

Introduction

For the British, 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. Thus, the history of prisons in colonial North Bengal and its control, punishment and discipline clearly emerges as a significant area of study. The present work entitled “Prison in Colonial North Bengal: A Study of Control, Discipline and Punishment 1773-1947” which deals with the evaluation of Prisons in general and the method of modernization of prison system in Colonial North Bengal. The chronological framework is related to the introduction of the modern prison system to the end of colonial rule. Basically, the year 1773 has significance in two aspects i.e. in this year British passed a verdict in colonial legal system to deal with the convicts in jail for implementation of punishment and incidentally in the same year the princely state of Cooch Behar came into the contact with the British authority by signing the “Anglo-Koch Treaty.” On the other the study restricts itself to 1947, because at the end of the colonial rule there has been a shift in the prison system from the method of punishment to correctional homes. Therefore, the study has taken into an account the development of prisons as an institution which was implemented and modified through various colonial policies and its transformation as a tool to impose colonial hegemony both in body and mind.

The area of study is concerned with the undivided North Bengal i.e. the northern part of present West Bengal and the districts Rangpur and Rajshahi of the present Bangladesh and some parts of Purnea district of Bihar in India. As the region of North Bengal is geographically located in the North-Eastern frontier of India, henceforth, after the consolidation of their political authority to India, the British had concentrated their eyes

towards North-East India through Northern part of Bengal. Shortly, there after the colonial government realized the importance of Northern part of Bengal not only for the administrative purpose, but also for the political and economic significance of that region. The area is geographically located with Nepal, Bhutan and Sikkim in the North, the Gangetic Bengal on the south, Eastern Bengal and Assam on the East and Bihar on the West. Eventually the area required the establishment of “Control” through “law and order”. But due to geographical and natural divergence, the focused area has some administrative differences i.e. regulated and non-regulated area. Moreover, apart from Darjeeling and *Duars* regions of Jalpaiguri and the princely state of Cooch Behar, rests of the areas of colonial North Bengal came into Regulated areas. Thus, the government could not take a uniform law and order throughout North Bengal.

The word ‘prison’ and ‘gaol’ derived from the Latin word meaning respectively ‘to seize’ and ‘a cage’. The Oxford English Dictionary defines prison as, ‘a place properly arranged and equipped for the reception of persons who by legal process are committed to it for safe custody while awaiting trial or for punishment. Prison is also meant a ‘cage’ where the offenders can be lodged for their reformation. Prisons are therefore reform institutions to bring the offenders back to the mainstream society. Prisons developed in human civilization with the development of state and the concern of the state to govern its subjects by its laws and rules. Compliance to the state was demanded and in view of that the persons who broke the laws and rules were given punishment. Prisons became a part of criminal justice.

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 was a shift towards punishment aimed at modifying behaviour rather than mortifying the body through the infliction of physical pain. The body was instead manipulated in a different way; it was imprisoned and made to work. Such shift was taken up

by the colonial masters in creating prisons and introducing the concept of imprisonment and penal institutions over physical punishment.¹ Consequently, a gradual shift came in the Indian penal administration. The late eighteenth century saw a reaction by company men against such types of punishment as inhumane and in the case of crimes like *dacoity* and murder, ineffective forms of punishment. As a result, about 1790, the punishment of mutilation was forbidden by law in Bengal as well as in India. The criminal courts were directed to inflict imprisonment with hard labour in its stead. Although, the other forms of punishment including capital punishments like- penal labour, penal diet, handcuffs, sanding handcuffs, night handcuffs, leg irons and fetters etc. continued up-to the final days of British rule in India, yet these were being presented as an alternative way to effectively discipline prisoners.² Despite of these, imprisonment therefore became one of the principal modes of punishment deployed by the colonial power. By this time prisons had been established under the control of the magistrates and more modern notions regarding the treatment of criminals began to prevail. Therefore, as a part of prison administration Civil and Criminal courts are the mainstays in the legal process for the judgement of crime, criminality and punishment.

Establishment and development of the colonial prison power in Bengal had a close connection with the overall evolution of this power in British India. Imprisonment as the care of offenders by the prison was not too popular in the early British rule, because it involved considerable amount of direct expenses. Hence, the centralized and decentralized character of British administration mainly in relation to prison kept a close contact of prison administration in Bengal with overall British India. Although North Bengal had a combination of three types of areas yet, as a part and parcel of Bengal Province, prison power

¹ Michel Foucault, *Discipline and Punish: The Birth of the Prison*, New York, Vintage Books, 1979, pp. 7-8, 11.

