

# **INTRODUCTION**

# INTRODUCTION

In the writing of history, different ideas and concepts have been employed by the historians to provide a thorough historical knowledge of the past. Many attempts were made to reveal the political, social, economic and administrative history of the British in Tamilnadu. In the field of British administration, historians concentrated on the judicial history which included civil and criminal procedure and prison administration. To accomplish a thorough study of the role of the British in judiciary, a number of studies have been taken up. Here, an attempt is made to trace the system of ordeal and torture in the judicial set up of the British in Tamilnadu in the nineteenth century.

Trial by ordeal and torture is a living institution of the world. It was practised through all the centuries in the history of India. It was a social evil of Tamilnadu for several centuries. It was most commonly used against people who were inferior in the society such as members of low caste, peasants, slaves, prisoners, women and members of racial, ethnic and religious outsider groups.

Historical records reveal that ordeal and torture had gone down deep in the society as the custom of the people. The customs of the various tribes of Tamilnadu also showed that they preserved ordeals and tortures.<sup>1</sup> The system of trial by ordeal and torture was a state of affairs for the purpose of extorting a

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<sup>1</sup> Parmeshwaranand, *Encyclopaedic Dictionary of the Dharmasastra*, New Delhi, 2003, p. 336.

confession from the beginning of the civilisation to the present day world. It was a universal practice and placed within the category of punishment to attempt justification for it. The study of ordeal and torture becomes a sociological study of the people of Tamilnadu and an investigating method of the general feature of the judicial system.

The system of ordeal and torture was very much related to the socio-economic and political history of Tamilnadu. It was used as an expression of power and hate. It proved itself to be a tool to greater power just as it was a means of developing personal vanity in one's own power. It represented a ready, an efficacious, a satisfactory and a crude means of exacting vengeance. It was more concerned with the individual than with the state. The people of the society had contributed towards their own enslavement as they considered it as a customary practice. The society accepted the system that ordeal and torture were the most powerful instruments, not alone for forcing the individual but also for preventing crime against the existent rules of the government. The concept led to adopt ordeal and torture as a means of securing confession by the governments.<sup>2</sup> Using the concept, the British practised the system of ordeal and torture in Tamilnadu.

The nineteenth century paved the way for the growing influence of the British in India. It also marked the peak of the British rule in India.

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<sup>2</sup> George Ryley Scott, *The History of Torture throughout the Ages*, New Delhi, 2005, pp. 6 - 10.

Administrative policy changed during this period. The haphazard arrangements of the seventeenth and eighteenth centuries and the end of Mysore Wars (A.D. 1767 – 1799) and the Poligar War (A.D. 1799 – 1801) paved way for the consolidation of the rule of the English East India Company in Tamilnadu. The Company firmly established its foothold after gaining control over civil and criminal administration.

The main motives of the East India Company were to collect taxes mostly from land revenue and to collect raw materials like cotton for their spinning industries in Britain. In the wake of the Sepoy Mutiny of 1857, the British Crown assumed governmental authority in India through the Act of 1858 which facilitated the assumption of direct administration over revenue, judicial, police and prison of India by the Crown.

Though there was modernisation process during the time of the British rule in India, the period was also described as the curse of serfdom. Serfdom in the sense, natives were controlled by the British officials to fulfill their needs. There were also several forms of dispensation of justice and punishment in Tamilnadu. The British used trial by ordeal and torture as their weapon to control the colonised population. Though force was used in collecting revenue even before the British, the methods and severity of torture used by the British were unheard of in the pre-British period in India.

### **Aims and Objectives of the Study**

The study aims to bring out the history of ordeal and torture in the nineteenth century Tamilnadu. The primary objectives of the study are to describe the history of ordeal and torture in the pre-British period, to understand the nature and scope of ordeal and torture, to enlist the variation over the period of time, to explore the existence of ordeal and torture during the British rule, to broaden the understanding of criminal jurisdiction of the British and to understand the various forces and motives behind such activities of the British in Tamilnadu.

### **Area and Period of the Study**

The modern State of Tamilnadu is taken as the area of the study. Ancient Tamilnadu comprised of the present States of Tamilnadu and Kerala. The area comprising the present Kanyakumari district and Shenkottai taluk in Tirunelveli district of Tamilnadu formed a part of Travancore province. Travancore was a Princely State of India and it remained the same during the British rule in India. The people of Kanyakumari and Shenkottai were predominantly Tamil speaking. They wanted to merge with Tamilnadu. By the State Re-organisation Act of 1956, Kanyakumari and Shenkottai have been merged into Tamilnadu based on linguistic re-organisation. As now a part of modern Tamilnadu, the suffering of the people, who lived over in these areas at the hands of Travancore rulers and the British, has to be mentioned. Thus the present state of Tamilnadu has to be viewed as the area of the study.

