PART III

PRISONERS
CHAPTER V

CLASSIFICATION AND SEPARATION OF PRISONERS

A prisoner is a person duly committed to custody under the writ, warrant or order of any court or authority, exercising such jurisdiction or by order of a court-martial. 1

People commit crimes of different character. Some people are hardened criminals who are beyond reformation. Others commit crime without knowing the consequences. They are not habitual criminals. Moreover, prisoners belong to different age-groups and sex and their nature of crime is also different. And as such, two things are necessary here, classification and segregation, for the treatment and reformation of prisoners. If prisoners are kept together without any classification, reformation of criminals will not be possible. Further, the hardened criminals will dominate the situation.

Classification of prisoners is meaningless if it is not accompanied by segregation. Therefore, prisoners are classified and separated on the basis of their age, sex, nature of crime and past habits.

In the beginning, no classification of prisoners was made. They were simply herded together and kept in custody. Classification and segregation of prisoners is a later development of prison administration and emphasis was laid on it first in 1838. At present, classification of prisoners and separation of one class from another have become the accepted principle in jail administration. In India, the classification of prisoners is a gift of the British Government. The Committee on Prison Discipline, 1838, laid stress on the

1. Prisons Act, 1894, Section 3(2).
classification of prisoners according to their character and antecedents, and recommended that such classification and segregation should be applied to those under trial.²

Now, let us discuss the classification and segregation of prisoners in Assam. The classification of prisoners was introduced in the very beginning of British administration in the Province. From 1874 to 1894 prisoners were classified under the Prisons Act of 1870, into male and female prisoners, criminals, juveniles below 12 years of age and civil prisoners.³ It was laid down in the Act that condemned prisoners should be kept in cells. The Act also empowered the Government to make rules for the separate confinement of prisoners.³ It emphasized that prisoners belonging to different classes must be kept separately.

In 1874, separation of prisoners as laid down in the Prisons Act, 1870, was possible in larger jails. But strict separation was not possible without some alterations in jail buildings. In Gauhati, some measures were taken for the separation of prisoners. In this jail, criminal prisoners were kept in the civil ward as the latter remained vacant very often. But there was no separation in the worksheds. This was the case in all jails in the Brahmaputra Valley.⁴ Separation of prisoners was possible to a great extent in the Sylhet Jail.

³: Prisons Act, 1870, Sections 30 and 31.
The Prisons Act, 1894, provided that prisoners should be separated as follows:5

a) Female prisoners must be so separated as to prevent any intercourse with male prisoners.

b) Male prisoners under the age of 21 years must be separated from those above that age.

c) Male prisoners who have arrived at the age of puberty must be separated from those who have not attained puberty.

d) Convicts must be set apart from undertrials.

e) Civil prisoners must be kept apart from criminal prisoners.

Convicted criminal prisoners could be kept either in association or individually in cells.6 Thus, the classification of prisoners under the Act of 1894 was made on the basis of sex, age and nature of crime. But the Act did not classify the convicted adult criminals.

The Assam Jail Manual, 1899, classified prisoners as follows and directed the jail authorities to keep them separately wherever possible.7

1. Civil prisoners.
2. Under-trial prisoners.
3. Female prisoners.
4. Male prisoners under 18 years of age who have arrived at the age of puberty.
5. Male prisoners who have not arrived at the age of puberty.
6. Other male convicted prisoners.

The Jail Manual, 1899, placed some prisoners in the special division. All European and Eurasian prisoners belonged

5. Prisons Act, 1894, Section 27.
6. Ibid., Section 28.
Later on Indian prisoners who were of high social status could be admitted to it. Thus, a few fortunate Indian prisoners had access to the special division. The Manual laid down that European prisoners should be separated from the natives. They were placed at a higher level, simply because, Britain was ruling India. Otherwise, there was no justification for this invidious distinction.

The classification of criminals into habituals and non-habituals was first prominently brought forward by the Jail Conference, 1877. It laid emphasis on the separation of habitual offenders. The Government of India also issued instructions to Local Governments to keep the habitual prisoners apart from others. The Government of Assam followed the instructions.

