Chapter 5

The Political Economy of Reformation and Convict Labour

The previous two chapters focused on the crucial shift from extramural labour to intramural labour in the second half of the 19th century and the considerable contestation that it led to. However, this important shift had not in any significant way altered the overarching penal ideology of the regime and the official subscription continued to stress on deterrence. This chapter will focus on the crucial shift in the penal ideology from that of deterrence to reformation and its effect on convict labour policy in the initial decades of 20th century. It will critically study the colonial imperatives for introducing the same.

1920, as stated in the last chapter, is perhaps the most important year in the history of prison reforms in India as it was in this year that the Report of the Indian Jails Committee (Henceforth IJC, 1920) stated for the first time that reformation of the prisoners was the primary goal of imprisonment. This, it was said, was mainly to keep pace with the general opinion of penologists throughout the world that the objective of punishment was not only to deter but also to have a reforming influence. The general tendency of such modern ideas was towards the view that severity alone had little effect in reclaiming the criminal, and therefore humanising and improving influences were being emphasised upon. This would lead to the prisoners realising the essentially evil results of crime on himself/herself and others, and would result in a real reformation of character. The various reforming agencies were thought to be religion, education, rewards for good work, the hope of early release, encouragement of industry etc.¹

Though the stress on the reformation ideology of punishment happened in India only through the 1920 report, in Great Britain such developments had started taking place since the last decade of the 19th century especially with the Gladstone Committee Report of 1895. The chapter will begin by discussing the IJC Report of 1920 with reference to reformation and convict labour and study the context in which it emerged. Then it will make a study of the reformation policy as practiced in Great Britain and compare it with the Indian experience. As the policy of reformation in India has taken shape around the context of the World War, a section of the chapter will deal with the

¹ IJC 1920, p.34.
role of convict labour in such a historical context. Finally this chapter will look at caste vis-a-vis convict labour post reformation.

5.1 The ideology of reformation and convict labour in India

As seen in the previous section, reformation was being stressed on from the last decade of 20th century in Great Britain. However it took almost 25 years for the emulation of similar policy in the Indian colony. As stated earlier, the Indian Jails Committee of 1920 was the first prison committee of India to state that reformation of the prisoners was to be the primary goal of imprisonment and thereby convict labour had to perform the major reformative role. This section will try to locate the context in which such a policy was introduced and will study what such a shift in the penal ideology meant for convict labour.

The First World War experience had led to noticeable alterations in the organization of the colonial state and political economy since 1857. The colonial regime faced the problem of supplying a modern war from a base with only a rudimentary industrial infrastructure. The Government of India then realized the weaknesses of its pre war model for India’s economic development. The production of war supplies in Government factories was also stepped up and direct requisitions of textiles and leather goods were made from Indian manufacturers. Therefore in 1916 an Industrial Commission was set up which chalked a detailed and subtle plan for Indian industrial development. It advocated that Central Government should play a major role in industrialisation by the investment of social overhead capital, the promotion of technical education and research, the provision of industrial banks and the supply of direct financial and entrepreneurial assistance to private industry where necessary (Bose 2004: 102).

Though the changes in Central Government policy in the 1920s and 1930s did not represent, together or separately, a major new economic strategy, it had created new opportunities for Indian manufacturers. Although the large sections of India’s rural populace suffered hardships during the war due to rising cost of food grains and fodder, Indian industrial capitalism—especially in the cotton sector of Bombay and Ahmedabad achieved a breakthrough. Dislocations in transport had resulted in a sharp decline in the import of cotton piece goods from Britain, and
the raising of import duty from 3.5% to 7.5% to meet the government’s financial needs in 1917 gave the Indian textile industry its first taste of protection (Bose 2004: 102-103; Tomlinson 1979: 58-59 and 63-64).

This was also the period when not only the military recruitment of Indians had increased, but there were large quantities of food and fodder that was exported to the war zones in the Middle East. The first casualty of the outbreak of war in 1914 was the strict 1:2 ratio of the British and Indian troops in the army. The British Indian army adopted a policy of large scale recruitment of Indian soldiers. In some military campaigns, such as in Mesopotamia in 1915, Indian troops were themselves used as cannon fodder. Nearly 60,000 Indian soldiers were killed fighting for Britain in the European and Middle-Eastern during World War I (Bose 2004: 102).

With regards to punishment, the modern reformist ideas of punishment had a general tendency towards the view that severity alone had little effect in reclaiming the criminal, and therefore humanising and improving influences especially through factory work were to be emphasised upon. Recommendations were made towards greater differentiation in treatment to meet the different ages and types of offenders; the abolition of unproductive labour, and the gradual extension of association between prisoners for productive work and technical instruction; the possibility of prison earnings throughout a sentence. This, it was said, was mainly to keep pace with the general opinion of penologists throughout the world that the objective of punishment was not only to deter but also to have a reforming influence. However Rusche and Kirchheimer (2009) say that it was the universal lack of man power which made it necessary to draw as many people as possible into the labour process, fuelled such reformatory ideas of punishment (Rusche and Kirchheimer 2009:161). As pointed in the last chapter, The Washington Congress of 1910, in the context of opposition to prison labour free labour and private industry held that the amount of competition by prison labour was so small as to be hardly appreciable. Further it said that all productivity from any source was a gain to the community and that the importance of reforming prisoners by labour outweighed all economic considerations.²

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In similar vein the IJC, 1920 held, “The world is in great need of increased production; should not the labour which is available in jails be employed in the most productive manner? India is on the verge of great industrial development; should not the prisoner in jail be helped and qualified to take his part in this development?”