The study considers the nineteenth century as the period of the study. The nineteenth century Tamilnadu witnessed profound changes in the political scene. The period falls into two division: A.D. 1801 to 1857 and A.D. 1858 to 1900. The Presidency of Madras was formed in A.D. 1801 and Tamilnadu was a part of it. The Tamil speaking province, Madras (present Chennai)\* served and serves as the capital. In A.D. 1857, the Sepoy Mutiny occurred and after that the province along with other British provinces was taken over directly by the British Crown. Though there were riots and rebellions against the British, the nineteenth century witnessed smooth running of British rule in Tamilnadu. It was achieved with the help of the rigorous judicial system i.e. with the system of ordeal and torture. The natives suffered a lot not only in the hands of the British but also in the hands of their own fellowmen of British service. The oppression of the British judicial system kindled the minds of the natives and it was an important cause for full-fledged freedom movement in the beginning of twentieth century. Hence the researcher has taken the nineteenth century as a period of study.

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\* In 1996, the State Government of Tamilnadu changed the name of the city of Madras into Chennai (S. Muthiah (ed.), *Madras, Chennai – A 400 Years Record of the First City of Modern India*, Chennai, 2008, p. 307.). However, the name Madras is still widely used locally, nationally as well as internationally. The focus of the research work has been the nineteenth century Tamilnadu and Madras served as the centre of all activities of the British in the south. For the better understanding of the administration of the British in Tamilnadu, the name Madras was used throughout the research work.

## **Methodology**

Different research methods have been adopted in this study. They are analytical, interpretative and descriptive method. The source materials have been critically analysed and investigated. The descriptive method is used in the presentation of the study. The researcher has relied on the primary sources that deal with the activities of the British in the historical period from A.D. 1800 to 1900. Secondary and supportive sources have also been referred. A summary, an analysis and conclusion have been made at the end of each chapter. A final conclusion, including all the aspects of the conclusions made under each chapter, has been presented elaborately.

## **Review of Literature**

Different source materials have been used to trace the history of the ordeal and torture in the nineteenth century Tamilnadu. The source materials have been classified into primary and secondary sources. Primary source materials are the first hand information. They furnish most of the information needed for the reconstruction of the history of the Tamilnadu in the nineteenth century. The primary sources are supplemented by a number of secondary sources, which provide information about the judicial system of the British in Tamilnadu. In general, the primary and secondary sources have been referred equally in the research work. The same method has been followed in each chapter of the study.

## Sources for the Study

The source materials for the study were collected mainly from the Tamilnadu Archives, Chennai. They are available in English. The primary sources are in the form of manuscripts and published documents of the Government of Madras. The accounts left by the travellers, chroniclers, officials and the literary works also fall under the category.

*Proceedings of the Judicial, Revenue and Military Department of the Madras Government from 1800 to 1900, Government Orders, Regulations of the Government of Fort St. George, Fifth Report from the Select Committee of the House of Commons on the Affairs of the East India Company, Report of the Commissioners for the Investigation of Alleged Cases of Torture in the Madras Presidency submitted to the Right Honourable the Governor in Council of Fort St. George on 16<sup>th</sup> April 1855, Reports of the Madras Native Newspapers, Report on Administration of Jails of Madras Presidency etc.* are the important sources which have been consulted.

The accounts left by travellers, chroniclers and British officials have given due importance. Yuan Chwang (Hieun Tsang), Chau Ju-Kua, Alexander Hamildon, Abbe J.A. Dubois and James Welsh have provided a lot of information about the prevalence of ordeal and torture in the India as well as Tamilnadu in pre-British and British period. The accounts of these people have also been treated as primary source.

The contribution of epigraphical and literary sources is immense with regard to the history of ordeal and torture through the ages. They are the *Annual Report on Indian Epigraphy*, *A Topographical List of the Inscriptions of the Madras Presidency*, *Indian Inscriptional Glossary*, *Hymns of Vedas*, *Law of Manu*, *Dharmasastra* works, *Arthasastra* and Tamil literature like *Tirukkural*, *Pazhamozhi*, *Akananooru*, *Purananooru* etc. are important works which provide significant information about the practice of ordeal and torture in the Indian and Tamil society.

The secondary sources also have been accorded equal importance. They are very few and those that are available have no direct bearing on the history of ordeal and torture in the nineteenth century Tamilnadu. *Torture in Madras* by Malcolm Lewin, *Manual of the Administration of the Madras Presidency* by C.D. Maclean, *A Manual of the Trichinopoly District in the Presidency of Madras* by Lewis Moore, *The Madras Prison and Reformatory Manual as Amended Upto the End of March 1939*, *Police Power and Colonial Rule* by David Arnold, *Crime and Police in India (Upto 1861)* by Anandswarup Gupta, *Law and Order in Madras Presidency (1850 – 1880)* by P. Jegatheesan, *A Monograph – The Suchindram Temple* by K.K. Pillay, *Police Criminology and Crimes* by James Vadackumchery, *Madurai Under the English East India Company 1801 – 1857* by K. Gowri are some of the secondary source books. Other relevant printed books, journals and gazetteers have also been used as secondary sources to establish historical facts.

