

# **Prison Reform in Nineteenth-Century British-India**

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## **Abstract**

By the beginning of the nineteenth century imprisonment was slowly becoming the favoured form of punishment for criminals in Britain and wider Europe. The nineteenth century was therefore a time when penal institutions were coming under scrutiny. In British-India, the Prison Discipline Committee of 1838 and the 1864 Inquiry Committee attempted to address a number of issues within the colonial Indian jails ranging from discipline and administration to health, labour and rehabilitation. There are important questions that need to be more thoroughly explored in relation to these periods of reform: What were the different points of emphasis of the proposed reforms in each period? What continuity or change can be observed between 1838 and 1864 and what accounted for it? The prison reform of this period in India reflected the various and fluctuating ideas on punishment and criminality that also characterised Britain, America and Europe. However, the approach of the 1838 Prison Discipline Committee and the 1864 Inquiry Committee often attested to the British preoccupation with “progress” and asserting control over the Indian population rather than addressing the needs of the prisoners. Furthermore, the conceptualization of Indian criminals by the British impacted upon ideas relating to convict rehabilitation. Although work has been done in this area of British-India’s history, there is a need to draw together the various threads of reform to create a clearer picture of the overall character and development of prison reform in nineteenth-century British-India.

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## Abbreviations

**IC** Inquiry Committee

**PDC** Prison Discipline Committee

**SIPD** The Society for the Improvement of Prison Discipline, and for the Reformation of Juvenile Offenders

## Introduction

In 1856, Frederick J. Mouat, a British surgeon and prison administrator based in Bengal and later a member of the 1864 Prison Inquiry Committee, released an investigative report into the state of jails in Bengal, Behar and Arracan.<sup>1</sup> As a prison reformer, Mouat was interested in both the living conditions of the prisoners and the disciplinary measures used to keep them in check. Following the inspection of the ‘Kyook Phyoo’ (Kyuk Phyu) jail in the Arracan province, Mouat painted a bleak picture of the state of prisons and the lives of the criminals who resided within their walls:

It is difficult to imagine any fate more dreadful than that of the Indian life prisoner at present. His existence is one continued state of hopeless slavery, in which no attempt is made to reform him, and in which the only mitigation that good conduct and repentance can produce, is the removal of his irons. From this aimless existence, his only chance of release is death – and that he is too often anxious to court by acts of lawless violence towards those in whose custody he is placed.<sup>2</sup>

Regardless of the fact that Mouat was referring to a ‘life prisoner’, his words gave a fairly accurate description of the deplorable prison conditions he was often faced with in the course of his investigations. Mouat was a tireless advocate of prison reform in India and at one stage the Inspector-General of Gaols in lower Bengal. The sentiment expressed in Mouat’s words reflected a sense of a moral outrage. He believed that the purpose of prison reform needed to be alleviating the sufferings of the criminals who found themselves incarcerated in such

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<sup>1</sup> F. J. Mouat, *Report on Jails Visited and Inspected in Bengal, Behar, and Arracan* (Calcutta: Military Orphan Press, 1856).

<sup>2</sup> Mouat, p. 183.

conditions. The very concerns that Mouat raised in the 1850s had been the reality of Indian prisons long before Mouat's investigation and attempts at prison reform in India had begun much earlier. Strikingly high mortality, overcrowding, disease, and a generally dysfunctional system, characterised the early British-India jails. As this thesis will demonstrate, priorities such as military health and broader attempts by the Government of India to "know" its subjects facilitated an increasing focus on prison populations by the late 1850s. According to Michel Foucault by the beginning of the nineteenth century imprisonment was becoming the favoured form of punishment for those categorised as offenders in both Britain and Europe. Foucault argued that this reflected a shift towards punishment aimed at modifying behaviour rather than mortifying the body through the infliction of physical pain. The body was instead manipulated in a different way; it was imprisoned and made to work.<sup>3</sup> In order to facilitate this shift toward favouring imprisonment over physical punishment, penal institutions had to be brought up to scratch, a sentiment evident in the early nineteenth-century debates on prison conditions in Britain, Europe and America. The first real attempt by the Government of India to address the conditions of prisons in India began with the setting up of the 1838 Prison Discipline Committee (PDC) by Thomas Babington Macaulay.<sup>4</sup> The colonial government's attempts to address this immensely complex problem continued throughout the nineteenth century and other investigations into prisons followed. In 1864 an Inquiry Committee was set up by John Lawrence, the Governor General of India, to investigate jail discipline and conditions. In 1867 a report published this committee's findings and recommendations and also included various responses and suggestions from prison officials

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<sup>3</sup> Michel Foucault, *Discipline and Punish: The Birth of the Prison* (New York: Vintage Books, 1979), pp. 7-8, 11.

<sup>4</sup> *Report of the India Committee on Prison Discipline* (Baptist Mission Press, Bengal, 1838). [Hereafter 1838 PDC Report].

throughout British-India to effect change.<sup>5</sup> Focusing primarily on the reports produced by Macaulay's 1838 Prison Discipline Committee (1838 PDC) and Lawrence's 1864 Inquiry Committee (1864 IC) this thesis asks what was meant by "prison reform" in India, what were the fundamental aims of these reforms and whether they were more concerned with the prisoners' living conditions or the disciplinary and punitive regimes. This thesis will answer these questions with reference to the areas that the reforms focused on including prison discipline, punishment, education, labour, health and administration.

The 1838 PDC report and the 1864 IC report provide some of the most comprehensive information on Indian prison reform during the nineteenth century. These reports reflected a variety of changes in the Government of India's attitude towards criminality and prisons, while also demonstrating consistency in the colonial ideology of the nineteenth century. Given Mouat's words in the 1850s, it is clear that the 1838 PDC did not properly address the issue of prison conditions. By the time of the 1864 IC a shift in the priorities of reformers was evident. This thesis will track the prison reform measures and recommendations from the early 1830s and the late 1860s and explain the intention of the reform and how it reflected the dominant imperial discourse. Furthermore, it will attempt to demonstrate and explain changes or continuities in the overall purpose and direction of the recommended reform measures. Many of the reform measures suggested were often ignored. Colonial preoccupation with matters pertaining to consolidation of power and the wellbeing of the European population and the military in India took precedence over financing new buildings and facilities to properly accommodate the prison population.<sup>6</sup> In both the 1838 PDC report and 1864 IC

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<sup>5</sup> *Measures taken to give effect to the recommendations of a committee appointed to report on the state of jail discipline and to suggest improvements* (Calcutta: Office of Superintendent Government Printing, 1867). Selections from the Records of the Government of India, Home Department, No. LII. [Hereafter 1867 ICR].

<sup>6</sup> David Arnold, 'India: The Contested Prison,' in *Cultures of Confinement: A History of the Prison in Africa, Asia, and Latin America*, ed. Frank Dikotter and Ian Brown (Ithaca: Cornell University Press, 2007), p. 156;



report it was stated that while there were many good ideas for penal reform, the money was not available. The Government of India was unwilling to implement the recommendations of the 1838 PDC and 1864 IC report mainly because they were considered excessively expensive. The concern over financing was also evident in other institutions in India. Institutional care for leprosy sufferers for example was slow to develop during the nineteenth century. Instead, the health of the European soldiers and European civilian population was prioritised.<sup>7</sup> Similarly, asylums for psychiatric patients in India lacked a curative emphasis and bore a close resemblance to prisons.<sup>8</sup> However, it is not the intention of this thesis to focus on the implementation of prison reforms or to judge their success. Rather, this thesis seeks to place Indian prison reform within the broader context of nineteenth-century trends in British prison reform and to demonstrate the extent to which the Indian context exemplified shifting ideas of incarceration.<sup>9</sup> Indian prison reform of this period reflected the various and fluctuating ideas on punishment and criminality that also characterised Britain and wider Europe. There were also parallels between the British and Indian prisons and an indication of mutual influence which saw a hard-line approach to criminals prevail in both contexts by the 1860s. However, the recommendations of the 1838 PDC and the 1864 IC report often attested to the British concern with “progress” and asserting control over the Indian population rather than addressing the needs of the prisoners.

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Jane Buckingham, *Leprosy in Colonial South India: Medicine and Confinement* (New York: Palgrave, 2002), p. 107.

<sup>7</sup> Buckingham, pp. 36-42.

<sup>8</sup> Shruti Kapila, ‘The Making of Colonial Psychiatry, Bombay Presidency, 1849-1940’ (PhD diss., University of London, 2002), p. 66.

<sup>9</sup> For the trends that characterised nineteenth-century prisons see David Garland, *Punishment and Modern Society: A Study in Social Theory* (Oxford: Clarendon Press, 1990); *Punishment and Welfare: A History of Penal Strategies* (Aldershot: Gower, 1985); Clive Emsley, *Crime, Police and Penal Policy: European Experiences 1750-1940* (Oxford: Oxford University Press, 2007); and *Crime and Empire 1840-194: Criminal Justice in the Local and Global Context*, ed. Barry S. Godfrey and Graeme Dunstall (Devon: Willan Publishing, 2005).

In Chapters One and Two, this thesis will examine the fundamental differences and similarities between the 1838 PDC and 1864 IC in order to establish the character of each reform period. Additionally, these chapters will compare the reform recommendations in Britain and India and examine instances of continuity and variations between them. Indian prison administrators, particularly members of the 1838 PDC, acknowledged that a complete transplantation of the British prison system was not feasible.<sup>10</sup> However some, such as Mouat, were optimistic about implementing the British approach to prisons in India. Features of the British prison reform such as classification, the promotion of separate confinement, labour and education were also evident in India. Focusing on these areas of reform, Chapters One and Two will seek to examine how these British reform ideals were applied to Indian prisons. This will demonstrate how the conceptualisation of Indian criminals by the British impacted upon ideas relating to convict rehabilitation. Chapter One will be concerned with the first half of the nineteenth century while Chapter Two will look at the second half and examine any major changes in the overall focus of reform measures in both India and Britain. Chapter Two will also compare British perceptions of criminals in India and “at home” and consider what this revealed about the nature of the nineteenth-century British government and public attitudes towards Indian criminality. Essential to the comparative discussion is the definition of “criminal”. How did the English differentiate between a British and an Indian criminal? Was the criminality of Indians perceived to be inherently different, or did reformers identify common features and patterns between those termed a “criminal” in both Britain and India? Prison reform is one way we can gain an understanding of how the British conceptualised the Indian criminal. It is also a lens through which possible imperialistic motives and nineteenth-century trends and developments related to crime and punishment can be observed. Moreover, a comparison raises questions relating to the Government of India’s

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<sup>10</sup> David Arnold, ‘The Colonial Prison: Power, Knowledge, and Penology in Nineteenth-Century India,’ in *A Subaltern Studies Reader 1986-1995*, ed. Ranajit Guha (Delhi: Oxford University Press, 1998), p. 152.

approach to policy in India: Did it properly acknowledge the uniqueness of Indian culture or was the reform simply a replication of ideas used in British prisons?

The second point which this thesis will examine is how the issue of health and sanitation was dealt with in Indian jails under the reforms. Chapter Three will be primarily concerned with examining why prison reformers focused far more seriously on sanitation in prisons during the 1860s. Given the state of Indian prisons in the 1830s, and the fact that there was at least some awareness of the role sanitation played in improving mortality rates at the time, this thesis will examine why health and sanitation did not become the essential focus of reform until the second half of the century. A comparison of the recommendations from the 1838 PDC and the 1864 IC will be made in order to establish the priorities that characterised the two periods of reform and the reasons for any changes or continuity. Official publications such as medical reports, observations and assessments on the state of Indian jails, particularly from Secretary to the Medical Board of Bengal, James Hutchinson and Frederick J. Mouat, will help to shed light on the sanitary concerns that dominated the second half of the century.

