

## WOMEN, CRIME AND COLONIAL JUSTICE SYSTEM: A CASE STUDY OF KUCHBEHAR STATE JAIL

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### **ABSTRACT**

*The present paper deals with women's encounters with colonial law, different law enforcement agencies, and the prison system. Marginalisation and exploitation of women have always been publicized in history, but their marginalization and abuse in the criminal system have not been discussed explicitly. Hence, it is an attempt to illustrate how their issues and interests were ignored, discouraged and always kept out of the system. The present study focuses on the women of the kuchbehar districts of North Bengal in post 1860s.*

**KEYWORDS:** *Women Prisoners, Kuchbehar, Colonial Justice, Jail*

### **INTRODUCTION**

Women who appeared in Indian history writing towards the end of the 20<sup>th</sup> century as subaltern in Indian historiography, have been only discussed in context of their social positions, economic conditions, and their political participation in India's fight for freedom. But seldom has their criminal history, its background and eventual treatment by the British law been highlighted. It must not be forgotten that the women who turns to begging, prostitution or theft bears another dimension in the history of women in Indian society, which must be brought into the limelight. Hence, this 'subaltern within subaltern' dimensions need to get exposure. Moreover, as far as the history of crime and criminality of Bengal, especially north Bengal, is concerned, no satisfactory study has been made in depth. Hence, the area of my study centres around the women, crimes, and the justice system of the late colonial period of North Bengal, especially the kuchbehar state in post 1860s.

The reason behind selecting the post 1860 situation lies in the fact that, the establishment of a uniform system of legal laws and rights was achieved after 1860. The Penal Code was introduced as the law of the land in 1860, and the Code of Criminal Procedure in 1861. It cannot be denied that the British Indian administration facilitated judicial reform, abolished ancient forms of punishments, and eradicated abominable practices of ritual murders, slavery, sati female infanticide. But unfortunately, Colonial criminal justice, particularly for most native women, was never full of integrity.

In the state of kuchbehar, the English law codes were also introduced. W.W Hunter in his book a statistical account of Bengal gives a clear account of this developments. The courts both civil and criminal, have been offered by picked native officials, paid by the state, but chosen from among the best men of the government subordinate executive service. The police of the state have been re organized and established on a proper and efficient footing, under a highly - paid native superintendent of proved ability. This department comprises of 2 inspectors, 7 sub- inspectors, 21 head - constables, and 189 constables. There are 4 police stations and 5 outposts<sup>1</sup>. On the other hand side, in Captain Lewin's

account, the comparative statement of criminal and jail statistics of kuchbehar state for the two years i.e. 1867-68 and 1874-1875 gives us an explicit picture of the colonial law system in kuchbehar. Besides the jail at kuchbehar town , to which alone these figures refer, there are also 3 lock-ups in the state, where prisoners are kept, whose sentences do not exceed the term of 2 months. The jail is described as an economically constructed building of mats and bamboos, clean and well kept<sup>2</sup>.

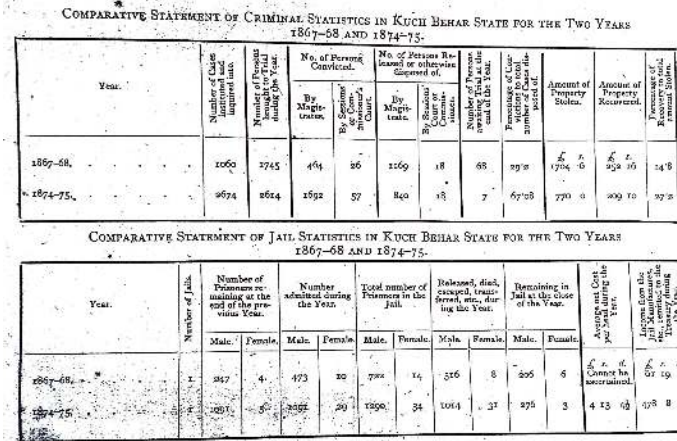


Figure 1:

If we pay attention to the above jail statistics of kuchbehar state for the two years 1867-68, 1874-75, the paradoxical situation of the colonial law system gets revealed. It has been said that the British nation is proud of having administered justice to the Oriental people with impartiality and integrity but , in reality it is far from true. The partiality displayed in the dispensation of justice in gender relations raises serious questions. Number of jail in the state was only one, where both male and female convicts were kept. Absence of female warden exposes the insecurity of those female prisoners. Although the number of prisoners were rising throughout these years , number of jail remained the same. However according to the Captain Lewin’s Account, besides the jail at kuchbehar town, there are also 3 lock-ups in the state, where prisoners are kept whose sentences do not exceed the term of 2 months<sup>3</sup>. But no deliberate initiatives were undertaken to introduce few more in the region. In 1867-68, the total number of female prisoners was 4 whereas, it rose to a number of 34 in the year 1875. The problems related to imprisonment become even more pronounced in the context of women inmates. Even if we look into the Captain Lewin’s account, we find that the jail is described as an economically constructed building of mats and bamboos, clean and well kept<sup>4</sup>. The question lies in the fact that how long this kind of construction can provide shelter to these inmates especially the female inmates.. Prison systems are primarily designed to cater to men and are not well equipped to address the particular needs of women in prison. Prisoners were kept in irons; female wards were mainly superintended and inspected by hired female wardens occasionally. Women were basically living a very degraded life.

Another unbelievable fact that can be discovered, from this comparative statement of jail statistics of kuchbehar state , is that the total number of women prisoners who were released, died, escaped, transferred, etc during the year 1874-75 was 31 out of 34. This kind of statement automatically raises several questions. Whether these female prisoners died due to illness, or escaped from the jail for their own security, or transported to the penal colonies. Death due to unhygienic situation, or escape from the insecure male dominated jail life exposes not only the ineffective and lame colonial law

system, but also presents the paradoxical situation of crime and criminality. Women who were brought to these jail confinements for corrections were actually dragged into the world of crime and prostitution. As it is evident that in 1860 women prisoners were began to be transported to the penal colonies, not because they were like some male prisoners who formed a dangerous class and could not be handled in the provincial prisons. Rather, women prisoners began to be deported only after homosexuality among the all-male convicts (mutineers who were sent to the islands in 1858) had become evident, and the colonial rulers felt there was therefore a need for women in the settlement<sup>5</sup>.

If we make comparative study between the pre-1860 and post- 1860 colonial law system , we find that,in the precolonial period many offenses involving women may have been merely ignored, hidden, or settled by the village panchayats on a personal basis within the village, particularly when they concerned the lower castes and classes. Under the colonial system, however, the reporting of village crimes directly to the police headquarters not only broke up the old village system of crime control but also introduced into the villages chaukidars and police a new social order of men who were insensitive to the villagers' concerns and family lives<sup>6</sup>. 'For women the coming of the chaukidar as the patrolling and reporting agency in the discovery and punishment of crimes from the village level to the colonial police headquarters meant little escape from disgrace and punishment<sup>7</sup>. As the chaukidar was rewarded for reporting crimes, he made it his business. He regularly exploited women, and in exchange accepted bribes from them. He was also the puppet of the village head under whose orders he silenced serious crimes and made false arrests. These law enforcement agencies in reality became another instrument of women's oppression and grief. Laws were made not to safeguard the needs and safety of individual natives , but to provide services and protection to the colonial regime. The justice system did become a means of oppressing women and the poor.

The Penal System without doubt degraded and demoralized girls and women in ways they had never experienced before. In fact, it inclined to corrupt all prisoners and return them to the society "morally" worse than when they entered the prisons Injudicious imprisonment of juveniles, in particular of unfortunate little girls, was often the turning point of their lives, from which they embarked on a career of prostitution and crime even before they reached womanhood. Apparently, "in 1867 the conditions and the discipline of all the jails were described as "beyond belief<sup>8</sup>". Convicts of all classes, male and female, old and young, were "mixed and mingled" together in Indian prisons-in many cases one cell was "common to all, where crowds were confined and were sleeping together promiscuously rather like brute beasts than human beings." And there was a general neglect and disregard, with a total absence of any reformatory efforts<sup>9</sup>".

However, for women, this was only a side of the penal system. The other starts when these female prisoners were released from jails. As a very large majority of women ex-prisoners never returned to their homes upon their release from prison. As per Hindu custom, women were discarded by their families, once they leave their family or homes. Ex-convict women could seldom return to their homes. Moreover, they did not willingly resort to immoral lives. They were either recruited or forced into them. Surprisingly, in many instances the jail officials themselves recruited female ex-prisoners outside the prison gates upon their release<sup>10</sup>". They were either transported to the penal colonies, or left on the streets to become the victims of brothel keepers and kidnappers.

To conclude one may say that the prison is a correctional facility meant to house individuals who break the law, whose purpose should be reformatory in nature. But in reality, the immediate picture after the establishment of the colonial penal system tells a different story. This, prison systems often hide violence and depravity behind their closed doors.

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