² William James Forsythe, *The Reform of Prisoners 1830-1900*, New York, St. Martin's Press, 1987, p. 56.

and its growth and development established in the former two on the same line as in Bengal; while in Cooch Behar, prison administration was usually run by a motley amalgam of British Indian laws and personal decrees of the Maharajas. However, the prisons of North Bengal were divided into three classes i.e. Central, District, and Subsidiary jails. As per this Classification, North Bengal had one Central Jail at Rajshahi, Divisional and District head-quarters; eight Districts Jails at each District head-quarters i.e. Rangpur, Pabna, Bogra, Dinajpur, Malda, Darjeeling and Japaiguri; and including all Districts and Rajshahi Division had 18 Subsidiary Jails or Lock-ups in those days of the British rule. There was also a Detention Camp at Buxa Duar in North Bengal from the very beginning; as North Bengal was the scene of anti-British political movements, violence and protest. However, in the modern prison system, the main constituents of proper prison management are to be well-selected and trained prison officers, suitable buildings, proper classification, adequate inspection and supervision, a proper system of employment and treatment, and some general means of education for prisoners.

Initially, there was no jail department, no well-conceived rules for prison management, and no idea of prison discipline. The Government in periodic regulations prescribed general principles of jail administration. Each magistrate was supposed to prescribe a set of rules for the internal economy of the jails under him, but in matter of principle he was guided by the several regulations, consultations, and circular orders which were issued from time to time. In addition, as the magistrate was preoccupied with his multifarious administrative assignments, it was not possible for him to look after the day-to-day jail administration. Ultimately, all above conditions were the main hindrances to bring colonial concept of discipline into the prisons. But the Directors of East India Company were not keen to spend a lot of money on the inmates but believed only in keeping in custody of prisoners as method of control and to use prison as a tool of economic instrument by the

prison labour system as possible with the maximum profit to the government. In reality, though Benthamite ideas of prison management and construction had gained wide circulation among a few colonial officials, but the opposition to Benthamizing Bengal can influentially from the government itself on ground of cost.

Nevertheless, North Bengal had a long experience regarding the shift of judgement and punishment system on the basis of British legal perception instead of the mode of King which was prevalent in early British. The development of legal process of Judicial, Police and Prison system in Northern part of Bengal also had special administrative features due to Regulation and Non-regulation areas and Princely State of Cooch Behar. In north Bengal apart from the Central and District Jails; (exception of Cooch Behar State Subsidiary Jails) there had an arrangement of separate cells for male and female prisoners, separate cells and ward for European prisoners; and had few solitary cells. But, as a whole barracks without separate sleeping accommodation had arranged for the remaining prisoners, who were the maximum in numbers among the prisoners. Therefore, in North Bengal the separate confinement were for the criminals with severe crimes and were kept in cells from the lighter criminals to avoid contamination. In Darjeeling separate prison ward for European and a European prisoner, their non-placement under Indian Jailors and non-subjection to demeaning forms of punishment and labour was found. It proves prison power in colonial North Bengal openly followed the policy of nepotism.

There is no doubt that prison like a penal institution, where a large number of people of varied categories lived and share a common space, it need a code of 'Prison Discipline' not only for its smooth functioning, but also for control and discipline the convicts. Accordingly, punishment used to be a means of control as well as discipline, which is inflicted on account of any kind of the offences made by the prison inmates. The prison then was strictly a material adjunct to a colonial system of economic and political control. In spite of these

substitute of prison discipline, if there was any breach of discipline in their (prisoners or detenues) day to day work, punishment like handcuff, *marbhat/* penal diet, *beries (anra/ danda/ sikli)*, bar fetters (cross/ iron rod/ link) and *chitki bari/* whipping put upon them.

The breach of prison discipline again came gradually from the first decade of twentieth century and took an extreme form in the later decades, due to the resistance among the detenus and prisoners. They protest against the abuses and physical punishment in case of any breach of prison rules and the structural arrangements of the prisons, fooding and lodging system of the prisoners and strict disciplinary domination to them even in courteous talk or toilet. Scattered events of inhumane treatment to the detenues, the result of which lunatic condition to some, suicide by some other, hunger-strike by a majority number of detenues etc. put a challenge to colonial authority. To face this challenge the authority compelled to modify the Bentham's idea of "Panopticon" in jail administration and to follow the policy of placing both "Carrot and Stick"³ in front of the prison employees and prisoners as the domination could continue.