Throughout the nineteenth-century writings on prisons, inmates were constantly referred to as “his” which, apart from demonstrating the contemporary tendency to favour this form of address, acknowledged the reality of a predominantly male prison population. Because of this, female prisoners were given limited attention in India. Nevertheless, the 1838 PDC report and the 1864 IC report did contain some recommendations that catered exclusively to female prisoners and Chapter Four will discuss the place of women under the reform recommendations. The writings of British social reformer and philanthropist Mary Carpenter on her work in India provide a perspective on what the British believed their role to be when dealing with Indian women in the context of criminality and what problems female prisoners

faced. During the second half of the nineteenth century, Carpenter spent time in India visiting various institutions including schools, hospitals and prisons. Using her relative freedom and comfortable financial situation Carpenter engaged in social reform in both England and India. Her writings on the prisons she encountered drew attention to the neglected groups in the India prison system, especially women and children.<sup>11</sup> Child criminals or “juvenile delinquents” were a particular area of focus in Britain during the nineteenth century. In India, the 1838 PDC and 1864 IC report referred to juveniles as a separate criminal entity from their male counterparts. This thesis will examine the approach to juvenile prisoners in both Britain and India and explore how the reforms that related directly to criminal children in India reflected the Government of India’s definition of Indian criminals.

Most of the postcolonial histories of India have demonstrated that the interventionist and reform policies and efforts of the colonial government in India were almost exclusively carried out in an attempt to “civilise” and promote the values of Western culture. Since the 1980s, historians such as Ranajit Guha and Partha Chatterjee emphasised the histories and perspectives of the non-colonial elite in Indian society, the ‘subalterns’, while critiquing imperialism.<sup>12</sup> Guha labelled the earlier historiography of Indian nationalism as ‘elitist’ because of its tendency to emphasise the role of British colonial rulers and the Indian elite in the formation of the Indian nation.<sup>13</sup> These histories emphasised the marginalisation of the subaltern or indigenous voice in the grand narratives of imperial histories.<sup>14</sup> This thesis will be approaching the “reformatory” sentiment from this postcolonial tradition, emphasising the

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<sup>11</sup> Harriet Warm Schupf, ‘Single Women and Social Reform in the Mid-Nineteenth Century England: The Case of Mary Carpenter,’ *Victorian Studies*, vol. 17, no. 3 (1974), p. 301.

<sup>12</sup> See Ranajit Guha, *Elementary Aspects of Peasant Insurgency in Colonial India* (Delhi: Oxford, 1983); and Partha Chatterjee, *Nationalist Thought and the Colonial World: A Derivative Discourse?* (London: Zed Books, 1986).

<sup>13</sup> Ranajit Guha, ed., *Subaltern Studies I: Writings on South Asia History and Society* (Oxford: Oxford University Press, 1982), pp. 1-3.

<sup>14</sup> P. Duara, ‘Postcolonial History,’ in *A Companion to Western Historical Thought*, ed. L. Kramer and S. Maza, (Massachusetts: Blackwell Publishers, 2002), p. 417.

Government of India's preoccupation with controlling, civilising and subjugating the Indian population through its policies. However this thesis will also explore if not the reality, then at least the possibility of genuine concern for the conditions in prisons. The ideal of "humanitarianism", while modified by colonial objectives, was nonetheless an emerging phenomenon in the nineteenth century and one that was evoked by prison reformers in order to substantiate their position. An essential part of this discussion will be using Mouat and Carpenter's work to illustrate the tension between the individual's ideal of improving their subjects' situation and the imperial ideology that influenced them. This discussion will draw particularly on the writings of Mouat, who often addressed the issue of health and ethics in Indian jails. His writings on prison labour help to shed light on the "rehabilitative" sentiment adhered to by some reformers in colonial India. These discussions on humanitarianism will feature throughout the course of the thesis, but figure most prominently in discussions of health and prison labour in Chapter Three.

### **Primary Sources**

One of the most valuable primary sources for this thesis is *The Times* newspaper which helped to establish nineteenth-century British ideas on prison discipline and reform. *The Times* provides insight into the debate relating to prison reform, demonstrating opinions on a wide range of issues. *The Times* also played a crucial role in disseminating a dichotomised notion of British and Indian culture which acted to influence the nineteenth-century readership. Although the readership mostly consisted of the middle and lower-middle classes, the wider dissemination of papers from the 1850s meant that the working class were also reading *The Times*.<sup>15</sup> Christopher Casey noted that the increased reporting on criminal activity in British newspapers prompted the public to write letters out of anxiety. This in turn

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<sup>15</sup> G. A. Cranfield, *The Press and Society: From Caxton to Northcliffe* (London: Longman, 1978), p.177.

influenced criminal policy by putting the police on higher alert.<sup>16</sup> Any negative commentary on Indian criminals and prison conditions in British newspapers reinforced for the Government of India a sense of purpose and responsibility and, as discussed in Chapter Three, made it appear benevolent and superior. In terms of the situation in India, *The Times* published pieces from correspondents in India who report on a number of issues pertaining to crime and health issues such as cholera and sanitation. Writings such as letters to the editor provide a feel for the concerns of the educated public. Here, for example, is where one will find the examples of moral panic over the state of English society expressed. The Parliamentary debates have also been a valuable source on the issue of prisons. These often contained the findings of prison inspectors or commentary on the progress of reform bills. Parliamentary Debates related to policy in India also provide insight into the British Government's sentiments on issues of health and criminal activity in India.

Published reports on colonial India prison reform from the 1830s are relatively scarce. The 1830s was a time when the British were still in the process of consolidating political power and had only just begun to re-imagine their task as a governing body invested in the care of its Indian subjects. It was only two years prior to the 1838 PDC that the title of Governor-General of Fort William had changed to Governor-General of India enabling his legal power to be extended to all of British India.<sup>17</sup> When looking at the first half of the century, 'The Society for the Improvement of Prison Discipline, and for the Reformation of Juvenile Offenders' (SIPD) reports provide an insight into the concerns that preoccupied the minds of early reformers in Britain. Formed in 1816 and associated with the higher classes, the SIPD was typical of the evangelical reformers of the period.<sup>18</sup> When these reports are read in

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<sup>16</sup> Christopher Casey, 'Common Misperceptions: The Press and the Victorian Views of Crime,' *Journal of Interdisciplinary History*, vol. 41, no. 3 (2011), pp. 376-379.

<sup>17</sup> Vincent A. Smith, *The Oxford History of India* (London Oxford University Press, 1958), p. 528.

<sup>18</sup> William Forsythe, *The Reform of the Prisoners 1830-1900* (New York: St Martin's Press, 1987), p. 17.

conjunction with the 1838 PDC report the similarities and differences can be established. Reports and returns related to the prisons of India increased exponentially from the late 1840s. This attested to increased bureaucratisation and colonial intervention as the British gained a stronger legal and political foothold in India. Taking this into account, this thesis will focus more heavily on the 1864 IC report, using the numerous annual inspection reports of various prisons in the Punjab, Bombay and Bengal regions available for the period.

## Historiography

Penal reform, and indeed prisons more generally, tend to be a side note in the historiography of much more detailed studies of criminal activity and the policing and judicial reforms in nineteenth-century India.<sup>19</sup> Other themes that have garnered attention in the historiography are dacoity (banditry) and the phenomenon of “thuggee” in India, a term used in the nineteenth-century to classify a group identified in colonial discourse as ritual stranglers who preyed on travellers.<sup>20</sup> Thuggee threatened the stability of the colonial settlement in a way petty crimes could not and was thus targeted by the Government of India as a vital security issue.<sup>21</sup> The work done on criminal activity discusses how the Government of India managed criminal activity and provides insight into the development of the way criminals were contained and controlled. Imprisonment was one of the methods of punishment developed in order to deal with criminal activity and the discussion of prisons in this thesis will be linked to the specialised approach to Indian criminals. The most significant contributions in the area of prison reform has been made relatively recently by historians Satadru Sen, Clare

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<sup>19</sup> Mark Brown has written extensively on criminality in India. See ‘Ethnology and Colonial Administration in Nineteenth-Century British India: The Question of Native Crime and Criminality,’ *The British Journal for the History of Science*, vol. 36, no. 2 (2003), pp. 201-219; and ‘Race Science and the Construction of Native Criminality in Colonial India,’ *Theoretical Criminology*, vol. 5 (2001), pp. 345-368.

<sup>20</sup> Kim A. Wagner, *Thuggee: Banditry and the British in Early Nineteenth-Century India* (Hampshire: Palgrave Macmillan, 2007), p. 1.

<sup>21</sup> Historians such as Kim Wagner and Leon Fannin were responding to the need to explain why thuggee was such an important issue for the Government of India. Fannin, ‘Thuggee and Professional Criminality,’ *Michigan Sociological Review*, no. 3 (1989), pp. 34-44.

Anderson, Anand Yang and David Arnold. Both the 1838 PDC and the 1864 IC have been topics of discussion and although the focus in the literature is on prisoners more broadly, changes and reforms involving labour and education and prison conditions have been addressed. Typically, the historiography on prisons tends to focus on transportation of convicts for labour, the penal colony on the Andaman Islands and convict resistance. However, despite the contributions of these historians, the secondary literature is still minimal in terms of dealing specifically with prison reform during the nineteenth century. Taking this into consideration, this thesis will ultimately be aimed at a more comprehensive look at Indian prison reform in the nineteenth century, while also seeking to expand upon the ideas and work of the above historians.

The most detailed work on Indian prisons comes from Sen, particularly his two substantive monographs on the Andaman Islands.<sup>22</sup> Sen sought to explore the objectives and nature of the penal colony on the Andaman Islands, a colony that was initially created to deal with the perpetrators of the 1857 Mutiny. Clare Anderson has written on the body of the Indian criminal, focusing in particular on the methods of registering convict identity such as fingerprinting, photography, anthropometry and penal tattoos (“godna”).<sup>23</sup> Her book *Legible Bodies* also looked at how the scrutinising of the offender’s body was used to establish what was believed to be the culture and physical characteristics of different castes. This “knowledge” contributed to the colonial understanding of “criminal tribes” which contributed to the management of “dacoits” and “thugs” and formed the basis of a misguided conceptualisation of Indian criminality. Anderson has written on women convicts, convict resistance and transportation demonstrating how the sentence of convict labour was

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<sup>22</sup> Satadru Sen, *Disciplining Punishment: Colonialism and convict society in the Andaman Islands* (New Delhi: Oxford University Press, 2000); and *Savagery and Colonialism in the Indian Ocean: Power, Pleasure and the Andaman Islands* (Hoboken: Taylor & Francis, 2009).

<sup>23</sup> Clare Anderson, *Legible Bodies* (New York: Berg, 2004).



employed as punishment aimed to both deter crime and reform the offender, while also becoming an essential component in colonial expansion.<sup>24</sup>

Yang is responsible for some of the most comprehensive work in terms of the historiography of crime and the criminal world of nineteenth-century India. In particular Yang has focused on drawing out the perspective and agency of the criminal.<sup>25</sup> In his article, ‘Disciplining “Natives”’, which examines the ideas of the 1838 PDC, Yang focuses primarily on the introduction of the messing system and how the lack of control over their food drove many prisoners to hostility.<sup>26</sup> His article on the transportation of criminals for convict labour has also briefly touched upon the 1838 PDC.<sup>27</sup> Yang demonstrated how the PDC report often referred to the effectiveness of transportation as deterrence, recommending the punishment for the ‘horror’ it would inspire.<sup>28</sup> Radhika Singha has written on judicial aspects of the 1838 PDC, demonstrating its attempt to ensure cost-effective administration and to tighten up on the disciplining of the prisoners.<sup>29</sup> As demonstrated in Chapter One, economics had an important role to play in the decision to address conditions in the Indian jails, as it often did in many social reform initiatives. Singha emphasised that attempts to control crime and strengthen the law in India during the early nineteenth century were strongly linked to

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<sup>24</sup> Clare Anderson, *Convicts in the Indian Ocean: Transportation from South Asia to Mauritius, 1815-53* (Hampshire: Macmillan Press, 2000); Anderson ‘Writing Indigenous Women's Lives in the Bay of Bengal: Cultures of Empire in the Andaman Islands, 1789–1906,’ *Journal of Social History*, vol. 35, no. 2 (2011), pp. 480-496.