The Jail Manual, 1899, laid down that habitual or 'B' class criminal prisoners should be separated from 'A' class or non-habitual criminal prisoners. This classification was made to prevent further demoralisation of those prisoners who come to jail for the first time by those who are confirmed criminals. The classification had to be made by the trying court or by the District Magistrate. A habitual prisoner is one who once committed crime and was convicted in offences under chapters XII, XVI, XVII and XVIII of the I.P.C. and under Section 123 of the C.P.C. Any member of a criminal tribe is a habitual prisoner. The habitual prisoner must be detained in special jails.

The Indian Jails Committee, 1919-20, pointed out that habitual prisoners should be segregated and never be

10. Ibid, C.S. no. 583, 1922.
employed as convict officers. The Committee also recommended that offenders, other than habituals, should be divided into two classes, namely, the star class and ordinary prisoners. The Government of Assam accepted the recommendation. Star class prisoners are those who are of very good conduct and can easily be reformed. The star class system was introduced in 1931 with the idea to keep these prisoners apart from others. The ultimate aim was to prevent the domination of hardened criminals over the amateurs. But because of lack of accommodation, the star class prisoners could not be segregated from others.

The Jail Manual, 1899, did not lay down any general principle for the classification of the native prisoners on the basis of their education and previous standard of living. There was also criticism against discriminatory treatment between European and Indian prisoners. Therefore, a Committee was appointed by the Government of Assam in 1929 to consider the classification of prisoners as suggested by the Government of India. The Committee recommended the adoption of certain general principles to regulate the classification and separation of convicted and undertrial prisoners. The recommendations were as follows:

First, no differentiation between the prisoner and prisoner on the basis of race should be made. Differentiation may be made on the basis of previous standard of living. Second, convicted prisoners should be divided into three divisions. The first division should consist of prisoners,

who are non-habituals, who by character, social status, education or habit of life, have been accustomed to a superior mode of living. They should not be morally degraded and brutal. Prisoners belonging to this class should not be charged of serious offences against property and abetment of crime of this character. Persons convicted of non-violent political offences may be included in this class. The second division should consist of Europeans, Eurasians, Indians of the upper and middle classes and foreigners of similar status who have not been admitted to the first division. The third division should consist of all prisoners not admitted to the first or second division. Finally, the court of trial should be the classifying authority of prisoners, but the Government should have the power of revising any classification.15

The recommendations of the Committee were accepted by the Government of Assam. The discriminatory treatment of Europeans from others was removed by correcting the Manual of 1899.16

In 1931, some new rules were added to the Jail Manual, 1899.17 These rules provided for the classification of convicted prisoners into three divisions viz. A, B and C. The Court of trial was the classifying authority. If prisoners were not classified, the Superintendent of Jail had to do it subject to the approval of the District Magistrate.

The Assam Jail Manual, 1934, incorporated all the principles of classification and separation of prisoners as laid down in the Prisons Act, 1894. The Manual laid down

certain broad principles for the classification of convicted prisoners. It classified the convicted prisoners into three divisions A, B and C. Prisoners belonging to each division must be accommodated separately.

'A' division convicted prisoners must satisfy certain conditions. They must be non-habitual prisoners of good character and accustomed to a superior mode of living by social status, habit and education. They must not have been convicted for offences involving elements of cruelty, moral degradation or personal greed. They must not be involved in a serious or premeditated violence. They must not have committed serious offence against property, offence relating to possession of dangerous weapons and explosives and abetment or incitement of offences.

'B' division convicted prisoners are those who are accustomed to a superior mode of living. Habituals may be admitted to this class by the convicting courts by looking into their character and antecedents.

'C' division convicted prisoners are those who are not included in 'A' and 'B' divisions.

The High Court, the Sessions Judge, the District Magistrate, the Subdivisional Magistrate and the Magistrate of the First class are authorised to recommend to the Government the classification in 'A' or 'B' division. Second and Third Class Magistrates can advise the District Magistrate in the classification of prisoners. The recommendations of the classifying authorities become effective at once in anticipation of Government sanction.

All convicted prisoners are again divided into two divisions - habitual convicts and others. The Government of Assam accepted the recommendations of the Indian Jails Committee, 1919-20, regarding the segregation of habitual criminals and incorporated them in the Jail Manual, 1934.

The following are the habitual criminals:

1. Any person convicted of an offence punishable under chapters XII, XVII and XVIII of the Indian Penal Code.

2. Any person convicted under chapter XVI of the I.P.C., when it is proved that he habitually commits crime.

3. Any person convicted under Section 123 of the Code of Criminal Procedure.

4. If it is proved that the person by habit is a member of a gang of dacoits, or of thieves, or a dealer in slaves or in stolen property even no previous conviction has been proved against him.