On the other hand colonial authority's emphasis upon the sanitation ventilation and other related issues of health through various Jail Committee, mortality rate in prison could not be reduced much, which required the presence of physicians/surgeons and hospital in prisons. 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. Various sources on North Bengal show that, Central and each district jails had a Medical Officer and a Compounder, with accommodation of hospital beds. On the contrary the jails became the natural residences of lunatics criminal as the prison

³ Debasis Guha, *Politics of Prison Power: A Case Study of the Burdwan*, Unpublished Ph. D. Thesis, Department of Political Science, University of Burdwan, 2002, p. 80.

power in Bengal had given the responsibility to treat the people of unsound mind in society. But there was no mental hospital or asylum in colonial North Bengal.

Similarly, Prison reformers insisted on education to the prisoners as both a method of reform and rehabilitation. It was theorized by reformers such as Bentham and Fry that education in the prisons, much like labour, was an effective tool for making convicts productive and industrious so that upon their release their new found skills and work ethic would deter them from a life of crime. Although religious conversion was often considered to be the main objective of instruction, but, in India the British were reluctant to interfere in the religious beliefs and in 1838 the Prison Discipline Committee was unwilling to introduce any Christian belief into the Indian prison system for fear it would be interpreted by prisoners as a deliberate encroachment on their beliefs. Hence with all kind of administrative measures the prison system of north Bengal was being modernized and no doubt it was completely regulated by the intention of the colonial legacy.

However, while we talk about the historical writings of prison history there are some books written by some sociologist and historians. The following research work will give an impetus to understand the prison history of Bengal as well as India and it will also reflect the importance of the present research.

C. Sherman, Taylor's *State Violence and Punishment in India* (Rutledge, London, 2010) explores the nature of the state in twentieth-century India by examining the practices of punishment and state violence which were used to counter large-scale unrest in India between 1919 and 1956. This book focused on 'coercive network' to understand the interconnected institutions, laws and practices that made up the state's coercive repertoire. N. V. Paranjape, in his book *Criminology and Penology* (Central Law Publication, Allahabad, 2008) discusses the expanding dimensions of criminological and penological developments taken place in the recent years. Khushal I. Vibhute's work *Open Peno-correctional Intuitions in India: A*

Review of the Fifty-Five Years, Experience and Expectations, (Max Planck institute for Foreign and International Criminal Law, Freiburg, 2006) analyze the prison reform in India and put emphasizes on the importance of 'open prison as a peno-correctional institutions. Similarly, Nitai Roy Chowdhury, *Indian Prison Laws and Correction of Prisoners* (Deep & Deep, New Delhi, 2002) focused on reformation of prisoners under the existing prison laws in India. He expresses his dissatisfaction over the existing prison administration in India and pleaded for a better prison management by suggesting some suitable reforms in the prison administration of India. By analyzing the different prison laws in India, the author critically mentioned that prison laws formulated at the British period had different perspectives and objectives which were not reform oriented or not based on correctional penological thinking. Madhurima Sen's *Prisons in Colonial Bengal 1838–1919* (Thema, Kolkata, 2007), deals with the history of prisons and prisoners under the Company and British Raj between 1838 and 1919 in Bengal. Through the close study of how criminals were handled and treated in the British prisons in colonial Bengal, Dr. Sen shows an administration wavering between the new ideas in the air perceiving the prison as a site of moral reform of the convict and the punitive thrust that came more naturally to the colonial rulers and reconstruct the prison life in Bengal and the cellular prison at Port Blair in the Andaman, in all its detail. Rani Dhavan Shankardass's *Punishment and Prison: Indian and International Perspective* (Sage Publication, New Delhi, 2000), is an outstanding book dealing with various issues of criminal justice administration such as, prison administration in India, women and crime, criminal law and punishment in India, prisons in modern society, role of judiciary and also prison reforms. Ujjwal Kumar Singh, *Political Prisoners in India*, (Oxford University Press, Delhi, 1998) explores a significant aspect of the relationship between the state and its subjects. Focusing on peaks of nationalist resistance against the colonial state, and on the challenges of communists and naxalites to the state in independent India, it reveals a variety of social and

political facts from the vantage point of political prisoners. These include ruptures and continuities in the forms of repression, the nature of penal sanctions, legal-political processes, and the discourses of power in colonial and independent India. The author highlights the complex and multilayered contests which were vital in the making and treatment of political prisoners from the early years of the twentieth century. He also stresses that the distancing of ordinary criminal prisoners from political prisoners and processes in the course of the anti-colonial struggles had significant implications for the social perception of prisons and prisoners, as well as the latter's treatment in jails in independent India.