<sup>25</sup> See Anand Yang, ‘Disciplining “Natives”: Prisons and Prisoners in Early Nineteenth Century India,’ *South Asia*, vol. 10, no. 2 (1987), pp. 29-45; Yang, ‘The Lotah Emeutes of 1855: Caste, Religion and Prisons in North India in the Early Nineteenth Century,’ in *Confronting the Body: The Politics of Physicality in Colonial and Post-Colonial India*, ed. James H Mills and Satadru Sen (London: Anthem Press, 2004), pp. 102-117; and Yang, ‘The Agrarian Origins of Crime: A Study of Riots in Saran District, India, 1886-1920,’ *Journal of Social History*, vol. 13, no. 2 (1979), pp. 289-306.

<sup>26</sup> Yang, ‘Disciplining “Natives”’.

<sup>27</sup> Anand Yang, ‘Indian Convict Workers in Southeast Asia in the Late Eighteenth and Early Nineteenth Centuries,’ *Journal of World History*, vol. 14, no. 2 (2003), pp. 179-208.

<sup>28</sup> *Ibid.*, p. 189.

<sup>29</sup> Radhika Singha, ‘Penal Reform and Public Authority,’ in *A Despotism of Law* (Delhi: Oxford University Press, 1998), pp. 229-284.

Britain's attempts to contain the conflict arising from further colonial expansion.<sup>30</sup> Arnold is the only historian who has written on Indian prison reform in both the 1830s and the 1860s. In particular, Arnold focused on the intensification of health and sanitary procedures in the 1860s and on the prison in nineteenth-century India as a centre for medical observation and experimentation.<sup>31</sup>

Since the 1980s there has been a breadth of historiography on sanitation, disease and public health in both Britain and colonial India with particular attention given to British anxiety over the health of their army in nineteenth-century India, particularly after the 1857 Mutiny.<sup>32</sup> According to Arnold, Indian prisons became a place of major medical reform and by the end of the century medical administration was deemed 'the most important of all matters affecting jail management'.<sup>33</sup> Arnold noted that the prison was a site where, like the army, the Government of India had unobstructed access to the Indian body. The prison therefore became an essential site for the development of Western colonial medical knowledge.<sup>34</sup> Despite this, it appears very little has been done to demonstrate how contemporary ideas of sanitation and hygiene influenced the obvious emphasis on health issues of a similar nature in the 1864 IC report. Chapter Three will examine the broader discourse of imperial hygiene and the contemporary ideas relating to disease causation of the early nineteenth century in order to properly ascertain why the 1864 IC report had such an emphasis on sanitation in comparison with the 1838 PDC.<sup>35</sup> Furthermore, Chapter Three will focus on the how zeal for

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<sup>30</sup> Singha, p. 238.

<sup>31</sup> See Arnold, 'India: The Contested Prison'; and Arnold, *Colonizing the Body: State Medicine and Epidemic Disease in Nineteenth-Century India* (Berkeley: University of California Press, 1993).

<sup>32</sup> See for example Arnold, *Colonizing the Body*; Sumit Guha, 'Sanitation, Hygiene, and the Likelihood of Death: The British Army in India c. 1870-1920,' *Population Studies*, vol. 47, no. 3 (1993), pp. 385-401.

<sup>33</sup> Arnold, 'The Colonial Prison,' p. 166.

<sup>34</sup> Ibid.

<sup>35</sup> Disease and sanitation, particularly cholera, have received a considerable amount of attention in the historiography on nineteenth-century Britain and India. See for example Alison Bashford, *Imperial Hygiene: A Critical History of Colonialism, Nationalism and Public Health* (Hampshire: Palgrave Macmillan, 2004); and

sanitation and hygiene demonstrated the Government of India's overarching attempts at controlling and civilising the Indian body. Additionally, the British perception of the Indian body will be examined in the context of sanitation measures recommended in the 1838 PDC report and the 1864 IC report.

Secondary literature on the prisons in colonial India rarely discussed the humanitarian ideas which were emerging in the nineteenth century. Randall McGowen details the emergence of sympathetic feelings towards criminals and the growing disillusionment with the effectiveness of using terror and the threat of death to deter crime.<sup>36</sup> While both Singha and Arnold briefly discuss humanitarian ideals they are not explored in any great detail.<sup>37</sup> Eric Stokes and Singha have explored the utilitarian ideals behind the prison reform of this period,<sup>38</sup> however, the influence of humanitarian ideas should not be discounted. It is arguable that moral motivations and a genuine anxiety over crime and disorder acted to fuel reformatory action. Howard Becker coined the term 'moral entrepreneur' when referring to a person who makes a career of identifying, and investing time in a problem.<sup>39</sup> A deep concern for social order, prison discipline, and the perceived problem of the criminal classes may have been on the immediate agenda of British prison administrators in India. These individuals, while functioning within a colonial paradigm, were potentially displaying genuine commitment to prison reform and, as historian Clive Emsley pointed out, this aspect of motivation is often marginalised in the historiography.<sup>40</sup> This marginalisation is related to the nature of postcolonial histories which, as mentioned earlier, critique all things colonial.

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Michael Worboys, *Spreading Germs: Disease Theories and Medical Practice in Britain, 1865-1900* (Cambridge: Cambridge University Press, 2000).

<sup>36</sup> Randall McGowen, 'A Powerful Sympathy: Terror, the Prison, and Humanitarian Reform in Early Nineteenth-Century Britain,' *Journal of British Studies*, vol. 25, no. 3 (1986), pp. 312-334.

<sup>37</sup> See Arnold, 'The Colonial Prison' and Singha, p. 232.

<sup>38</sup> Eric Stokes, *The English Utilitarians and India* (Oxford: Clarendon Press, 1959) and Singha, pp. 229-233.

<sup>39</sup> Howard Becker, *Outsiders: Studies in the Sociology of Deviance* (New York: Free Press of Glencoe, 1963), pp. 147-162.

<sup>40</sup> Emsley, p. 160.

Within this historiography the ideal of “humanitarianism” was not considered to be separate from imperial discourse. As Chapter Three will demonstrate, “humanitarian” action in prisons was imperative for self-legitimation and justifying colonial intervention in the eyes of the British administration.

In his work on prisoners in India Sen focused on the imperial ideology behind the punishment and attempts to reform the behaviour of female and juvenile convicts, issues addressed in Chapter Four of this thesis. Sen explored the imprisonment of women in the penal colony on the Andaman Islands which, as he stressed, differed greatly from the situation on the mainland. In the context of the Andaman Islands, women were brought in to “aid” with the rehabilitation of the male convicts.<sup>41</sup> For Sen, both women and child criminals provided the Government of India with the opportunity to exemplify their ‘caregiver’ role, a role which reflected broader colonial objectives. Sen discussed female prisoners in the context of what he calls the ‘ideological anxieties’ of British rule.<sup>42</sup> Using Sen’s work, this thesis will seek to focus more specifically on the recommendations made for women prisoners by the 1838 PDC and the 1864 IC report. Furthermore Sen’s argument that the Government of India saw itself in a ‘caregiver’ role will be drawn on and discussed in relation to prison reform measures recommended for women and children. The place of women in colonial India has received analysis from post-colonial writers and historians such as Lata Mani, discussing issues such as sati and infanticide.<sup>43</sup> The practice of prostitution in colonial India, health issues such as

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<sup>41</sup> See Satadru Sen, ‘Rationing Sex: Female Convicts in the Andamans,’ *South Asia*, vol. 30, no. 1 (1999), pp. 29-59.

<sup>42</sup> Satadru Sen, ‘The Female Jails of Colonial India,’ *Indian Economic and Social History Review*, vol. 39, no. 2 (2002), p. 418.

<sup>43</sup> See Lata Mani, *Contentious Traditions: The Debate on Sati in Colonial India* (London: University of California Press, 1998) and Rajeswari Sunder Rajan, *Real and Imagined Women: Gender, Culture and Postcolonialism* (London: Routledge, 1993).

venereal disease and the practices related to giving birth have also been explored.<sup>44</sup> Such work provides a strong basis for an analysis in Chapter Four of the treatment and consideration of Indian female prisoners under the reforms. Mary Carpenter and her work in India with female and juvenile convicts have also been discussed.<sup>45</sup> Both Sen and historian Anne Schwan emphasised Carpenter's venture into India as a reflection of her construction of women convicts in both India and Britain as "uncivilised" and in need of reforming.<sup>46</sup> Carpenter's approach to prison reform sheds light on the British perceptions of female and child Indian criminals. In Chapter Four, Carpenter's work will be used to provide insight into female and juvenile prisoners, something that is lacking in the colonial reports and returns. Carpenter is often represented in the historiography as a woman who was simultaneously influenced by her religious or moral disposition and by imperial discourse.<sup>47</sup> This tension between viewing social reformers such as Carpenter as the "altruist" or as the "colonialist" will also be explored in relation to Mouat's work in India.

Sen has rightly pointed out that so far the historiography on colonial India has given limited attention to the juvenile offender in the context of colonial intervention and the postcolonial theme of discipline and control.<sup>48</sup> An abundance of work has been done on the Victorian preoccupation with the juvenile delinquent and juvenile offending.<sup>49</sup> Chapter Four seeks to

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<sup>44</sup> See Philippa Levine, *Prostitution, Race and Politics: Policing Venereal Disease in the British Empire* (New York: Routledge, 2003); and Sumanta Banerjee, *Dangerous Outcast: The Prostitute in Nineteenth-Century Bengal* (Calcutta: Seagull, 1998).

<sup>45</sup> For more on Mary Carpenter and her work in India see Schupf and Antoinette Burton, 'Fearful Bodies into Disciplined Subjects: Pleasure, Romance, and the Family Drama of Colonial Reform in Mary Carpenter's "Six Months in India,"' *Signs*, vol. 20, no. 2 (1995), pp. 545-574.

<sup>46</sup> Anne Schwan, 'Dreadful Beyond Description,' *European Journal of English Studies*, vol. 14, no. 2 (2010), pp. 107-120.

<sup>47</sup> Schwan, p. 111.

<sup>48</sup> Satadru Sen, *Disciplined Natives: Race, Freedom and Confinement in Colonial India* (Delhi: Primus Books, 2012), p. 161. Gautam Chatterjee has provided an historical account of the legislation related to juvenile criminals in India, but one, according to Sen that lacked detailed analysis of the issues: Gautam Chatterjee, *Child Criminals and the Raj: Reformation in British Jails* (Delhi: Akshaya Publications, 1995).

<sup>49</sup> See J. Springhall, *Coming of Age: Adolescence in Britain, 1860-1960* (Dublin, Gill and Macmillan, 1986); Stephen Humphries, *Hooligans or Rebels? An Oral History of Working Class Childhood and Youth, 1889-1939* (Oxford: Blackwell, 1981); and B. Weinberger, 'Policing Juveniles: Delinquency in the Late Nineteenth and

examine whether the British preoccupation with juvenile criminals in Britain was extended to child criminals in India. Gautam Chatterjee has provided the most comprehensive contribution to the secondary literature on juvenile offenders in India. Chatterjee's book delved into the legislative and judicial policies of the government towards reforming child criminals, the anxiety over hereditary crime and the treatment of juveniles in jail cells.<sup>50</sup> This thesis will seek to add to Sen and Chatterjee's work by exploring how the 1838 PDC and the 1864 IC report sought to meet the needs of female and juvenile prisoners. In addition, comparisons will be drawn between how juveniles were dealt with in India and Britain, a relatively neglected area in the historiography.