It further said, “As communication by road, railway and other means has improved, there has been a growing tendency to reduce the number of prisons and to concentrate prisons at central points, chosen on account of their accessibility, salubrity or other considerations. By collecting prisoners together in large numbers, it has become possible not only to provide better means of employment and to effect great economy and uniformity in administration but also to secure more expert management of prisons. Earlier there were prisons in each district because the land was huge and communication was difficult.”

Thus the changing nature of penal ideology went hand in hand with the increasing number of central prisons due to better means of transport. This further prompted the IJC, 1920 to stress on productive labour. Profit extraction and deterrence through labour were relegated to secondary importance. It also said, “...under such a scheme all forms of purposeless labour such as the treadmill and the crank were to be eschewed.”

Even the scheme of paying of gratuity to convicts was recommended.

It was also proposed that there should be concentration of jail labour on a few large industries in order to make the best use of the available jail staff and to prevent their energies from being dissipated in a number of small industries. It was reiterated that it was necessary to secure a steady market for jail products and this could be most conveniently found in the consuming departments of the state and that this could also help in reducing the pressure on the exchequer.

As the jails were held responsible for supplying articles suitable to the needs of the consuming departments the jails were to be equipped and staffed to be able to turn out articles as good as those procurable in the open market and for which purpose machinery was thought to be

3 IJC, 1920, p. 120.


5 Ibid, p.118.

6 I have looked at this scheme in detail in Chapter III.

7 Ibid, pp.118-121.
indispensable. Also as public departments often required large supply of goods at short notice and as they could not be completed if they were to be made by hand, and also hand made goods could seldom compete with machine made goods with some exceptions, machinery was thought necessary for jails. As dealt with in detail in the last chapter, it was clearly stated that such machine labour should be carefully chosen so as to avoid competition with weak and unorganised trades or with budding industries.\(^8\)

Though the Committee emphasised on reformatory labour, and such labour by and large is intramural labour, wherever it was possible to work out such an ideology, it is rather striking to note that it did not formally put an end to employing convicts on extramural labour. In fact it came out with a set of principles that were to be followed when prisoners were employed on large public works. It said:

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\text{In the first place the question of climate and location are all-important....We consider that no public work gangs can legitimately be started unless the question of the climatic conditions of the site and surrounding country have been carefully examined from medical and sanitation experts. ....In the second place the work selected must be of such a character that it is concentrated at a single place, and that it would last for a considerable time. If this condition was not fulfilled, suitable buildings cannot be provided and the prisoners then had to be kept in tents or other temporary structures with all the attendant evils of fetters, the belchain at night, bad ventilation and the like. As the efficiency of prisoners would also be lost if they had to walk long distances from the prison and they were not to be engaged building roads, canal, railway tracks etc. For prisoners employed outside the main gate but on jail premises, such as the garden gang, the sweeper gang and the like the practice of imposing fetters was felt quite unnecessary if the prisoners were properly selected.}\(^9\)
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Thus even when there was a subscription to reformatory ideology convict labour continued to be identified as freely available source of labour at the disposable of the state and the state according to its convenience and requirement continues to maintain a reserve of such labour.

With regard to short term prisoners, the Committee held that as there was no time to teach such prisoners a trade, or to put them to anything except such forms of labour which do not require long term training, for such prisoners the only possible employment was unskilled labour. However, if the prisoner was skilled in any trade during admission itself, utilising his/her skill was thought to be obvious. All prisoners with long or short sentences were held liable to be

\(^8\) IJC, 1920, pp.122-23.

called on to take their share in the carrying out of prison services. It was reiterated that it would be unjustifiable to impose on the taxpayer the cost of employing paid-labour to perform such services when convict labour was freely available. If a long term prisoner had to be thus employed, then the period undergone should come at the beginning of the sentence rather than later, as it was thought that when the prisoner was trained in an industry and when his/her reversion to unskilled labour, except as a punishment, would involve a sacrifice of efficiency and some hardships to him/her. This also gave the jail authorities an opportunity of acquiring some knowledge of the prisoner and of learning for what industry his/her capabilities were most suitable. But the crux of the policy was maintaining prison economy and achieving reformation. Thus no matter to what official ideology the state subscribes to, the utilitarian understanding of convicts as free available labour continues, and the penal institution continues to function as a self sustaining one with costing minimum to the public. Also with regards to women prisoners the reformation policy hardly introduced any new changes in their employment. Women prisoners were generally employed in preparing food; wherever possible they were also instructed in needle work (Venkatesan 1981:154).

In Madras Presidency, the Madras Jail Manual in 1915 itself had declared, “the main objective of prison labour to be the reformation of the prisoner”. One of the important objects of prison labour was to make prisoners pay for their maintenance by making them work. The IJC, 1920 had not approved of this idea because it would amount to exploitation of the prisoners. M K Nayar in the Legislative Council in 1932 said, “The Government owes a duty to the tax-payer...... these prisoners are there and they have to be fed, housed and clothed; all this costs money which ultimately falls on the tax payer; it is therefore necessary that some work must be given to these prisoners so that some compensation for the money of the tax-payer which is being spent on them may be obtained (As quoted in Venkatesan 1981:151).” K Koti Reddy, another member of the Legislative Council concurred with the views of the Government that jails should be a source of income and said, “I personally do not see any reason why the Government should not utilise convict labour for profit (As quoted in Venkatesan 1981: 151)”.