Another book is Radhika Singha's *Despotism of Law: Crime and Justice in Early Colonial India* (Oxford University Press, Delhi, 1998), explores the emergence of colonial criminal law against the backdrop of the British conquest and pacification of North India. Criminal justice is examined as an ideological and cultural enterprise in which the East India Company sought to communicate new nations of sovereignty. The author also investigated the shift in some of the presumption underlying criminal trial and various experiments in penal techniques. B.V. Trivedi's *Prison Administration in India* (Bureau of Police Research and Development, Ministry of Home Affairs, New Delhi, 1987), expressed the view that prison administration is an essential part of the totality of the criminal justice in any country. He felt that there is a need to modernize the jail administration in India. He mentioned that the British legacy of prison administration required a review and reorientation in consonance with emerging social ideals and developing institutional requirements. Indra J. Singh's *Indian Prison: A Sociological Enquiry* (Concept Publishing Company, Delhi, 1979), frame of an analogy between the changes in the prisons and in our society presents a balanced picture of the problems existing in the inmate-warden-personnel relationship, and the contradiction and harmony in which they live in with the high walls. Making a bold attempt to classify the prisoners in different categories according to their abilities, desires and nature, the author

makes a remarkable contribution in the field of criminology and prisons. S. P. Srivastava's *The Indian Prison Community* (Pustak Kendra. Lucknow, 1977) explored the problems of community of prisoners. To do this he focused on inmate's grievances that arise out of prison officer's exercise of authority and other function related to prison's working. He also examined the role performance of the inmates and the staff in field of reformation and rehabilitation. F. A. Barker's *The Modern Prison System of India*, (Macmillan and Co. Ltd., London, 1944) discussed thoroughly on the measures taken to implement the Report of the Indian Jails Committee of 1919-20. His work depicted the characteristic problems of Indian jails. The jail problem has been complicated by the results of the political agitations which have not only rendered the jails liable to a sudden large influx of "political" prisoners, but have given rise to demands for the grant of special treatment and privileges to them. Yet, the discriminating treatment between the "criminal" prisoners and political prisoners were still prevailed in those days' colonial prisons.

Indeed these books are obviously very valuable for a researcher while conducting study on prison and prisoners. After thorough study of these books, researcher is able to understand the changing attitude of the British government regarding criminal trail and penal techniques to communicate new notions of sovereignty in colonial India. These are also helpful to understand law making necessity and nature of state control in British India.

Importance of the study area

Research on prison and prison administration is relatively new in this arena. Now a day's study on prison is increasingly becoming a serious subject to the social historians. The 'history-less marginal people' is now considered it to be an important part of social history. The history of Prisons in Colonial North Bengal and its Control, Punishment and Discipline is relatively a neglected field of research investigation. A few of research work has been

undertaken by the scholar to focus on the history of prison and prison administration in India viz-a viz in Bengal; but they overlooked the research in certain regions and locality particularly in colonial northern part of Bengal. Besides this, the researchers have not yet done any theoretical or analytical study on these proposed research area. Therefore, a study of Prisons in Colonial North Bengal deals with the general neglected terrain of prison history; it focuses on the early stage of the company's lawmaking process, its dilemmas, the various changes in prison administration, the prison infrastructure and the major landmarks in prison reforms. Apart from this, researcher's effort goes to explore the nature of the British state through its various levers of control like the prison administrations and the various ways of its interaction with the Indian sub-continent and its people in general and Colonial North Bengal in particular.

Objective of the study

The proposed thesis tries to work within a conceptual framework of the fact that the British has used the judiciary as a pillar of British administration and expansion of its authority in India. Prisons were a part of the system of control and to impose the British rule in India through the working of the rules and regulations. It tends to look into the administration adopted in the prisons along with the police administration and the implementation of the judiciary laws. The Prison Reformation Committee which was formed had brought certain changes. The proposed study looks into it that various reforms affected the prisons and its inmates. The mode of punishment under the influence of the utilitarian's had changed which tried to colonize the body and the mind. The construction of the prisons in North Bengal was according to the panopticon model and used as detention centre. The system of implementation of the rules and regulation adopted in North Bengal were different in the regulated and non-regulated area. The study determines to study the separate treatment

made in the jails towards the political and non-political criminals. The mode of punishment and their reformation in the British period was through rigorous labour. The proposed study looks into the matter that the prison inmates were forced to take up the work which was considered as therapy and the British earned profits from them in colonial North Bengal.

With this theme and understanding of prison history the entire thesis divided into four chapter excluding Introduction and Conclusion and the chapter emphasis on: The first chapter - Administration of Law and Order in Colonial North Bengal: Judicial and Police System; covers the introduction and development of the police and judicial system in British India as well as Bengal, special attention in North Bengal through the expansion of colonial rule in that particular tract of the country. This chapter also focused on the codification and formation of new laws in terms of English superintendence of law and justice. Police and courts the law enforcement agencies made their presence in each corners of North Bengal to establish law and order, and equality before law. But the actual fact was that the function of these agencies constantly manifested the gap between its own professed ideologies and the actual practice in its institutions of control.