The nature of Victorian prisons and the lives of prisoners has been a focal point of historiography on nineteenth-century Britain. For example, William Forsythe tracks the changes and developments of prison reform, beginning with the Benthamite and evangelical movement of the early nineteenth century and ending with the decline of the reformatory spirit at the end of nineteenth century.<sup>51</sup> Other significant work include Seán McConville's monograph on English local prisons and Victor Bailey's on policing and punishment in the nineteenth-century.<sup>52</sup> Although there have been edited collections which have explored prisons in Africa, Asia and also criminality and punishment in colonial contexts, a

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Early Twentieth-Century Manchester,' *Criminal Justice History*, vol. 14 (1993), pp. 43-56. There are numerous other sources which tend to focus on the late nineteenth and early twentieth century. Historian Peter King has emphasised that the earlier nineteenth century has lacked detailed scrutiny, which he sought to address in his book *Crime and Law in England, 1750-1840: Remaking Justice From the Margins* (Cambridge: Cambridge University Press, 2006).

<sup>50</sup> Chatterjee, *Child Criminals and the Raj*.

<sup>51</sup> See Forsythe.

<sup>52</sup> Victor Bailey, *Policing and Punishment in Nineteenth-Century Britain* (London: Croom Helm, c. 1981); and Seán McConville, *English Prisons: Next Only to Death* (London: Routledge, 1995). For histories on British penal reform and prisons in general in the nineteenth century see: Jan Alber and Frank Lauterbach, eds., *Stones of Law, Bricks of Shame: Narrating Imprisonment in the Victorian Age* (Toronto: University of Toronto, 2009); and Philip Priestley, ed., *Victorian Prison Lives: English Prison Biography 1830-1914* (London; New York: Methuen, 1985).

comparative history of British and colonial Indian prison reform has so far been neglected.<sup>53</sup> Previously, Arnold has briefly suggested the influence of British prison reform when discussing reform in the 1860s, citing the construction of new jails and the formation of separate jail departments.<sup>54</sup> Arnold argued that the building layouts of British and American penitentiaries influenced the construction of jails in nineteenth-century India.<sup>55</sup> Likewise Singha has referenced the influence of utilitarian and evangelical ideology when discussing the prison reforms discussed in the 1838 PDC.<sup>56</sup> Expanding on the historiography of British prison reform, this thesis will explore the influences of the prison reform in Britain on the situation in India, while also considering any mutual influences that may be present.

Overall, the historiography of Indian prisons rarely deals with the prison reforms of the earlier and later nineteenth century simultaneously, failing to properly account for the changes and the continuity between the 1838 PDC and the 1864 IC report. There are a myriad of explanations as to why the secondary literature has yet to focus on creating a clearer picture of the overall character and development of prison reform in nineteenth-century India. Firstly, the nature of the subject is broad and attempts at reform in India were scattered and uneven. As we shall see later, jail conditions within each province varied. Some prisons were no better off than they had been thirty years earlier, while others were showing signs of improvement and even replicating many of the recommendations of the 1838 PDC report. The lack of focus on Indian prisons in the nineteenth century can also be explained in terms of minimal source material. To write a truly postcolonial history, letters, accounts and any other writings from prisoners themselves would be immensely valuable. However, due to the illiteracy of most prisoners in the nineteenth century and the lack of effort on the part of

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<sup>53</sup> Dikotter, Brown, ed., *Cultures of Confinement* and Barry S. Godfrey and Graeme Dunstall, eds., *Crime and Empire 1840-194: Criminal Justice in the Local and Global Context* (Devon: Willan Publishing, 2005).

<sup>54</sup> Arnold, *Colonizing the Body*, p. 99.

<sup>55</sup> Arnold, 'The Contested Prison,' p. 157.

<sup>56</sup> Singha, p. 229.

prison administrators to record their experiences, these kinds of primary sources are largely non-existent. This was a problem which Arnold himself acknowledged.<sup>57</sup> Once the historiography shifts to the early twentieth century it becomes possible to gain the perspective of more prisoners because of the nature of the “criminals” themselves. Offenders incarcerated for political crimes were literate and educated individuals who could articulate their experiences of prison life through writing. To combat this problem of sources, historians like Yang have focused instead on convict resistance – instances of which are documented in the colonial records. Historian Padma Anagol has briefly written on female resistance to poor treatment in prisons in the 1880s, citing the case of one high-caste inmate who complained of ill-treatment and the torture of her fellow female prisoners resulting in a rebellion in the Ratnagiri jail. Anagol noted that resistance was particularly evident in the nationalist period.<sup>58</sup> The higher caste prisoners had the advantage of being both literate and having some influence and standing in the wider community. However, as with written accounts of prisoners, these examples fall outside of the period of reform on which this thesis is focused.

Although the aim of this thesis is to explore how the Government of India approached prison reform, the sources on Indian prisons are limited in their capacity to tell a history of the prisoners themselves. Without exploring the perspective of those incarcerated during the nineteenth century it is difficult to understand the intentions and consequences of the recommended “reforms”. As mentioned, postcolonial histories are concerned with the subaltern’s perspective and this thesis will attempt to fit into this tradition. In the context of prison reform, it is the prisoners whose voices are lost in the colonial accounts such as prison returns and observational reports. This makes the task all the more difficult because of the

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<sup>57</sup> See David Arnold, ‘The Self and the Cell: Indian Prison Narratives as Life Histories,’ in *Telling Lives in India: Biography, Autobiography, and Life History*, ed. David Arnold and Stuart Balckburn (New Delhi: Permanent Black, 2004), pp. 29-53.

<sup>58</sup> Padma Anagol, *The Emergence of Feminism in India, 1850-1920* (Hampshire: Ashgate, 2005), p. 152.



status of prisoners as both criminals and Indians who were subordinate to a colonial government. However, the perspective of Indian prisoners can be retrieved to some extent by examining the intentions of the reforms and their potential to disrupt, coerce and control prisoners' lives and by demonstrating that the reforms were ultimately bereft of attempts to address the prisoners' needs.

Given the work already done by Yang, Sen and Arnold, it is the general aim of this thesis to add to their contribution by creating a more coherent and complete picture of the overall character and development of prison reform in nineteenth-century India while also discussing these reforms with closer reference to the situation in Britain. Firstly, the reforms of 1830s and 1860s will be examined in order to locate the place of Indian prisons in the broader traditions of the nineteenth century and to see how much it replicated the British model or if in fact it lent some of its own ideas to Britain. This thesis will, therefore, be concerned with how the reform model that was used in Britain was preserved or altered to fit with prisons in India. What is also lacking in the histories of Indian prisons is an in-depth examination of how the British criminal was perceived in comparison with Indian criminals and how this impacted upon the recommended reform. The historiography of Indian criminality will be used in order to place the reforms in the context of the Government of India's approach to crime more generally. While British perceptions of Indian criminality have been examined by historians such as Yang and Brown, there is yet to be written a comprehensive analysis of how this impacted upon prison reform measures.

## **Chapter One**

### **British and Indian Prison Reform in the First Half of the Nineteenth Century**

The prison reform measures recommended by the 1838 PDC reflected a new focus in the discipline and punishment of criminals in nineteenth-century British-India. The 1838 PDC report's main objectives was to improve prison conditions in a cost-effective way, to ensure prisoners were being properly disciplined and to create a more structured prison environment. This chapter will begin by discussing British prison reform and its influences more broadly and the shifting attitudes in the early nineteenth century about how best to punish criminals. This chapter will then examine the reform measures of the 1838 PDC with particular reference to recommendations involving the separation of prisoners, their labour and education. These issues were also on the agenda of British prison reformers and a comparison will be made of the implementation and objectives of these reforms in both the Indian and British context. While the prison reforms recommended in colonial India resembled the British model they also reflected the desire of the Government of India to punish criminals more efficiently rather than to improve the living conditions in prisons.

#### **Prison Reform in Early Nineteenth-Century Britain and India**

In the first three decades of the nineteenth century, English prisons were run by local sheriffs and magistrates and prison sentences were generally short.<sup>59</sup> Forsythe wrote that prison reform during this period was geared towards gaining minimum standards, a penitentiary for longer term prisoners and promoting the introduction of the 'separate system', that is, private

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<sup>59</sup> Forsythe, pp. 15-16

sleeping cells for each prisoner.<sup>60</sup> The early nineteenth-century reform is often characterised as being a continuation of the work of eighteenth-century reformers Jeremy Bentham and Elizabeth Fry, a leading Quaker reformer. Their influence continued throughout the first half of the nineteenth century, evident in the efforts to reform prisoners based on classification, productive labour and religious instruction.<sup>61</sup> The leading reform figures of the earlier nineteenth century were philanthropist William Crawford, Chaplain Whitworth Russell, Samuel Hoare, Quaker groups and the influential Society for the Improvement of Prison Discipline (SIPD).<sup>62</sup> SIPD was synonymous with prison reform during the pre-Victorian period and clearly demonstrated the overriding sentiment of the period with its attempt to root out social evils.<sup>63</sup> Robert Cooper illustrated a vital point in relation to Bentham and Fry's influence on the 1830s and 1840s period of reform, maintaining that while reformers were influenced by Bentham and Fry's concern with the salvation of the prisoners, they were in fact far more concerned with deterring crime.<sup>64</sup>

British prison reform in the early nineteenth century was also influenced by the situation in Europe and America. Global trends provided information on how different approaches to prison discipline played out in reality. For example, prison reformers in England were divided over the two main concepts of confinement, separate or silent. They looked to the models of their American counterparts. While the separate confinement system simply meant separate sleeping cells, the silent system was far more rigid. It prohibited any social

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<sup>60</sup> Ibid.

<sup>61</sup> Robert Alan Cooper, 'Jeremy Bentham, Elizabeth Fry, and English Prison Reform,' *Journal of the History of Ideas*, vol. 42, no. 4 (1981), p. 686.

<sup>62</sup> Crawford and Russell were the key promoters of the separate system while Hoare was chairman of SIPD. See Miles Ogborn, 'Discipline, Government and Law: Separate Confinement in the Prisons of England and Wales, 1830-1877,' *Transactions of the Institute of British Geographers, New Series*, vol. 20, no. 3 (1995), p. 301.

<sup>63</sup> *The Committee of the Society for the Improvement of Prison Discipline, and for the Reformation of Juvenile Offenders: Fourth Report* (London: W. Phillips, 1822); and *Eighth Report* (London, 1832). [Hereafter SPID Fourth and Eighth Reports].

<sup>64</sup> Cooper, p. 675.

interaction between the prisoners during the day.<sup>65</sup> Policies in America were regarded as a learning exercise. In 1844 for example, the moods experienced by American prisoners under the system of solitary confinement were taken into account when discussing the merits and drawbacks of the system for their English counterparts.<sup>66</sup> Various European countries, most commonly France, were also looked into and discussed in relation to penal policy in *The Times*' articles, Parliamentary debates and also extensively in SIPD reports. SIPD's Eighth Report in particular contained a commentary on other countries' penitentiaries including the Netherlands, France, America and West India.<sup>67</sup> Most of these discussions were related either to the debate on separate confinement, or the pros and cons of solitary confinement and the importance of deterring crime while also seeking to reform the mind of the criminal. For example, in 1844 *The Times* reproduced a French observational report on the penitentiary in Philadelphia. The report stipulated that the French Government wished to adopt Philadelphia's system noting that prisoners had frequent contact with people such as the chaplain, schoolmaster, physician and board of inspectors and were also permitted to communicate with relatives.<sup>68</sup> The article asserted that: 'The true denomination of the cellular system is not absolute solitary confinement – it is continued separation'.<sup>69</sup> The article also noted that a typical day for the prisoners should involve some labour, solitary walks, religious worship, reading and instruction.<sup>70</sup> This example demonstrated some of the typical issues being debated during this period in America, Britain and wider Europe. This is a very brief overview; however, it demonstrates that Indian penal reform was evidently influenced by a British model that did not entirely rely on the ideas of its own Empire and was readily accepting of other countries' approaches.