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10 IJC,1920, pp.118-19.
Relevant rules of the Jail Manual reveal that the Madras Government was more inclined to permit extramural employment under proper safeguards than totally prohibit them. A large number of the prisoners of the District Jail Koraput were employed in a new drainage scheme from 1924. In 1929 alone an aggregate of 4,480 convicts were employed on extramural work at Koraput. Convicts of the Alipuram Jail were hired to the Military Department in 1923 and 1924 to work on the grass farms. Prisoners were sent in small gangs in compound of headquarters Hospital, Salem, the lawn of Medical Mission School Vellore and grounds of District Court Salem. Therefore a jail industries Committee was constituted in 1924 under P Noyce, which made a thorough overhaul of jail industries and submitted its recommendations in 1925. Though its implementation involved a non-recurring expenditure of Rs 4,36,462 and a recurring expenditure of Rs 78,952, the Government was not very willing in accepting them (Venkatesan 1981:159).

The 1919 Montague Chelmsford Reforms had provincialised jail administration but treated it as a reserve subject to be administered by the Governor General in Council, and not as a transferred subject under a minister chosen from the Legislative Council. With the promulgation of the Government of India Act 1935, the prisons became a transferred subject under the autonomous provinces. The Government of India Act 1935 did away with this ingenious device known as diarchy, removed all distinctions between reserved and transferred subjects in provinces and facilitated the growth of the jail department on popular lines. Thus post 1935 Act, Bombay, Madras, United Provinces and Central Provinces and Berar passed Probation of Offenders Acts during 1936-38. The Committee of Prison Reforms in Mysore 1940-41, the U P Jail Reforms Committee 1946, the Bombay Jail Reforms Committee 1946-48 were set up to improve prison administration.

However even after the recommendations of the IJC 1920, and several other committees as stated above, there was a lack of implementation of the same. Lt. Colonel Barker in his “The

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11 As stated earlier The International Penal and Penitentiary Commission of 1929 had also desired that work assigned to prisoners should be instructive in nature. See Chapter IV, pp.25-26.

12 Though the reformation policy stressed on education, generally speaking prison education did not go beyond the elementary stage which consisted of reading, writing and arithmetic (Venkatesan 1981: 277).

Modern Prison System in India” points out that even when popular ministries were appointed unto 1937 not much was done towards the implementation of the Committee recommendations. For Karnam, one of the reasons for the same, was the emerging national movement. The problem of overcrowding of prisons, which was especially caused by jail satyagraha movement after 1920 restricted the colonial government’s initiative to modernize the prison industries (Karnam 2004:115).

After 1937 many of the provincial ministries appointed committees with a view to effect further reforms in the jail administration of their respective provinces. Therefore in the ensuing 20 years both under British Government and popular governments many improvements were effected in buildings, staff administration and labour; steps such as classification, educational facilities, after-care work were also taken for promoting reformation. Also several acts such as Borstal Act, Children and Probation Acts, Probation of Offenders’ Act etc. were passed. Also, the Committee appointed by the Punjab Government and the United Provinces Jail Committee had made several recommendations and several steps were taken towards their implementation. In 1939, a Committee was appointed by the Bombay Government to go into the question of whipping as a jail punishment and its recommendations were accepted. Beyond this, there were no further attempts made for reforms.

5.2 Convict Labour in the context of World War

India as a colony was not only funding Britain’s imperial interests through the payment of various taxes, but especially through the British Indian army it was also directly protecting Britain’s far flung empire from North Africa to East Asia from the later decades of the 19th century. The Indian Army helped in controlling the Mahdi uprisings of 1885-6 and 1896 in Sudan, the Boxer rebellion of 1900 in China and the Boer War in South Africa during 1899-1902. Indian troops were also used in Egypt in 1882, in Afghanistan in the late 1870 and early 1880s, for the final conquest of Burma in late 1880s, to impose British dominance in Tibet in

1902-3 and to bolster British influence in the Persian Gulf in the first decade of 20th century. During World War I, not only did India’s defence expenditure increase by 300%, but Indian troops played a critical role in Mesopotamia and as many as 60,000 Indian soldiers had died fighting for Britain during 1914-1918. In fact a major structural change itself had occurred in organizing the Indian Army. The outbreak of the First World War had lead to large scale recruitment and ratio between Indain and British soldiers had significantly altered (Bose and Jalal 2004: 78-79 and 102). If this, in brief is the story of the utilisation of the British Indian Army as such, this section will study the role convict labour played in the context of the World Wars.

If on the one hand as was seen in the last chapter there is a crucial limitation of reformation through convict labour as its products cannot compete in the open market, on the other hand, the context of World Wars also did impinge on the reformatory ideology of convict labour policy. The outbreak of the war had resulted in issuing special rules almost in every country, and military interests had a decisive influence. The Prussian ministry of justice, for example, had issued decrees in 1916 and 1917 requesting the courts to take into consideration the possible usefulness of the convict in auxiliary war service deciding to remit any sentence. Pending cases were dropped and convictions were set aside as a method of recruiting for the army. Convicts whose sentences had included as a special dishonour, loss of the right to serve in the army often regained the right so that they could be sent to the front. Criminal policy towards those who stayed at home was dominated by the same approach. The universal lack of man power made it necessary to draw as many people as possible into the labour process, and the administration was busy in doing its part to this end (Rusche and Kirchheimer 2009:161).