### Statement of Problems

- Ordeal and torture were practised by the Tamils in their day to day lives even before the empires were established. There is lack of source materials to prove its prevalence during that period.
- For the study of ordeal and torture in the Tamil society, one has to rely upon the *Dharmasastra* literature. The literary and inscriptional sources affirm that the Tamil rulers followed the law of Manu. Because there is no literary work written separately for the study of judicial activities of the Tamils of pre-colonial age. Tamil literary works of the time provide little attention to the judicial activities. Most of them were written in praise of the rulers or they recorded in exaggeration the events of the time. It is difficult to describe the real nature of ordeal and torture in the Tamil society.
- Inscriptions are the important source materials to reveal the history of Tamilnadu in the pre-colonial era. All the inscriptions were scripted by the rulers themselves. Obviously they contain the achievements and good deeds of the rulers. Hence there is no detailed information on the nature of ordeal and torture process in Tamilnadu in the pre-colonial era.
- Due to lack of evidences, there are number of gaps in describing the history of ordeal and torture in Tamilnadu under the native rulers.

- To know about the judicial activities of the British in Tamilnadu in the nineteenth century, the official royal records of the British provide information. Like the inscriptions, they were written by the British themselves. Clearly there are one-sided, recording the achievements and contribution of their rule and silent about their atrocities.
- There was no contemporary Indian writing relating to the practice of ordeal and torture by the British on the natives of Tamilnadu. It is rather difficult to the researcher to give a complete picture of ordeal and torture in the nineteenth century Tamilnadu.

However, the nature of social set up, traditional judicial system, customs and beliefs of the people, motives of the British and their attitude in ruling the land help to understand ordeal and torture in the nineteenth century Tamilnadu.

### **Relevance of the Study**

The thesis attempts to mark the nature of ordeal and torture on the Tamil people by the British government. Ordeal and torture came to be viewed as a remnant or relic of the oppressive native practice of punishment. The study traces the significance of ordeal and torture in the constitution of transhistorical notions of pain, suffering and the human that accompanied the moral discourse of the horrific experience of ordeal and torture.

## **Hypothesis**

- Change in the nature of sovereignty had caused an expansion of ordeal and torture.
- Ordeal and torture were inflicted more for material offences than bodily offences.
- Ordeal and torture were the instruments to prove their power.
- Ordeal and torture have positive and negative impacts on the people.
- Ordeal and torture are the hindrance to the growth of suppressed people.

## **Plan of the Thesis**

The thesis has five chapters along with introduction and conclusion. Introduction highlights the aim and the objectives of the study, its area and period, methodology, sources of historical material and limitations. The first chapter brings out the historical background of ordeal up to the arrival of the British in India with special reference to Tamilnadu. The researcher has clarified the root of the system of ordeal and its development in the caste-based society.

The second chapter deals with the historical background of torture up to the arrival of the British in India with special reference to Tamilnadu. The origin of the method of torture in the society, its development and adoption by the rulers has been elucidated. The third chapter discusses ordeal and torture under the

English East India Company's rule in Tamilnadu from A.D. 1801 to 1857. It narrates the formation of Madras Presidency, establishment of judicial control over Tamilnadu by the English East India Company, their oppressive action to strengthen their power and the method used to oppress the natives i.e. trial by ordeal and torture and working and the failure of the Torture Commission.

The fourth chapter is a continuation of the third chapter which traces the practice of ordeal and torture under the British Crown's rule in Tamilnadu from A.D. 1858 to 1900. It explains the change of government and the techniques of torture on the natives. The fifth chapter speaks about the motivation of the British behind using ordeal and torture in Tamilnadu. It illustrates the social and domestic relation of the natives, the native judicial system and explains how far these systems motivated the British to use ordeal and torture. The chapter also depicts the motivations of the British native servants as well as the officials to inflict torture on the natives.

The thesis ends with the conclusion which sums up the findings and tries to trace the impact of ordeal and torture on the Tamil society after the British rule.

#### **Limitation of Study**

The researcher's attempt in this research is very modest, in the sense that she has not totally exhausted the topic. This research has unveiled an area

which needs further and deeper study not only for the sake of historical research, but also to throw light on the life of the people who face physical and mental torture from every walk of the life so as to lead them towards their empowerment and to enable them to be reasonably critical of the trial system in their daily life.