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<sup>65</sup> Ogborn, p. 301.

<sup>66</sup> 'There are some facts contained in the appendix,' *The Times*, April 06, 1844, issue 18577, p.4.

<sup>67</sup> SIPD, Eighth Report.

<sup>68</sup> 'Prison Discipline In France.-The Journal des.,' *The Times*, April 26, 1844, issue 18594, p. 6.

<sup>69</sup> Ibid.

<sup>70</sup> Ibid.

One of the main areas of focus of this reform period in Britain was the issue of how best to punish the offender. It was debated how to punish crime effectively while also facilitating the reformation of the inmates through punishment. By the end of the eighteenth century, Enlightenment ideas had permeated the criminal justice system in both Britain and parts of Europe.<sup>71</sup> Abhorrence for violent punishment was becoming a common feature of reformist ideals. The punishment being administered was considered, as historian John Hostettler put it, ‘a disgrace to civilised society’.<sup>72</sup> There was frequent use of whipping and over two hundred offences carried the death penalty. Additionally, disembowelling, beheading and quartering were still used as punishment for treason.<sup>73</sup> However, the death penalty was not resorted to often and the so-called ‘bloody’ criminal code in fact reflected the high number of offences that were punishable by death. In reality, only the most heinous crimes were punishable by death and it has been estimated by Emsley and W. S. Holdsworth that of those actually sentenced to death, only a low percentage of these sentences were carried out.<sup>74</sup> In 1833, appointed Commissioners identified the main ‘defects’ in the British penal system. It was found that punishments were applied indiscriminately and they often did not suit the offence and furthermore did little to prevent future crime.<sup>75</sup> A later report of the Commissioners in 1839 stipulated that beheading and quartering must end and that hard labour and solitary confinement must be retained as the preferred punishments.<sup>76</sup> A SIPD report in 1832 also condemned harsh penalties mentioning in particular the punishment of the death penalty for

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<sup>71</sup> See Emsley for a full discussion on the development of enlightened ideas relating to punishment and also Foucault’s *Discipline and Punish* for the discussion on the shift in punishment at the end of the eighteenth century.

<sup>72</sup> John Hostettler, *The Politics of Criminal Law Reform in the Nineteenth Century* (Chichester: Barry Rose Law Publisher, 1992), p. 134.

<sup>73</sup> Hostettler, p. 280

<sup>74</sup> See Holdsworth, *A History of English Law* (London: Methuen & Co. Ltd., 1952), p. 280 and Emsley, pp. 203-4.

<sup>75</sup> Hostettler, pp. 136-137.

<sup>76</sup> Hostettler, p. 138.

property crimes, stating that it is not in the ‘spirit of religion’.<sup>77</sup> The report emphasised that punishment must not only be uniform but must be in keeping with the type of offence.<sup>78</sup> In other words, they advocated that the punishment fit the crime. The nature of punishment for criminals was therefore undergoing a change as reformers looked to alternative methods such as transportation and longer periods of incarceration. In addition to this shift in focus, reformers were also looking for uniformity and consistency in the punishment of criminals.<sup>79</sup>

India also experienced a shift relating to punishment emphasising the benefits of prison sentences for criminals instead of the infliction of pain. Arnold has demonstrated that the British began to condemn India’s harsh and cruel penalties such as branding, whipping and mutilation.<sup>80</sup> Arnold established that the prison system in India grew out of the British preoccupation with maintaining law and order and the desire to ensure economic viability. He also pointed out that the growing condemnation of harsh punishments in the Western world saw a shift towards a more “humane” code in India.<sup>81</sup> The Enlightenment reaction against violence translated into abhorrence for the supposedly harsh Islamic laws employed against offenders in India and the cruelty they sometimes entailed and a desire to replace them with the more “civilised” discipline of the colonial regime.<sup>82</sup> However, while this often reflected British perception that they were somehow bringing “humane” ideas to India, as we have seen, the British had their own violent punishment policies. Additionally, historian Jörg Fisch has stressed that Islamic law in India was seen by the British as mild in comparison to their own law as many of the harsher punishments were rarely carried out. Although mutilation

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<sup>77</sup> SIPD, Eighth Report, p. xiv.

<sup>78</sup> SIPD, Eighth Report, p. 4.

<sup>79</sup> See David Peirce, Peter Grabosky and Ted Robert Gurr, ‘London: The Politics of Crime and Conflict, 1800 to the 1970s,’ in *The Politics of Crime and Conflict*, ed. Ted Robert Gurr, Peter N. Grabosky and Richard C. Hula (London: Sage Publications, 1977); and Emsley.

<sup>80</sup> Arnold, ‘The Colonial Prison,’ p. 150.

<sup>81</sup> *Ibid.*, p. 149.

<sup>82</sup> Yang, ‘Indian Convict Workers,’ p. 187.

was seen as barbaric by the British they were more concerned that, as a punishment for crime, it lacked deterrent value. The British instead used capital punishment and transportation more frequently because they were concerned with the impact of crime on society and the future behaviour of the offender and preferred to remove the criminal from society.<sup>83</sup> Examples of the shift in punishment can be seen in the 1838 PDC report. The 1838 PDC was substantially influenced by contemporary British thinking on penal reform. Common features included an emphasis on labour, the discussion of separate or solitary confinement as effective punishment, classification of prisoners and the favouring of imprisonment and transportation over death penalties and corporal punishment. As in Britain, these ideas were tempered by the underlying goal of ensuring that prisons remained a deterrent to crime, not an encouragement. In one section the 1838 PDC report put forward the argument that incarceration and transportation were just as effective a deterrent as public hanging. The report also asserted that there was no proof that making examples of prisoners in full view of the public increased the dread of prison or deterred people from living a life of crime.<sup>84</sup> There was a concern in both India and Britain that the spectacle of violence had become a form of entertainment and that the public were increasingly becoming desensitised and even excited by the display of violent punishment.<sup>85</sup> The substitution of death and pain for confinement, transportation and labour in both Britain and India fits well into Foucault's argument that the change in punishment during this period did not reflect a tendency towards humanitarian ideals, but rather a desire to punish more effectively.<sup>86</sup> The main punishments which were now being presented as an alternative way to effectively discipline prisoners, and which demonstrated a correlation between Britain and colonial India, were the promotion of separate confinement, labour and education. These three aspects of prison discipline demonstrated the shift away

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<sup>83</sup> Jorg Fisch, *Cheap Lives and Dear Limbs: The British Transformation of the Bengal Criminal Law 1769-1817* (Wiesbaden: F. Steiner Verlag, 1983), pp. 123, 131-132.

<sup>84</sup> 1838 PDC Report, pp. 89, 90.

<sup>85</sup> Martin J. Wiener, *Reconstructing the Criminal* (Cambridge: Cambridge University Press, 1990), p. 93.

<sup>86</sup> See Foucault, pp. 74-75; 80.

from physical punishment and reflected the desire to change the behaviour of prisoners rather than simply punish them.

### **Separate Confinement**

In the nineteenth century, separate confinement and a certain amount of solitude were seen by the British as an effective scheme for encouraging prisoners to reflect upon their situation and supposedly learn the error of their ways. Separate confinement is not to be confused with solitary confinement which involved the complete isolation of a prisoner from human contact and was usually employed as a method of punishment. Some reformers actually opposed solitary confinement, believing it did nothing to improve the prisoner's character while others were concerned with the detrimental effect of isolation.<sup>87</sup> Similarly, the 1838 PDC report was concerned that prolonged solitary confinement was detrimental to the mental and physical health of prisoners. The report suggested that confinement for life instead of the death penalty was far too cruel to inflict upon a criminal.<sup>88</sup> In the early nineteenth century separate confinement ideally meant the incarceration of each prisoner in their own private cell with visits only from a chaplain or prison officer. Additionally, exercise regimens and religious services were constructed so that inmates had no contact with each other.<sup>89</sup> The argument for separate confinement was often used in conjunction with Christian rhetoric, with many believing that the time alone would somehow awaken feelings of guilt and shame.<sup>90</sup> One of the main arguments for this system was the avoidance of what reformers of the time called 'moral contamination'. This phrase was used numerous times as it was often a concern that more hardened criminals would corrupt the petty, first-time offenders making many criminals worse off once they left prison than when they were first committed. In the House of

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<sup>87</sup> 'There are some facts,' p. 4.

<sup>88</sup> 1838 PDC Report, pp. 91, 111.

<sup>89</sup> Ogborn, p. 295.

<sup>90</sup> Forsythe, p. 19.



Commons debates of 1848 for example, it was asserted that prisoners committed for trial must be kept separate to avoid ‘contamination’.<sup>91</sup> Criminal behaviour was therefore often viewed as a kind of contagion, an anxiety which was in part related to the contemporary belief in the existence of a criminal class and its ability to corrupt the ‘honest poor’.<sup>92</sup> Much of the anxiety over crime in the nineteenth century stemmed from the perception that the explosion of the industrial world and the working class contributed to an increase in crime rates.<sup>93</sup> It was generally acknowledged that depraved social conditions and poverty affected the ability of people to choose the right course of action and improving the morals of the poor was an essential focus of the newly empowered middle class in England.<sup>94</sup> In 1838, when the House of Lords was discussing prison reform, it was stated that although the prisoners needed occasional air and exercise to maintain their physical health they should be confined separately. It was also asserted that separate confinement should be enforced before trial – horror was expressed at the indiscriminate mixing of criminals and possibly innocent people.<sup>95</sup> Ten years later in a House of Commons debate on separate confinement, it was suggested that ‘separate confinement compelled him [the criminal] to reflect, day after day, on the privations he was suffering as the punishment of the crime.’<sup>96</sup> Overall throughout this period, the aim of separate confinement was consistently heralded in Britain as a way to coerce the prisoner into better behaviour through solitary reflection and also to keep the less serious criminals from being corrupted or “contaminated” by the behaviour of others.

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<sup>91</sup> ‘Prison Discipline – The Separate System,’ House of Commons Debate. 10 February, 1848, cc. 368-84.

<sup>92</sup> J. J. Tobias, *Nineteenth-Century Crime: Prevention and Punishment* (Devon David & Charles Limited, 1972), p. 29.

<sup>93</sup> Michael Ignatieff, *A Just Measure of Pain* (London: Macmillan, 1978), pp. 148-157.

<sup>94</sup> Leon Radzinowicz and Roger Hood, *The Emergence of Penal Policy in Victorian and Edwardian England* (New York: Clarendon Press, 1990), pp. 49-50.

<sup>95</sup> ‘Prison Discipline,’ House of Lords Debate. 5 July, 1838, cc.1257-1259.

<sup>96</sup> ‘Prison Discipline – The Separate System.’