For the same purpose, in India the Jail Corps was launched in 1916. This was mainly inspired by an experiment carried out in Mesopotamia where in well behaved and short term prisoners in Indian Jails were granted a conditional remission of their sentences and thereby employed as labourers in the subsidiary services of the war front. As this experiment proved to be a success, the British Government decided to extend it on much broader lines. Such a scheme was thought as having the “incidental” advantage of reducing the demand for free labour. Also the prisoners found it advantageous as the unusual favourable terms offered attracted a large number of
volunteers from better class prisoners in Indian Jails. Their cases were carefully considered by the local authorities, with the result that several labour and porter corps were recruited in this manner. The corps were employed in loading and unloading sea and river craft, stacking stores, road and hut making and the like. It was clearly stated that there was no intention of employing them near the fighting line.\(^{16}\)

When the corps were for the first time sent to Mesopotamia, the authorities tried avoiding using the word “Jail” or “Convict”. The corps were called Disciplinary Corps. There were several conditions on which the convict could get enrolled as corps. The Government of India had requested the Governor of Provinces to consider the suspension of sentences under section 401 of the Criminal Procedure Code, and this was done with the effect from the date of embarkation for Mesopotamia, subject to the following conditions:

a) That he will be enrolled and attested as a follower under the Indian Army Act on arrival in Mesopotamia

b) That he will, for the period of two years or the duration of the war, be employed there under the Military works services on embankment work, on loading and unloading stores from and into steamers and river craft, or such other works at the Military authorities may direct

c) That he will behave well, and perform satisfactory service during the period of his employment

d) That he will not commit any offence punishable by any law in force in British India

e) That he will not associate with notoriously bad characters or lead a dissolute life.\(^{17}\)

The Government on its part offered the following terms:

a) The suspense of sentence was to come into effect from the date of disembarkment. The sentences of the prisoners are only suspended and for bad behaviour they would be sent back to their respective jails.

b) Remuneration of Rs 10 a month of which a portion could be allotted to prisoners’ families at the option of the former. Free rations from date of release from jail, free clothing and an advance of Rs 30 would be given and could be deducted subsequently in instalments.


\(^{17}\) Ibid
c) If behaviour on service was reported to be satisfactory, he was granted remission on release from military employment of the unexpired portion of sentence. If the services were to be found unsatisfactory, the prisoner was to be returned to jail to complete his term of imprisonment.\textsuperscript{18}

Apart from these terms there were several concessions that were offered to these corps. The first concession was offered in May, 1917, from the Adjutant General in India who stated that there were a number of ex convicts who were serving in the various Disciplinary corps, the terms of whose sentences would have expired had they remained in jail, but that the condition of their release was not fulfilled until they had served out the terms of their agreement (duration of war or otherwise). In case of such convicts, in order to obviate discontent and to give them a greater opportunity of reform it was considered expedient to treat them as “Free” labourers if their services were to be found satisfactory. The second concession was paying them a grant of 15 Rs per month. This was the pay of Porters at that time who were not recruited from the jails. The third concession was a grant of war-leave to 20\% of specially selected convicts during the winter of 1918-19 when the leave season of the forces had closed. Besides those recruited for the corps, there were gardeners, dhobis, syces and sweepers. On June 30\textsuperscript{th}, 1918, the total strength of all 7 corps in the field was 9,603 and including the sweepers, gardeners etc., it was 11,205. Therefore during 1918 there were round 10000 to 12000 jail recruited men serving with the forces.\textsuperscript{19}

Formation of such corps continued even after the Armistice in anticipation of wars in the future. The Government under the Home Department Resolution No. 3211/2, dated 17\textsuperscript{th} December 1928 undertook to provide jail labour units in the event of general mobilization such as would be necessitated by a war of the first magnitude. The question was for the provision of such events in the event of partial mobilization and a proposal was put forward by the local military authorities responsible for preparing the appropriate scheme of mobilization that Jail labour units should be formed in such a contingency from the jails in the Presidency of Bombay and the province of the Punjab.\textsuperscript{20}

\textsuperscript{18} H Jails (Confidential), 1929, 107/29, Formation of a Labour Company in Sind Jails for service in Northern Frontier, History of the Jail Labour and Porter Corps Employed in Mesopotamia During 1916-1919, NAI.

\textsuperscript{19} Ibid.

\textsuperscript{20} Ibid.
Thus it is striking to see, if on the one hand the official subscription of penal ideology was that of reformation, the economic imperatives created by the War (and the Recession as will be presented in the following paragraphs) necessitated the use of convicts to suit the purpose. Therefore the point worth noting is that even when there is qualitative shift from deterrent to reformative ideology, convict labour continues to be identified as a cheap labour reserve which could be put to the required use by the state.

If one the one hand the prisoners were directly serving as corps, on the other hand during the War period, the prisons themselves became important government factories, using their labour power to a maximum degree. In Great Britain, the English prison commissioners reported for the year ending March 31, 1919, that the manufacture of War stores continued to employ every available inmate, and the was satisfactory, in spite of the difficulties experienced in obtaining materials, the delivery of goods on order was in nearly all cases within the limits of time required by the several Government Departments (Rusche and Kirchheimer 2009:161). Foucault (1979) says:

...as the nation mobilized for war with the Central Powers, that trajectory of thought, and the disciplinary innovations it had prompted, began to undergo a series of subtle but profound changes: Most critically, the new penological mode of prison discipline gradually tore loose from its moorings in the larger, ethical project of social justice to become a vigorously contested instrument of power. Meanwhile, outside the prison walls, the extraordinary circumstance of a war economy presented progressive prison reformers with an unprecedented opportunity to pursue the systematic restructuring of legal punishment at the state, federal, and even international levels. War mobilization revived, within progressive ranks, the dream of full-time, waged, productive labor for all fit and able prisoners; it also prompted the first federal effort to direct the reconstruction of the nation’s penal systems as a whole (Foucault 1979: 428-435).