5. Any member of a criminal tribe subject to the direction of the Government.

6. "Any person convicted of an offence and sentenced to imprisonment under the corresponding section of the I.P.C. and the Cr.P.C. as applied by order under the Indian (Foreign Jurisdiction) Order-in-Council, 1902, or by the authority of any Prince or State in India." 21

7. "Any person convicted by a court or tribunal acting outside India under the general or special authority of His Majesty of an offence which would have rendered him liable to be classified as a habitual criminal if he had been convicted in a Court established in British India." 22

Though the members of the criminal tribes are regarded as habitual prisoners under the Jail Manual, 1934, yet it must be said that they are capable of reformation. 23

All members of the criminal tribes are not necessarily habitual criminals.

22. Ibid, Rule 215(vii).
Under the Jail Manual, 1934, convicted prisoners must be classified into habitual criminals and others by the convicting court. It may be revised on application. If any prisoner remains unclassified it must be brought to the notice of the District Magistrate by the Jail Superintendent.

Casual offenders were again divided into two classes—the star class and ordinary prisoners. Star class prisoners were selected by the Superintendent. They were to be separated from others. 24

The principles which have been laid down for the classification and separation of prisoners in the Jail Manual, 1934, are still in force. But the Government of Assam has decided to revise the existing rules keeping in view the recommendations of the All-India Jail Manual Committee, 1957-59.

The All-India Jail Manual Committee, 1957-59, recommended that the classification of prisoners should be based on their physical and mental health, length of sentence, character, history of criminal behaviour, social background, possibilities of reformation, educational and training needs, security and requirements for reformation, that before classifying a prisoner he should be observed and tested properly by experts, that the staff should properly be trained in the art of classification and that there should be a classification branch in the office of the I.G.P. to advise.

in the matter of classification of prisoners. 25

Separation of prisoners: - Regarding the separation of prisoners almost all jail committees laid stress on the matter. This is absolutely necessary for obvious reasons. It prevents illegitimate relations and sensational gossips.

The Jail Manual, 1934, provided that the convicts should be kept separate from one another at all times subject to the requirements of labour and cell accommodation. 26

Whenever there are vacant cells in a jail, juveniles, approvers, prisoners of bad character, prisoners convicted under Sections 376 or 377 of the I.P.C., habitual prisoners and others must be kept in them if separate accommodation is not available. 27 It is also laid down in the Manual that habitual personers should be confined in a special jail. If it is not possible, they must be kept separate as far as practicable. A separate ward must be maintained for them. Even in worksheds the habituals should not be associated with others. 28

Although the principles of classification and separation of prisoners were laid down in the Manuals, the prisoners could not be segregated, because, the jails were overcrowded. Further the jails were constructed in such a manner that separation of prisoners was not a possibility. 29 In large jails, juvenile and civil prisoners were separated from others at night time.

It may be noted that in some jails no attempts were made to segregate prisoners during day time when prisoners were at work. In many jails prisoners belonging to different classes were kept together at all times.

25. All India Jail Manual Committee Report, 1957-59, paras 68 to 73.
27. Ibid., Rule 211.
28. Ibid., Rule 219.
There are separate wards in all jails for female prisoners. They are never allowed to mix up with male prisoners. But within the female yard, there is no separate accommodation for various classes of female prisoners excepting the lunatic and the 'A' and 'B' division prisoners. It seems that all female prisoners are placed on the same footing.

In large jails, there are separate T.B. and under-trial wards. Provision has also been made for the separate accommodation of political and security prisoners. In all jails at the district headquarters separation of prisoners at night time is followed to a great extent.

In conclusion, it may be remarked that till 1930, European and Eurasian prisoners were placed in a special class which was denied to most of the native prisoners. As a result of this, Indian prisoners of the upper class of the society occupied a humiliated position. Again segregation of prisoners belonging to different classes is a longstanding problem in Assam which requires urgent solution. But no concrete step has been taken so far in this regard. Segregation of various classes of female prisoners is also of urgent necessity for their individual treatment. Moreover, no expert has been appointed for the classification of prisoners although it was suggested from time to time.

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