The implementation of separate confinement in India was a more complex issue. Because the British believed that Indians would react differently to separation, separate confinement took on a different meaning in colonial India, altering the reasons for its recommendation. Additionally, because of the much larger prisoner population and the costly nature of constructing more buildings to facilitate these numbers, the implementation of single jail cells was often side-lined.<sup>97</sup> The implementation of the separate cell system in Britain also faced financial hurdles and as Douglas Hay has pointed out, transportation and hulks were much cheaper than separate wards and single cells in prisons.<sup>98</sup> It was noted by John Burt in his 1852 report on separate confinement that efforts for the general adoption of the separate system had been hampered by the recurring argument that it was more expensive than other systems.<sup>99</sup> However, despite concerns over expense in both countries, British policy makers were more willing to put money into their criminals. For example in 1847 Colonel Joshua Jebb, British Surveyor General of prisons, wrote that despite the cost, the superior merits of the separate system have been universally acknowledged noting that many extensive new prisons had been erected and others rebuilt or altered to accommodate prisoners separately.<sup>100</sup> Despite the objections to a fully developed separate system in India, there was certainly an emphasis on classification and the need to separate different classes of criminal based on gender, severity of crime and religion. However, the 1838 PDC report only briefly mentioned the use of separate confinement as a way of making the prisoner reflect upon what they had done. It stated that in order to change their behaviour the criminal must be taken out of 'the little world in which he has been living, and in which his conduct has probably been

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<sup>97</sup> Arnold, 'India: The Contested Prison,' p. 156.

<sup>98</sup> Douglas Hay, 'Crime and Justice in Eighteenth- and Nineteenth-Century England,' *Crime and Justice*, vol. 2 (1980), p. 55.

<sup>99</sup> John T. Burt, *Results of the System of Separate Confinement as Administered at the Pentonville Prison* (London: Longman, Brown, Green and Longmans, 1852), p. 173.

<sup>100</sup> Colonel Joshua Jebb, *Observations on the Separate System of Confinement* (London: Clowes and Sons, 1847), pp. 4-5.

applauded'.<sup>101</sup> Indian penal reform and the concept of separate confinement was often geared towards a slightly different end, one that attempted to target what were believed to be the fundamentals of Indian culture in order to exact more effective punishment upon criminals. The 1838 PDC report commented that Indians would suffer without contact with their family, friends and community. This was most evident in the report's constant reinforcement of the idea that the prospect of transportation would strike terror into the hearts of Indian criminals far more than the threat of corporal punishment or a prison sentence. The 1838 PDC expressed the hope that solitary confinement would be adopted as punishment on a large scale. The report also commented on the 'binding ties of caste and society in India', emphasising that the criminal needed to be torn away from their family and friends which held the potential to be more hindrance than help.<sup>102</sup> Separate confinement, although unrealistic to implement in India, manifested in other forms with reformers promoting the idea of "separation" as a way to punish more effectively. Separate confinement, which was hoped to reform prisoners in Britain, became a method to deter crime in India.

### **Prison Labour**

During the first half of the nineteenth century in Britain, enforcing labour for prisoners was primarily aimed at the reform of the prisoner's character. Few doubted the effect that hard work would have on the mind and character of criminals. Bentham theorised that labour would teach the idle criminal to love work, since the only alternative to labour in prison was boredom.<sup>103</sup> The Society for the Improvement of Prison Discipline, and for the Reformation of Juvenile Offenders' (SIPD), a prominent reform group in Britain who sought to improve the prison system, wrote at length in one of its earlier reports in 1822 about the benefits of prison labour. It stated that introducing prisoners to a trade would make criminals

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<sup>101</sup> 1838 PDC Report, p. 27.

<sup>102</sup> Ibid., pp. 21-24, 27, 29, 86-89, 97.

<sup>103</sup> Cooper, p. 677.

‘industrious’ and ‘convert the idle into labourers, and plunderers into honest men.’<sup>104</sup> The report proclaims the efficacy of the discipline tread-mill, it lists the jobs the prisoners undertake like grinding corn, making mats, washing, spinning and knitting and it champions the idea of this labour benefitting wider society.<sup>105</sup> SIPD’s belief in the reformatory nature of work stemmed from the notion that crime came from those who had nothing better to do with their time. Upon visiting prisons in Philadelphia and Pittsburgh in America, the 1832 Prison Discipline report of SIPD also maintained that rather than remain in ‘idleness’ the inmates in these prisons ‘prefer employment for its own sake.’<sup>106</sup> It was also noted that it was satisfactory that labour was prescribed as an ‘alleviation’ of punishment rather than something to further aggravate prison life.<sup>107</sup>

As with separate confinement, the British advocacy of prison labour also took on a distinctly different character in the Indian context. Labour in Indian prisons was perceived primarily by the British administration as a way of keeping the prisoners productively occupied or to add to the deterrent factor of prisons. The goals of labour in colonial Indian prisons were therefore inherently different from those in Britain as efforts at rehabilitation were not forthcoming in the recommendations for its use. For example, the 1838 PDC report observed that the mere existence of the treadmill in Madras was a success as a deterrent despite never being used.<sup>108</sup> The report also noted that the result of in-door labour of the prisoners at Ahmedabad and Dhurwar more than covered the cost of their food.<sup>109</sup> The implication here was that labour was valued because it funded the upkeep of the prison and its occupants. An institution filled with able bodied men who were under the complete control of the colonial

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<sup>104</sup> SIPD, Fourth Report, p. 35.

<sup>105</sup> Ibid., pp. 20-27, 33, 35.

<sup>106</sup> Ibid., p. 9.

<sup>107</sup> Ibid.

<sup>108</sup> 1838 PDC Report, p. 20.

<sup>109</sup> Ibid.

government was the perfect labour force as noted by Anderson in her work on the transportation of prisoners to the colonies, an idea which will be discussed further in the next chapter.<sup>110</sup> In the first half of the nineteenth century convicts who were not employed in indoor activities were often employed in 'road gangs' to build infrastructure. The deterrent factor of this punishment was strengthened by the fact that intermixing with lower castes was inevitable while labouring on roads.<sup>111</sup> As Arnold pointed out, more convicts were working on the road than were kept in jails in 1844.<sup>112</sup> The immediate concern of the 1838 PDC was how to supervise labour without incident, factoring in both the financial cost of supervising prisoners and the danger the prisoners posed to the guards. The 1838 PDC report cited numerous escape attempts on the roads, including instances of guards being murdered. Most of the prisoners were killed or recaptured in the process.<sup>113</sup> Nonetheless, road labour provided an avenue of escape for prisoners not possible within prison walls. This put pressure on prison administrators to re-evaluate their approach to prisoner labour and the report concluded that the disadvantages and advantages of out-door labour must be balanced.<sup>114</sup> Most typical of the earlier period in prison reform was the emphasis on transportation as a punishment. Yang argues that labour was needed in the rising British settlements in Southeast Asia in the late eighteenth and early nineteenth centuries with Indian convict transportation an ideal way in which to provide this labour. The nature of this work was generally the maintenance of communications and infrastructure of colonial settlements such as clearing swamp and forestland to facilitate colonial expansion.<sup>115</sup> Again, as with the use of separate confinement, labour in Indian prisons was not primarily aimed at the reformation of the inmates. The reformist ideal in the 1838 PDC report was not so much concerned with the

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<sup>110</sup> See Anderson, *Convicts in the Indian Ocean* and 'Writing Indigenous Women's Lives.'

<sup>111</sup> Arnold, 'India: The Contested Prison,' p. 155.

<sup>112</sup> Ibid.

<sup>113</sup> 1838 PDC Report, pp. 14-15.

<sup>114</sup> Ibid.

<sup>115</sup> Yang, 'Indian Convict Workers,' pp. 182, 200.

ability of labour to transform the character of prisoners as with the benefits of using convict labour. As we shall see in the next chapter, British reformers increasingly emphasised the financial benefits of convict labour for prisoners in Britain during the second half of the nineteenth century while in India the concept of prison labour as “useful”, productive and reformatory intensified.

### **Education in Prisons**

Prison reformers of this period in Britain often emphasised reform based on the Christian notion of spiritual revival.<sup>116</sup> As mentioned, reformers were looking to reform the prisoners and address the cause of crime rather than merely punish. This was most evident in the context of the proposed system of education for the inmates. The early reform measures that were suggested in Britain were geared towards the education of prisoners, both as a method of reform and rehabilitation. It was theorised by reformers such as Bentham and Fry that education in prisons, much like labour, was an effective tool for making convicts productive and industrious so that upon their release their new found skills and work ethic would deter them from a life of crime. Christian instruction in particular was endorsed by Bentham who believed that the inclusion of a chapel at a prison was a necessity.<sup>117</sup> Christian instruction, usually from a chaplain, was the most commonly promoted method of educating the prisoners. The 1822 report of SIPD advocated the use of a chaplain and Christian teachings. Prisoners were taught to read and spell, with suggestions that this improved their moral character, particularly in the case of juvenile offenders.<sup>118</sup> Supplying candles for prisoners was recommended so that they could read the bible or religious texts at night stating that this was permitted because it ‘evinces the humane regard that is felt for the best welfare of the

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<sup>116</sup> Ibid.

<sup>117</sup> Cooper, p. 677.

<sup>118</sup> SIPD, Fourth Report, appendix, p. 3.

prisoners.’<sup>119</sup> The 1832 report of SIPD discussed Christian compassion and the reform of the individual and used the phrases ‘spirit of religion’ and ‘the dictates of humanity’ in conjunction with discussions on the treatment of prisoners.<sup>120</sup> Although religious conversion was often considered to be the main objective of instruction, Christian instruction was not the only form of education the prisoners received. Education for more secular ends was also emphasised, although rarely did this involve ‘book learning’. Instead skills such as carpentry and cabinet making were taught to the male prisoners, while females were taught knitting and needlework. Skills of industry were considered to be a vital way for prisoners to rehabilitate themselves and obtain an honest job after release.<sup>121</sup>

Despite being such a prominent feature of early British prison reform, the emphasis on Christian instruction was minimal in the 1838 PDC report. In 1823 the British were hopeful that educating its Indian subject would instil “useful knowledge” and help improve their “moral character”.<sup>122</sup> However, because of the unwillingness to interfere in the beliefs of Indian people more generally for fear of unrest, the overall policy on education in India excluded Christian instruction, much to the chagrin of the missionaries.<sup>123</sup> The 1838 PDC was similarly concerned about stirring up controversy, stating that ‘caste ought to be respected as much in prisoners as in free men’.<sup>124</sup> What this demonstrated was a concern, not for respecting the religious freedoms and cultural practices of the Indian people, but rather for maintaining control and authority through mollification. This tendency to avoid conflict through the appeasement of Indian beliefs was evident across a range of issues pertaining to

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<sup>119</sup> Ibid., p. 38.

<sup>120</sup> SIPD, Eighth Report, p. 4.

<sup>121</sup> Forsythe, pp. 22-23.

<sup>122</sup> Bengal Government Resolution establishing the General Committee of Public Instruction, 1823, cited in Sanjay Seth, *Subject Lessons: The Western Education of Colonial India* (London: Duke University Press, 2007), p. 47.

<sup>123</sup> Seth, p. 48.

<sup>124</sup> 1838 PDC Report, p. 24.

Indian cultural practices. For example, in Madras in 1820 the Government of India reluctantly agreed to finance propitiatory ceremonies in response to the Indian belief in disease goddesses in order to allay popular fear over cholera. Later in the century the government also held back from disrupting temples and pilgrimages despite the overriding belief that they facilitated the spread of the disease.<sup>125</sup> The 1838 PDC was unwilling to introduce any Christian instruction into the Indian prison system for fear it would be interpreted by prisoners as a deliberate encroachment on their beliefs. While it was recommended that prayers be read once a week in the jails, it was stipulated in the report that any officer in charge was not to make ‘proselytes’ of the prisoners and religious instruction had to be freely requested by the prisoners.<sup>126</sup> The 1838 PDC was, however, mainly cast in the language of utilitarianism and the primary concern of the report in the area of Christianity was that Christian prisoners were not getting enough religious instruction.<sup>127</sup> The idea of “moralising” the prisoner within the Indian context was instead secularised and even this was given limited attention. What the 1838 PDC was really perpetuating was a belief in the Western world’s “enlightened” and Christian rhetoric. Any emphasis on actually using Christian instruction to educate prisoners was generally absent from the report.