However, in Britain, after the war it was difficult to provide work as numerous prisons were closed. Wakefield prison was reopened, and active steps were taken to secure additional orders for Government Departments. New shops were opened at Bredford, Bristol, Oxford and Shrewsbury and a large sum was spent on additional machinery for the printing shop at Maidstone. In 1926-27 automatic boring machines were installed in the brush shops at Wandsworth and Wormwood scrubs, and new power looms were installed at Wakefield and other such installations were undertaken. In 1931, the economic crisis made it necessary to reduce the staff and also the hours of associated labour. A Directorate of Prison Industries was
appointed in 1934. The problem of providing work was somewhat relieved by a decrease in the prison population and an increase in orders for Government Departments.\textsuperscript{21}

In India, as stated earlier, to put it modestly the whole policy of reformation, and in particular, the emphasis on productive machine labour was going hand in hand with World War experience. In fact the IJC which met started working in 1919 was actually called for in the year 1912 itself. But due to the anticipatory war circumstances, it inevitably got postponed till 1919. Also, it wouldn’t be an exaggeration to say that the policy shift to reformation itself was a political enterprise, the Wars and the Recession being the important driving forces. Also, as mentioned before, it was clearly stated that production from any front was welcome and in the Indian context the Government was the largest consumer. Interestingly, Venkatesan (1981) points out that when jail supplies to the Military Department had declined in 1919 due to termination of the First World War, the Governor advised the Government Departments that orders could be placed in the open market only when jails were unable to meet the demand so that prisoners could be employed and discipline be maintained. Such Government’s instructions had good results and the value of prison manufactures had risen considerably. In 1926, the Director of Public Instruction asked for permission to by-pass this procedure because it involved complication and delay but the Government declined. However the consuming departments did not appear to have appreciated the Government’s anxiety. In exasperation, the Inspector General of Madras Presidency wrote in 1931 that it would be much economical to close down the industry and allow the large prison population to remain idle (Venkatesan 1981: 161-163).

This section has specifically dealt with the use of convict labour in the context of the World Wars. The emphasis was specifically in looking at convict labour as cheap reserve of labour. Convict played a dual role: directly assisted at the War front and indirectly produced for the exigencies generated by the War through factory work. If the reformation policy itself had not led towards greater emphasis on modern production, post War, it had only further strengthened the belief in the same. We have already seen that from the 1860s-1870s, under specific colonial context, a characteristic so much associated with reformation i.e. engaging prisoners in modern

\textsuperscript{21} Home Jails, 1938, 12/6, An extract from the Report of the Prison Commissioners and the Directors Convict Prisons for the year 1934, Review of the Past 25 years, NAI.
forms of production, was already introduced in India though under the overarching penal ideology of deterrence itself. Such use of convict labour by the state happened within the context of the crucial shift in penal ideology from deterrence to reformation. However schemes such as payment of gratuity whether in India or elsewhere were correlated with such global events.

5.3 Reformation ideology and convict labour in Great Britain

In Great Britain, the Gladstone Committee of 1895 which is considered to be a landmark in the history of prison reforms introduced a new conception of prison treatment as an instrument of reformation. This was mainly based on classification, employment in association and individualization and it relegated the theory of deterrence, based on solitary confinement and strict uniformity. It observed that while the earlier prison reforms had paid much attention to organisation, finance, order and health of prisoners, and prison statistics, the prisoners however had been treated too much as worthless and hopeless members of the community. Under such a system neither crime nor recidivism had decreased, and that it made for the deterioration and degradation of the prisoners and their eventual release into society neither deterred nor reformed, but brutalised and embittered. Therefore the Gladstone Committee recommended that for the future, reformation and deterrence should be treated as ‘primary and concurrent objects’, and that ‘prison treatment should be effectively designed to maintain, stimulate or awake the higher susceptibilities of prisoners and turn out of prison better men and women, both physically and morally, than when they came in’.  

As an attempt to achieve the above stated objectives, the Committee recommended greater differentiation in treatment to meet the different ages and types of offenders; the abolition of unproductive labour, in particular the crank and tread-wheel and the gradual extension of association between prisoners for productive work and technical instruction; the possibility of prison earnings throughout a sentence; the provision of more books; and the initiation while offenders were still in prison of aid to their families and preparation for after-care through the discharged prisoners’ aid societies. The Prison Act of 1898, which in many ways than one

marked the beginning of a new era in prison administration, was passed to give effect to the principles of reform recommended by the Gladstone Committee.\textsuperscript{23}

Some of these recommendations including the recommendations on convict labour were implemented piecemeal. The Prison Act of 1898 which dealt mainly with changes in the nature of prison labour provided for association in labour wherever practicable, for the phasing out of the crank and tread-wheel and the use of oakum picking only as a last resort. The Act also made provisions for the Court to classify into further divisions, those sentenced to imprisonment without hard labour. This was a novel development and was also a reflection of the time that it was more appropriate for the court than the executive to decide the conditions under which an offender should serve his sentence (Edwards 1978: 4).

