisoners¹⁹. In 1947 the District Jail at Darjeeling had accommodation for 114 prisoners in barracks and 6 in cells. The barrack accommodation includes that of a

hospital for 10. There are separate buildings for 9 under-trial prisoners and for 4 European prisoners²⁰.

During the colonial regime, enforcing labour for prisoners was primarily aimed at the reform of the prisoner's character. Bentham theorized that labour would teach the idle criminal to love work, since the only alternative to labour in prison was boredom²¹. In the prison reports it was stated that introducing prisoners to a trade would make criminals as industrious and convert the idle into labourers, and plunderers into honest men²². Labour in Indian prisons was perceived primarily by the British administration as a way of keeping the prisoners productively occupied or to add to the deterrent factor of prisons. The labour provided the coverage of the cost of the prisoners food and cloth. In Indian prisons the labour was valued because it funded the upkeep of the prison and its occupants. In the Darjeeling district jail in 1907 the chief industry was the bakery, from which bread is supplied to the troop and the general public. Oil-pressing, bamboo and cane work, carpentry and boot-making are also carried on²³. Dash mentions in 1947 that the jail industry were cane and bamboo manufacture, gardening, bee-keeping, oil-pressing and wheat-grinding. Hunter mentions of gardening and stone-breaking. The penalty for not working by any prisoner was very severe²⁴. The prisoners were not allowed to work if they were sick. He also mentions of the profit in prison labouring for the jail. In 1870 the total credit from prison industries and jail manufactures amounted to 328pound,18s.4d and the total debits to 318 pound,17s.9 1/2d., leaving an excess of credits over debits, or a profit of Rs 100.4.3. There was profit per prisoner engaged in manufactures to Rs 16.11.4²⁵.

The health and sanitation of the prisons was poor as the rate of mortality was high in the jails. Hunter remarks in 1857-58 the proportion of prisoners admitted into

hospital amounted to 250 percent, and the death to 12.50 percent. Situations improved with new sanitary regulations introduced by the Jail recommendations. A medical officer was appointed in every jail and civil surgeons should be placed in every district jail ²⁶. In 1947, the Darjeeling District Jail consisted of a superintendent, a deputy jailor, a sub-assisted surgeon, three head warders, twenty four male warders, and one female warder; twenty three of these are hill men ²⁷.

Conclusion

Crimes in Darjeeling seemed to be within control in the colonial period. Criminality in the colonial period was defined according to the British concept of Indian criminals in identifying them from the perspective of caste and ethnicity. Indians were often constructed as criminals by the British on the basis of their lifestyles and practices. Drawing on Darwinist theories that backward races are more prone to commit crimes, criminal behaviour were considered to be hereditary trait for groups classified as "Criminal Tribes" ²⁸. They were judged from the idea of loyalty pursued by the race towards their colonial masters. The British identified the Indian criminal as a disloyal subject. On these theories the British classified the hill men as more 'law abiding race' and the plains men less. It is true that the Nepalese being hardy and strong were recruited as Gurkha soldiers in the British Indian army in the colonial period. Thus questions of disloyalty did not arise in the minds of colonial masters during the early part of the colonial regime. For the British during this period, the prison was an institution symbolic of order and civility. The prison was for them not just a system to preserve and reform the criminals but to make the colonized country realize the political presence of the authority. Such was also reflected in the system of police administration and trial cases introduced by the Raj in the Darjeeling district. Separate confinement and labour in the prisons were

introduced. In the Darjeeling jails too more emphasis were made on laboring on marketable skills like bakery which potentially undermined the legitimacy of the British as competent rulers.

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