Just a few years before the 1838 PDC report was released, the promotion of Western education in India had begun. Sanjay Seth has argued that throughout the first half of the nineteenth century education and schooling were generally aimed at the higher classes of Indian society.<sup>128</sup> The Government of India hoped education would instil in the Indian middle classes an appreciation of knowledge and learning for its own sake rather than treating it purely as a means to gain employment. However, while Western education in India was

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<sup>125</sup> David Arnold, ‘Cholera and Colonialism in British India,’ *Past and Present*, no. 113 (1986), pp. 132-142.

<sup>126</sup> 1838 PDC Report, pp. 117-118.

<sup>127</sup> Ibid. See Stokes, *The English Utilitarians*.

<sup>128</sup> Seth, pp. 1-2



aimed at elite and middle-class Indians, the intention of education for the lower castes was primarily to ensure they were productively employed.<sup>129</sup> In the context of prisons, combating idleness was the equivalent of this aim. Sen has argued that the concept of educating and elevating prisoners stressed by the middle class in England was not present in colonial India simply because the desire was to teach loyalty and subordination to the prisoners, not to equip them with skills ‘befitting’ the political and social elite.<sup>130</sup> This idea was paralleled in British class interest in keeping the lower classes in their place. As historian Lara Whelan pointed out, the need of the middle classes in England for their servants, grocers, butchers and men who cleaned the privies came into conflict with their anxiety over the proximity of the lower classes and its impact on maintaining ‘social homogeneity’ in the ‘best’ areas.<sup>131</sup> Eric Hopkins has also noted that education, particularly of a Christian nature, for the working class in England was essentially a form of social control that was aimed at ensuring lower class contentment with their subordinate place in society.<sup>132</sup> This mentality was similar to the treatment of the lower classes and castes in India, demonstrating an overlap in racial and class based concerns. Consequently, the emphasis placed on education for the “lower dregs” of society, criminal or otherwise, was limited in both countries. Later in this thesis we shall see that the lower classes and criminals of England were often characterised in “racialized” terms.

While education was suggested in the 1838 PDC report, it was dismissed as being too costly and something which would interfere with the goal of making prison a deterrent. The report asserted that prison had to have a demoralising effect on the prisoner and maintain its

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<sup>129</sup> Seth, pp. 17-18.

<sup>130</sup> Sen, *Disciplining Punishment*, p. 15.

<sup>131</sup> Lara Baker Whelan, *Class, Culture and the Suburban Anxieties in the Victorian Era* (New York: Routledge, 2010), p. 41.

<sup>132</sup> Eric Hopkins, *Childhood Transformed: Working Class Children in Nineteenth-Century England* (Manchester: Manchester University Press, 1994), p. 5.

potential for ‘dread’.<sup>133</sup> The report clearly stipulated that ‘deprivation of prisoners of every indulgence not absolutely necessary to health’ was paramount, demonstrating that the 1838 PDC viewed education as an attraction rather than a deterrence to prison life.<sup>134</sup> It was also suggested that it was unfair to educate criminals while the children of ‘poor, honest men’ could not afford such a luxury.<sup>135</sup> This idea of the “deserving poor” originated in Victorian thinking and a distinction was made between those amongst the poor who gave into criminal tendencies because of their poverty and those who chose not to give into desperate impulses. This fed into the earlier nineteenth-century conception of criminal behaviour as a matter of personal responsibility, a choice that signalled ‘defective self-management’ on the part of the criminal which needed to be addressed by focusing on ‘character-building’ in criminal law; hence the emphasis in Britain on Christian teaching and separation in prisons.<sup>136</sup> Christian teaching in British prisons during the first half of the century was aimed at improving the moral character of prisoners. The 1838 PDC evidently held no such aspirations for the improvement of Indian prisoners’ character. It expressed this idea most frankly by stating that they were under no illusion that they could reform the material moral character of Indian criminals.<sup>137</sup> Arnold argued that Foucault’s conception of prison discipline and punishment in Europe as something that was aimed at the mind of the criminal did not translate into the Indian context. As Arnold pointed out, the British colonisers believed that the ‘soul’ of the ‘oriental’ remained out of reach and consequently confinement rather than reform was emphasised.<sup>138</sup>

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<sup>133</sup> 1838 PDC Report, p. 118.

<sup>134</sup> *Ibid.*, p. 29.

<sup>135</sup> *Ibid.*, p. 118

<sup>136</sup> Wiener, p. 49.

<sup>137</sup> *Ibid.*

<sup>138</sup> Arnold, ‘The Colonial Prison,’ p. 163.

## Indian Criminality

Although not explicitly expressed, there was present in the 1838 PDC report a sense that not only was the nature of crime in India fundamentally different from crime in Britain, but that Indian criminals somehow *felt* differently from their British counterparts about the crimes they committed. British notions of what constituted a serious criminal offence impacted upon their perception of Indian criminal morality. During this period in Britain the definitions of criminal offences were being broadened and property crime and larceny were increasingly considered to be serious offences carrying severe penalties.<sup>139</sup> Arnold has pointed out that crimes of violence and protest that threatened the security of property received the most attention from colonial authorities while serious crimes such as murder and sexual crimes went unheeded.<sup>140</sup> This perception of property crime was evident in the 1838 PDC as one section proposed that a whole class of offences most injurious to people and to ‘public justice’, like perjury, forgery and official corruption, were looked upon with great lenience in India.<sup>141</sup> The report went on to suggest that this was perhaps due to an absence of moral feelings on the part of the Indian people in relation to such crimes.<sup>142</sup> For the 1838 PDC, a concern with property crime somehow denoted a sense of “civility” that was lacking in India. As with class distinctions in Britain that equated wealth with morality, race was used in colonial India to explain deviant behaviour. If crime and criminals were perceived as being inherently different from their British counterparts, what constituted effective punishment was therefore altered by colonial reformers to match the Indian environment. Rather than acknowledge that different approaches were needed in an environment which differed vastly from Britain in order to get similar results, Indian criminals were often discussed by the 1838 PDC as being beyond help and reform. One statement in the 1838 PDC report suggested that

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<sup>139</sup> Wiener, pp. 67-69.

<sup>140</sup> Arnold, ‘Crime in Madras,’ p. 83.

<sup>141</sup> 1838 PDC Report, p. 70.

<sup>142</sup> Ibid.

the difficulty of moral reform was due to the fact that an Indian criminal differed less from ‘that of his countrymen than would be the case in more civilised and moral countries’.<sup>143</sup>

Denigrating the morality of the Indian people in the nineteenth century became another way in which the Government of India set apart the British from its colonial possession and its people. The 1838 PDC report clearly stated that ‘the morality of an Englishman is based so differently from that of an Indian’.<sup>144</sup> Additionally the report cited the ‘many entire castes who are criminals by hereditary calling’, further distancing criminals in India from their British counterparts by using caste and race to categorise Indians collectively as criminal by nature and therefore justifying a harsher approach to prison reform.<sup>145</sup> The definition of Indian criminality as a “hereditary” phenomenon became increasingly influential in prison policy during the second half of the century and will be discussed in the next chapter.

## Conclusion

Although it is evident that representatives of the colonial regime in India recommended prison reform measures similar to the ones carried out in Britain, there is little to suggest the same ends were sought. Indian penal reform during this period was never truly aimed at the rehabilitation and reformation of the criminal as it often was in Britain. In India the focus was often on the prevention of crime through the threat of punishment. Separate confinement, although adopted to classify and separate criminals, was primarily promoted in the 1838 PDC report as a disciplinary device to inspire terror in the minds of would-be criminals. In Britain many reformers such as SIPD, Crawford and the Quakers were hopeful that separate confinement would elicit better behaviour and even remorse. In this period of reform the 1838 PDC did not ask how best to reform the prisoners; instead it asked how best to inspire fear in order to effectively deter crime. While labour was perceived in Britain to help aid the

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<sup>143</sup> 1838 PDC Report, p. 97

<sup>144</sup> Ibid., p. 119.

<sup>145</sup> Ibid., p. 71.

reformation of convicts, in 1830s India it became a way to exploit the prisoners for economic benefit and to help further expand the British Empire. While education for prisoners in Britain was touted as a way of addressing crime at its root, the lack of emphasis on education in the 1838 PDC report demonstrated the perception of the British that education would be wasted on Indian convicts. Rather than risk having them put their newly acquired skills to ill use, education for Indian prisoners was dismissed firstly because it was deemed too expensive and secondly because prison officials believed it would undermine any deterrent effect prisons had on crime. Rather than wishing to enact more humane policies aimed at the reformation and rehabilitation of the criminals, often the goal of the British in India was increasing the efficacy of punishment by targeting Indian cultural practices. As will be discussed in Chapter Three, this sentiment was also evident in the 1838 PDC's recommendations on the diet of prisoners. Upon examining the implementation of prison reform in both countries during the 1830s, it is clear that the recommended reforms in colonial India were aimed at both physically taxing punishment and attacking the mind of the prisoners with more vigour than in Britain. Yang and Arnold have already made similar arguments relating to prison reform in this period. Yang has correctly argued that there was little in the way of reform or rehabilitation in the 1838 PDC report when it came to punishment.<sup>146</sup> Arnold has also pointed out that little confidence was placed in the ability of the prison reform measures to moralise the Indian criminals.<sup>147</sup> However, by examining the more specific aspects of prison reform in both Britain and India it is clear that Indian convicts were perceived to be different from British convicts. The idea that there was no hope of rehabilitation for these Indian prisoners was the overriding sentiment in the 1830s. The second half of the century heralded new focuses on penal reform in both Britain and colonial

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<sup>146</sup> Yang, 'Disciplining "Natives,"' pp. 29-45.

<sup>147</sup> Arnold, 'The Colonial Prison,' p. 163.

India and the definition of “criminal” in India was given more attention than ever before, dictating prison punishment and reform.

## Chapter Two

### British and Indian Prison Reform in the Second Half of the Nineteenth Century

The reports of the 1838 PDC and the 1864 IC shared many similarities. The emphasis on classification was considered paramount, separation of the prisoners into separate cells was believed to be most ideal and diet was discussed at length in both reports. However, despite these similarities, by the 1860s priorities in relation to prison reform appeared to be increasingly reflecting the changes in prison administration in Britain and the second half of the century marked a shift away from the prison reform recommendations of the 1830s. In particular, administrative issues such as salaries for prison workers, classification of prisoners, and an emphasis on record keeping were also at the forefront of the 1864 IC report. Two other key issues were debated in both India and Britain at this time were prison labour and education. This chapter addresses prison reform under British rule in India during the years between the 1857 Mutiny and the passing of the Criminal Tribes Act in 1871. British attitudes towards their Indian subjects were radically altered after the surge of native uprisings in 1857.<sup>148</sup> Mark Brown argued that prior to the Mutiny, the British accepted the validity of the local authority structures and sought policy which minimised unnecessary interference and reflected dual dominion. After 1857, British imperial authority instead sought to replace the local native elites with British structures and administrators and pushed forward a new goal of attaining knowledge and producing a modern and “productive”

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<sup>148</sup> Much has been written on the Indian Mutiny attesting to its immense impact on colonial rule in India. For a recent account see Pati Biswamoy, ed., *The Great Rebellion of 1857 in India: Exploring Transgressions, Contests and Diversities* (London: Routledge, 2012).

India.<sup>149</sup> The type of reform promoted in 1864 IC report represented a continuation of previous attempts to improve prison conditions first initiated by the 1838 PDC. This chapter will attempt to place the prison reform strategies of the 1860s in India within the context of the period's events. In particular, this chapter will analyse some key features of British prison reform during the second half of the nineteenth century in the areas of education and labour and administration. Finally it will assess whether or not the British prison officials in India were following the example of prison reform carried out in Britain.