When Churchill came to power, he not only replaced Gladstone as the Home Secretary but also demanded from Evelyn Ruggles Brise (1895-1921), the Chairman of the Prison Commissioners and Directors, the immediate abolition of solitary confinement.\textsuperscript{24} In 1910, prisoners serving sentences of hard labour were kept in separate confinement for the first 28 days of their sentence, and up to nine months in the case of recidivists. On March 25\textsuperscript{th} 1911 it was ordered that all convicts except for recidivists should serve only one month in separation (Forsythe 1991: 67-68). Later in 1919, in the case of hard labour prisoners the 28 days separate confinement was reduced to 14 days and was finally the separation period was abolished in 1931. In Local prisons the year 1919 saw the introduction of the red band, or red collar system which had for many years been in force in convict prisons. Under this system certain selected prisoners were trusted to work individually without supervision.\textsuperscript{25}

By the end of Ruggles-Brise’s period of office there had been an amelioration of the severity of the convict prison system. So the convict gangs kept at very severe penal labour in the 1870s and 1880s was being no more practiced and even the critical Labour Research Group noted that convicts had started working in workshops at such occupations as tailoring, shoe making,

\textsuperscript{23} The Treatment of Offenders in Britain, Central Office of Information, London, 1960, p. 4.

\textsuperscript{24} Such urgency was also a result of Churchill watching a tragedy called Justice by John Galsworthy where the central character had committed suicide after serving three years penal servitude

\textsuperscript{25} Home Jails, 1938, 12/6, An extract from the Report of the Prison Commissioners and the Directors Convict Prisons for the year 1934, Review of the Past 25 years, NAI.
carpentry, smithing and that in the later stages of sentence convicts worked on the prison farms and land reclamation schemes. Here, the Labour Research Group noted, convicts were often devoted to the farm animals and, apart from their clothes, could hardly be distinguished from cheerful, hard-working, ordinary farm labourers. Also in the convict prisons where, Stars tended to be concentrated, especially light industrial work in workshops was practiced (Forsythe 1991: 72).

However it is important to note that despite these reforms, prison industries continued to be unsatisfactory. They were of the most elementary character and were performed in a crude, amateurish way. Therefore there were of no educational value and were considered to be of a serious loss to the nation. The “instructors” were rarely trained men, and efficient machinery and equipment were almost entirely lacking. The workshops were frequently poor, and the prisoners worked under conditions which gave them little interest in their labour and no incentive to do well.26

Also the penal view of labour which was supposed to be thrown out as early as 1896, continued to characterise almost all prison work. There were several monotonous processes performed by hand which would be performed by machinery in any up-to-date factory. This was partly due to the difficulty of providing sufficient work for rapid manufacture and of running well equipped workshops by the low-conditioned and constantly changing prison population; but despite all theoretical repudiations it was also due to the punitive conception of the work, and to the system of silence and separation which could not possibly be fitted with any remunerative form of co-operative production. Work was regarded not as a means to an end, certainly not as a craft, but as a prescribed task to be fulfilled as part of the punishment of imprisonment. In fact there were instances where when there was a lack of supply of canvas, completed mail bags were deliberately taken to pieces so that the tasks might be forthcoming.27

So far as the work given to prisoners sentenced to hard labour during the early stages of their imprisonment was concerned, it was stated by the Prison Commissioners in 1896 to be


27 Ibid, p.113.
deliberately penal. They remarked that in their opinion it was “of the highest importance that penal labour of a deterrent nature should accompany the early stages of imprisonment”. In fact the Gladstone Committee (1895) itself had recommended that punishment of hard, dull, useless, uninteresting, monotonous labour was necessary. The fact is that though the use of tread-wheel and crank was stopped many of the other tasks imposed had retained their vices. The effect of attempting to make prison labour “deterrent “ with a view to inculcating a distaste for prison was to make labour itself distasteful.28

In criticizing the character of the manual labour enforced in prisons, it should noted that much of the modern factory work was both monotonous and degrading too, and that from an educative point of view hand work which allowed some initiative and expression was far more valuable than tending to machines and prison labour permits none of these things. The prison workshops could rarely be described as model establishments. In many cases the old tread-wheel buildings were converted into workshops which were dull, ill lit uninviting places. According to the statistics of 1910-11, out of 12,192 prisoners employed on manufactures, more than 20% were engaged in low grade work such as picking oakum, or cotton, sorting wool etc. The restriction upon industries was a main factor in preventing the efficient organisation of work in prison. The Departmental Committee of 1895 instanced the case of mat making which had to a large extent been given up owing to outside agitation against competition of prisoners with free labour.29

For Rusche and Kirchheimer (2003), prison labour in this initial phase of reformation continued to remain a central problem mainly because prison labour had lost its economic significance in countries with a highly developed industrial capitalism. They point that according to the English Commission of the 1890’s, the prison population presented no favourable feature whatsoever for the development of industrial labour. That was true a priori of the smaller prisons used for short sentences, since the small number of inmates and the rapid turnover made any form of rational production an impossibility. However, in large prisons, large scale expenditure was necessary if

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their products had to compete with the products of private industry. The opposition to this was so strong, both from the business world and from the trade unions that convict labour was generally limited to manufacturing goods for use in the prisons or in government departments (2003: 152-153).

Furthermore, as with the new reforms the jailors had become salaried officials, they had no private economic interest in convict labour which they had in 17th and 18th centuries. The state was satisfied with a partial return of its outlay, at least on the books, and the pedagogical side of prison labour had come strongly to the fore. Convicts were often put to work in the fields, a solution particularly popular in Fascist countries as one of the coercive methods of raising production at a minimum expense. Agriculture or other primitive work was no answer to the problem of reform, for that generally meant that the convict leaves as he entered without any training which would help him resettle. The expense involved, the difficulties of finding a market, and public opinion all contribute to prevent the introduction of an effective program of labour training (Rusche and Kirchheimer 2003: 153).