Second chapter - Prisons and its Administration: Control and Confinement; deals with the reformation of the prisons as an agent of disciplinary power, which was quite unknown in pre-British India. It came through radically change in the old concept about crime, criminal and convicts in India since the British period. During the colonial period emphasis has shifted from deterrence to reformative of the criminal. The age old discriminatory and draconian punishments no longer find place in the colonial Indian penal system. The advent of British administrative structure through the East India Company and the passing of several acts, therefore, gave new impetus to the development of prison in western conventional norms and ideals. Prison, thus, became a penal agency and the chief aim of which was to destroy the so called criminal streak among convicted offenders. A retributive-cum-deterrent philosophy of

India's prison administration was replaced by a torment-cum-terror regime with significant repressive means like solitary confinement, hard labour and withdrawal of every indulgence of life. Conceptually, prisons became a system by which the British tried to control, discipline and punish the colonial subject. Similarly from that time through various laws an effort was made to change the existing punishment procedures in the country as well as to introduce British rule of law and justice.

The third chapter takes up the subject of imposing discipline: work as therapy. Work as a therapy to impose discipline among the prisoners was a by-product of the British rule in India. The tradition of work was not only an ancient one in the form of sentences of labour in the mines of pre British India. Labour or work, therefore, during those periods was intended to inflict punishment on the convicts; and to disgrace and humiliate them. While at the beginning of the nineteenth century, with the changing method of punishment however, a new normative judgment concerning the criminals came within the purview of penal design. Social and psychological knowledge was now considered indispensable for the moral reformation of the convict. Such reformation could be achieved by infusing into him habits of order and industry and work. On the contrary, continuous idleness day after day is insidious in its effect upon prisoners. But, the work is always constructive by itself. Similarly, at the opening of the nineteenth century, prison officials saw no great difference in deterrent and reformatory qualities between one kind of work and another. Those charged with the care of the prisoners wanted to keep them busy in order to make prison discipline easy and lighten the taxes for prison maintenance. Hence labour became an essential part of punishment or a punishment additional to that of imprisonment.

The fourth chapter and last chapter – Preventive Detention and Detention Camps deserved special mention because of its historical and strategic significance. From the very beginning, North Bengal was the scene of anti-British movements, violence and protest.

North Bengal has played an important role in every aspect of the anti-British movements, likes - *Sannyasi and Fakkir* Rebellion to Quit India Movement, agrarian unrest, industrial workers unrest. Thus, despite of these ordinary prisons and Penal Settlement, in 1930s the British government felt necessity of establishment of Detention Camps, and Buxa Camp was one of these, built up in North Bengal. By the beginning of the thirties of twentieth century, the political situation in Bengal became more complicated due to political movements of the Congress nationalists as well as the revolutionary activities of the Anushilan Samiti, Jugantar Dal, Bengal Volunteers and other revolutionary groups. Mention may be made especially of the Chittagong Armoury Raid, attempts on the life of Charles Tegart, corridor war in the writers' Building, the Hili Mail *Dacoity*. Random assault on the life of the British officers bewildered the foreign government. Consequently some rigorous penal measures were to be taken to put the terror creating youths behind the bar. Hence the policy of creating detention camp was taken. These camps not only revealed the oppressive imperialist behaviour of the British government, but also the ways and technique to deploy and preserve their rule in India.

Methodology

The design of the present research has been formulated on the basis of the nature of the study. The study in design is an analytical-theoretical and other forms of method like normative survey, correlation methods etc. Both the conventional and modern techniques of methodology will be used in collecting the data. The data would be gathered from primary and secondary sources. The chief repositories of information for our purpose will be the proceedings of the Government of Bengal in General, Judicial, Police, Prison and Political Departments from the West Bengal State Archives. Certain rare documents, reports are also to be collected from the Bengal Criminal Investigation Department (CID), and the Bengal

Intelligence Branch (IB), which is located in Kolkata. Besides these, a number of descriptions written by British prisoners regarding their detention lives i.e. biographies and auto-biographies are also to be followed. The sources also to be collected from the National Archives of Delhi, District Collectorate Record Office and also the oldest library of different districts which are located in West Bengal. Researcher will have to make considerable use of Districts Gazetteers and local materials like contemporary Weeklies and Journals, Papers, Proceedings, Magazines published from North Bengal.