The Report of the Parliamentary Committee in 1913 however further introduced a radical change and it stated that the purpose of prison system sought was to be predominantly reformatory. The logical corollary of this was to promote industrial training and education so that the prisoners could return to ordinary life. 30 There were several reformatory steps taken in the following few decades. Between 1921 and 1939 the prison commissioners argued that there was in progress a steady mitigation of the severity of Ruggles (1895-1921) system and the implementation of new policies designed to reform and train prisoners and borstal trainees more effectively. In 1923 convict separation was suspended and in 1930 it was abolished, separation in local prisons was also abolished in 1931. Insistence on compulsory attendance to chapel, flogging etc. was also considerably reduced. In March 1922 conversation was allowed in prison workshops (Forsythe 1991: 175). It is important to see the reforms in these decades in context of the world wars and the economic depression.

Thus the question that Rusche and Kirchheimer were raising as to the feasibility of introducing productive industrial labour in the prisons in the context of greater industrialisation outside only

gets further validated. Despite such a context, the World War situation had encouraged modern production in the prisons. If, as seen before a large percentage of the prisoners in the first decade of the 20\textsuperscript{th} century were still engaged in unremunerative and outdated labour, during the First World War the number of prisoners employed on low grade works was reduced to 2.2\%. The table below also indicates how there was an increasing composition of prisoners who were working in the manufacturing sector by the 1930s.

### Daily average number of inmates at work\textsuperscript{31}

<table>
<thead>
<tr>
<th></th>
<th>1929-30</th>
<th>1930-31</th>
<th>1931-32</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manufacturing</td>
<td>6219</td>
<td>6530</td>
<td>6805</td>
</tr>
<tr>
<td>Farming</td>
<td>355</td>
<td>352</td>
<td>406</td>
</tr>
<tr>
<td>Building</td>
<td>1328</td>
<td>1413</td>
<td>1407</td>
</tr>
<tr>
<td>Domestic service</td>
<td>1945</td>
<td>2011</td>
<td>2089</td>
</tr>
</tbody>
</table>

Before 1877, in certain English prisons which were under the control of the local justices, prisoners were paid regular wages for their work, 50\% of the profits accruing to the prison by their labour. But after that since the prisons came under the Home office, wages were not being paid to prisoners. However, until 1913 it was the custom to pay them a small gratuity. The gratuity was never regarded as a payment for work done, and was abolished in that year as ineffective both as “a means of charity” and as a means of securing good conduct of the prisoners\textsuperscript{32}.

An earnings scheme was once again introduced a few years before the beginning of the Second World War. The earning schemes which were introduced in 1929 at Wakefield on a purely experimental basis and were successful were considerably extended in 1937. Following the


Departmental Committee on Employment of Prisoners of 1933, such schemes were introduced everywhere. Earlier a prisoner could become eligible to earn after the completion of a certain period of his sentence but on the general extension of earnings to all convict prisoners this was done away with and every convict could begin to earn and enjoy the privileges which earnings may procure him from the time he reaches the convict prison. These payments though trifling were found to serve as a substantial incentive to prisoners to work more efficiently apart from him having that he has earned and allowing him to think about how he should spend it.\(^{33}\)

However, as pointed out by Rusche and Kirchcheimer the system of paying wages was contested on the same grounds as productive prison labour in general and pacing convict labour on the same level as free labour. In England, the work performed by prisoners used to be incorporated into the stage system, creating the possibility of shortening the judicial sentence. A report of the prison commissioner in 1929 indicated that this system merely operated as a negative check on misconduct and idleness, and concluded that some form of wage was necessary to induce the inmates to perform the minimum amount of work necessary and to escape the black mark of idleness to the maximum possible productivity. Following this report the system of pay was introduced (1939: 153)\(^{34}\).

Garland maintains that prior to 1895 (when Gladstone Committee Report was published), penal policy was dominated by classical ideas regarding deterrence, uniformity and a belief in a proper proportionality between an offence and its punishment. During the period from 1895 to 1914, however, the Victorian penal system was transformed to the extent that the pattern of penal sanctioning which was established with its new agencies, techniques, knowledges and institutions, amounted to a new structure of penalty. Foucault, Garland contends, was mistaken to consider the expansion of surveillance, normalisation and individualisation, integral to the development of the prison as the primary method of punishment, as being achieved in early 19th century. The legalistic insistence upon uniformity, equality of treatment and proportionality ensured a mass regime which could allow a marginal place to generalised, reformatory practices, but which refused any serious concession to individualisation. The development of specific


\(^{34}\) Similar analysis are made in Chapter III on the gratuity system introduced in the Indian prisons.
practices of normalisation, classification, categorisation and discrimination between criminal types simply did not occur in Britain until after 1895 (Brown 2003: 116). However it is important to note that Foucault might not be correct about reformatory techniques as taking shape in the beginning of 19th century but the important point that he was trying also trying to make is that prisons from the very beginning instead of being dumping yards for criminals as commonly understood were also like other institutions such as schools and hospitals places of reclaiming individuals. Foucault says:

My hypothesis is that the prison was linked from its beginning to a project for the transformation of individuals. People tend to suppose that the prison was a kind of refuse-dump for criminals, a dump whose disadvantages became apparent during use, giving rise to the conviction that the prisons must be reformed and made into means of transforming individuals. But this is not true: such texts, programmes and statements of intention were there from the beginning. The prison was meant to be an instrument, comparable with - and no less perfect than - the school, the barracks, or the hospital, acting with precision upon its individual subjects (Foucault 1980:39-40).

Broadly speaking the reforms that were carried out in Great Britain beginning from the last decade of the 19th century intended to decrease the number of days spent in solitary confinement, encouraged associated and productive labour, and a system of payment to prisoners was introduced. The context of the World Wars and the economic recession had in several cases expedited if not led such reforms themselves. Though reformation introduced in Great Britain much before than in India, the reformative form of labour (associated labour) happened to be introduced only in the beginning of the second decade of 20th century.

5.4 Caste, convict labour and the policy of reformation

As seen in the last chapter with the introduction of intramural factory labour in the second half of 19th century, it was believed that it neutralized caste differences and the problem of caste was thought to be resolved. Caste based allocation of labour never-the-less survived especially in the performing of menial and other duties which are essential for the running of the prison, and for which purpose people belonging to lower castes could be employed as stated by the 1864 Prison Conference. However such a policy continued to be practise even after the 1920 Indian Jail Committee report which emphasised on reformation. The rules enforced in Madras totally
prohibited the employment of high caste Hindus on conservancy work. The rules in Bengal, Bihar and Orissa, United Provinces (Delhi), Central Provinces, North West Frontier Province did permit the employment on conservancy work of prisoners who volunteered for it irrespective of caste. It is important to note that it is based on volunteering on prisoners’ behalf and not imposed by the prison authorities. The rules in Assam did not prohibit the employment of volunteers, though the Assam Government maintained that it was strongly opposed to it, and in Bombay and Burma the rules stated that conservancy work shall not be exacted from prisoners who are not in the habit of performing such work against their will.\(^{35}\)

In the 1930s when Mahatma Gandhi was imprisoned (in Yeravada, Bombay Presidency) and he volunteered to take up conservancy labour and encouraged other inmates to follow while he was in the prison in support of his movement against untouchability, he was not allowed to do so. It was held that such action would be contrary to sound principles of jail administration on the one hand, and on the other hand, such volunteering would lead to serious administrative difficulties, and could later on be turned against the Government itself. It was said, “The depressed classes, or the orthodox, might be eventually persuaded against the Government, the depressed classes on the ground that, in their case the principle of volunteering is not recognised, and the orthodox, on the ground, wholly untrue, that they were being degraded by the Government of siding with Mr. Gandhi against the Orthodox Hindus.”\(^{36}\) It was reiterated, “The proper treatment of prisoners in jails does not extend to allowing them to indulge their personal idiosyncrasies, nor was jail the proper place in which social reforms could be advertised. It was inappropriate for jail discipline to allow prisoners to carry on political stunts in jails, and the Governor in Council had no doubt that so far as Congress adherents are concerned the demand for menial labour was nothing but a political stunt and that any concession which might be allowed to them would be abused sooner or later.”\(^{37}\) Further it was also said, “It would prove embarrassing in the future as the lower castes could demand that conservancy work should be awarded without any discrimination and also they could demand that conservancy work should not be forced upon unwilling prisoners,

\(^{35}\) Home Jails, 1932, 161/32, Allotment of conservancy work in jails to high caste Hindu prisoners who volunteer to do it, NAI.

\(^{36}\) Ibid.

\(^{37}\) Ibid.
especially those of lower castes.” Therefore Gandhi was prohibited as it was thought that the prison would then be perceived as hurting the sensibilities of the native population and that it would be resented.

It was once again made clear that the Superintendent was the final authority in allotting prison tasks, i.e., while a prisoner may volunteer, it was for the superintendent to say whether or not he could in fact be employed in the way he wishes. And if this principle was relaxed to the slightest degree innumerable administrative difficulties would arise and prison discipline would go to pieces. Moreover as stated earlier even when modern machineries were introduced in prisons, we find that specific labour was assigned to prisoners after asking them about their prior occupation, thus bringing caste based division of labour and through it caste discrimination through the back door. To simply state one example, in the Madras Presidency it was clearly an accepted norm that Brahmins and caste Hindus should not be employed in cobbler’s work (Venkatesan 1981: 154).

5.5 Summary

The IJC, 1920 for its policy of reformation is one of the biggest landmarks in the history of prison reforms in India (So much so that the independent Indian Government even now continues to consider it as a corner stone and refers to it while considering policies on prison reformation). However it is important to take note that the context in which this Committee was appointed and the measures that it suggested was that of the experience of the First War and the ensuing general nature of the Indian economy. This Committee stressed on productive machine labour for the convicts. Though several measures were taken towards achieving this end, these measures had serious limitations. If on the one hand increased production was being emphasised upon, the fear of prison products competing in the open market continued to be a major deterrent for the same. Also the Committee continued to consider employing convicts on extramural labour whenever required. As Rusche and Kirchheimer had once remarked, “The criminologists

38 Home Jails, 1932, 161/32, Allotment of conservancy work in jails to high caste Hindu prisoners who volunteer to do it, NAI.

of the modern reform school have retained the older notion that the standard of living within the prison must be below the minimum standard outside. This did allow for a certain improvement in prison conditions without destroying the line of demarcation from life outside. But the insistence on retaining the line of demarcation set narrow limits to the possibilities of reform and surrendered it to the mercy of every crisis in the market (Rusche and Kirchheimer 1939:151).”

Even in the Indian case we find limitations on reforms set by similar conditions. The policy of reformation satisfied the requirements of the War economy. Not only were the prisoners sent to serve physically, but they also engaged in factory production in their respective prisons to support such an economy. What is even more striking is that the popular Governments that were appointed which included Indian representatives, subscribed to similar views. Therefore, it must be noted that there was hardly a fundamental rethinking on the penal policy adopted by the British. Though the Gandhian ideology stressed on reformation, in principle the Gandhian ideals were used to curtail modernization of prison industry.