### **Prisons and Perceptions of Criminality**

As the nineteenth century wore on, confidence in the ability of the prison system to reform convicts was wearing thin in Britain. The evangelical push for reform that characterised the 1830s and 1840s and the confidence in separating prisoners into single cells as a means of reformation was waning by the 1860s.<sup>150</sup> Forsythe identified the 1860s as a period when prison reform was more firmly rooted in the deterrent philosophy. A Royal Commission appointed in 1863 to look at penal servitude concluded that the present system was not 'sufficiently dreaded.'<sup>151</sup> In a discussion of Sir George Grey's Gaol Bill in 1864, it was suggested that a well-fed, well-housed prisoner, under the careful management of a medical professional and whose workload was designed to preserve his health, would appear as the optimum lifestyle to outside observers, thus destroying the desired deterrent effect of prisons on potential criminals.<sup>152</sup> There was a lack of faith in the ability of the system to reform convicts: 'The truth is that the real criminal is an almost hopeless subject – a man not to be abandoned, but to be treated with sternness'.<sup>153</sup> An official Inspectors of Prisons report

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<sup>149</sup> Brown, 'Race Science,' p. 348.

<sup>150</sup> Bailey, p. 136.

<sup>151</sup> Forsythe, pp. 141-144; 149.

<sup>152</sup> 'The Reports of the official Inspectors of Prisons,' *The Times*, May 27, 1864, issue 24883, p. 9.

<sup>153</sup> Ibid.



concluded that: ‘crime is prevented... by deterring others from following his example.’<sup>154</sup>

“Prison reform” during this period in Britain can therefore be characterised as a crackdown on the previous and more lenient policy with deterrence and crime prevention not only on the minds of the governing bodies of Britain, but also the wider public.

The dissatisfaction with the British prison system which seemed to pamper prisoners was often voiced in the English newspapers.<sup>155</sup> In one letter to the editor the author bemoaned how lenient punishment for criminals had become, declaring that they are no longer hung, flogged or transported and that prisons were merely a tedious interlude devoid of any harsh punishment.<sup>156</sup> Another letter expressed concern that crime was not being properly addressed, describing habitual criminal behaviour as being difficult to reverse. The author also indicated a lack of faith in reformatory measures and concluded that the system placed too much emphasis on Christian principles and the ‘progress of education’ stating: ‘our criminals must be dealt with as criminals’.<sup>157</sup> Letters such as this reflected the wider public anxiety that the current prison system was failing to properly deter criminal activity. Prison sentences were considered too short and it was widely believed that society was not being properly protected from criminals. Much of the anxiety was also caused by the removal of the death penalty for all but a few crimes by the 1860s.<sup>158</sup> On top of this, the humanitarian or Christian impulses that led to the more lenient prison system were under attack.<sup>159</sup>

Reformative sentiment was losing favour in Britain amid the rapid growth within penal thinking of positivism and Social Darwinism. Both favoured the idea that human

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<sup>154</sup> Ibid.

<sup>155</sup> Bailey, p. 138.

<sup>156</sup> ‘The dangerous classes,’ *The Times*, January 02, 1863, issue 24445, p. 6.

<sup>157</sup> W. H. H., ‘Our Criminals,’ *The Times*, March 30, 1861, issue 23894, p. 7.

<sup>158</sup> ‘Bill to consolidate and amend Statute Law of England and Ireland relating to Offences Against Person,’ HC Sessional Papers, vol. III, 627, 1861.

<sup>159</sup> Bailey, pp. 138-140.

characteristics were basically inherent and that unchristian upbringing and living in squalor could not completely account for criminal behaviour. Criminal behaviour was instead seen as characteristic of a person at an earlier stage of human evolution, that is an atavism, or one who was mentally, socially or physically inferior.<sup>160</sup> Significantly, the emphasis on divergent physical features as an indicator of inferiority was also increasingly applied to Indians by the British during the nineteenth century.<sup>161</sup> These schools of thought were therefore at odds with the concept of social and evangelical action and its belief that flawed humans could be morally or spiritually improved.<sup>162</sup> Scepticism about the rehabilitation of criminals was clearly articulated by many, with one writer stating that reformatory emphasis has no terrors for ‘those whom it should deter from crime’.<sup>163</sup> Others were more concerned with the economic cost of criminals. While the author of one letter applauded the move away from ‘vindictive’ punishment for criminals, they also believed it was economically wasteful to treat them too well:

That a convict, in his style of living and privileges, should be an object of envy to the honest pauper...is a dislocation of the graduation of the consequences of human conduct.<sup>164</sup>

These letters mirror the sentiment widely felt earlier in the century by officials working on Indian prisons. Indeed, as we have seen, the 1838 PDC report often objected to improving prison conditions, wishing to preserve the jail as a deterrent. Prisoners in the Indian context

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<sup>160</sup> The Italian criminologist Cesare Lombroso theorised that criminals often had physical features characteristic of earlier ancestors and as a result their atavistic mentality manifested in primitive and destructive behaviour uncharacteristic of ‘civilised society’. See Forsythe, pp. 180-182 and Marvin Wolfgang, ‘Pioneers in Criminology: Cesare Lombroso (1835-1909),’ *The Journal of Criminal Law*, vol. 52, no. 4 (1961), p. 369.

<sup>161</sup> See David Arnold ‘Race, Place and Bodily Difference in Early Nineteenth-Century India,’ *Historical Research*, vol. 77, no. 196 (2004), pp. 254-273.

<sup>162</sup> Forsythe, pp. 174-175.

<sup>163</sup> ‘Our Columns Have Already Given Evidence,’ *The Times*, December 06, 1862, issue 24422, p. 8.

<sup>164</sup> C. P. Measor, ‘Convict Indulgences And Cost,’ *The Times*, January 06, 1863, issue 24448, p. 5.

were therefore never treated with the same consideration or leniency as their British counterparts. Prison reform in Britain came to resemble Indian policy more closely in the 1860s, as it began to emphasise deterrence and economy over reformation of the criminal and humane treatment.<sup>165</sup>

During the 1860s Britain was increasingly treating their criminals as a separate “species”, as “others”, in much the same way as Indian criminals were being treated. The British held up the elite members of Indian society as an example for the wider population and Western education for Indian intellectuals was promoted.<sup>166</sup> Conversely, there was an emphasis on keeping the lower castes and criminals in their place and, as discussed in Chapter One, education played an important role in this rhetoric.<sup>167</sup> Using Foucault’s ideas, Peter Becker argued that the perception of criminals in wider Europe as ‘fallen men’, who needed to be saved, shifted in the second half of the century to a perception of many criminals as ‘impaired men’.<sup>168</sup> In the face of the overwhelming sentiment that it was nearly impossible to rehabilitate the habitual criminal, deterrence, rather than rehabilitation, was heralded as the best approach to dealing with crime. Sanjay Nigam has noted that the ‘dangerous classes’ in England were often portrayed as a race apart.<sup>169</sup> A more scientific approach to criminality and prisons was therefore characteristic of the 1860s onwards in Britain. At a meeting of ‘aldermen’ of London, attended by the City Commissioner of Police and the Lord Mayor, it was concluded that the current system for dealing with the criminal population was defective

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<sup>165</sup> Bailey, p. 136.

<sup>166</sup> Michael Mann, “‘Torchbearers Upon the Path of Progress’: Britain’s Ideology of a “Moral and Material Progress” in India,’ in *Colonialism as a Civilising Mission*, ed. Harold Fischer and Michael Mann, (London: Wimbledon Publishing Company: 2004), pp. 20.

<sup>167</sup> Seth, pp. 17-18.

<sup>168</sup> Emsley, p. 8.

<sup>169</sup> Sanjay Nigam, ‘Disciplining and Policing the “Criminals by Birth”, Part 1: The Making of the Colonial Stereotype – The Criminal Tribes and Castes of North India,’ *Indian Economic Social History Review*, vol. 27, no. 131 (1990), p. 156.

and reverting to the punishment of transportation was ‘highly desirable’.<sup>170</sup> There was a strong desire to completely remove the criminals from society, as one letter put it, to ‘rid ourselves’ of the offender.<sup>171</sup>

India was also undergoing scientific scrutiny from the British with the development of “scientific” classifications of criminal behaviour and the conclusion that Indian society was full of “hereditary” criminal communities.<sup>172</sup> The formalisation of this classification of criminals in India came with the passing of the 1871 Criminal Tribes Act, but concerns about “habitual” or “hereditary” criminals were most certainly present in the early nineteenth century and were commonly related to colonial panic over problems such as the violent criminal travellers termed “thuggee” and the prevalence of dacoity (banditry) more generally.<sup>173</sup> The Criminal Tribes Act sought to register any tribe, gang or class that was supposedly ‘addicted’ to crime. Once registered a number of restrictions could be imposed on such a ‘tribe’ including restriction of movement or relocation.<sup>174</sup> Brown identified post-Mutiny British rule as one characterised by an increasing emphasis on science as a means of explaining Indian criminality. Colonial officials began developing caste categories and British conceptions of Indian criminality were connected with contemporary ideas relating to evolution and race.<sup>175</sup> As Bernard Cohn noted, for many British officials caste and religion were integral to understanding the Indian people and how their society functioned.<sup>176</sup> Cohn argued that the later second half of the nineteenth century policy in India was shaped by ideas about caste. If the Indians were to be governed well, it was understood that information must

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<sup>170</sup> ‘The Ticket-Of-Leave System,’ *The Times*, December 16, 1862, issue 24430, p. 6.

<sup>171</sup> ‘The dangerous classes,’ p. 6.

<sup>172</sup> Brown, ‘Race Science’, p. 353.

<sup>173</sup> Wagner, p. 36.

<sup>174</sup> Mark Brown, *Penal Power and Colonial Rule* (London: Routledge, 2014), p. 70.

<sup>175</sup> Brown, ‘Ethnology and Colonial Administration,’ p. 203.

<sup>176</sup> Bernard Cohn, *An Anthropologist Among the Historians and Other Essays* (Oxford: Oxford University Press, 1987), pp. 242-243.

be systematically collected by the Government of India, a notion which will be discussed later in this chapter.<sup>177</sup>

The emphasis on “race science” meant prison administrators and reformers often linked criminal offences in India to what they believed was the “nature” of Indians. As an ardent supporter of prison reform in India, Mouat often wrote extensively on the criminality of Indians. Upon inspecting various Indian jails in 1856, Mouat illustrated in his report the sentiment that criminality in India was related to race:

The motives which lead to the commission of many crimes of the blackest hue in India, are not the result of the same utter depravity and absence of all moral sentiment which are found among the criminals of more civilized countries.<sup>178</sup>

At first glance this statement seems to view Indian criminals in a more morally favourable light. However, what Mouat was trying to convey with this statement was a sense of how alien Indian criminality was when compared with that of ‘more civilized countries.’<sup>179</sup> To his mind, criminals in India had different motives and committed crimes unlike anything that went on in Britain. He used the example of murder to illustrate his point, stating that acts such as infanticide, the strangling of travellers by thuggee and human sacrifices could not be compared to the murders of ‘ruffians’ in England and Ireland.<sup>180</sup> Indians who committed crimes were supposedly acting on a more primal level and while this elicited a more sympathetic view of Indian criminals from Mouat, it also implied that Indians did not operate within the same moral boundaries as British criminals. This notion of the “otherness” of the

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<sup>177</sup> Ibid.

<sup>178</sup> Mouat, *Report on Jails Visited and Inspected*, p. 184.

<sup>179</sup> Ibid.

<sup>180</sup> Ibid.

Indian criminal and criminality ties in closely with the Government of India's classification of whole sections of the indigenous population as "criminal tribes" or dangerous classes.<sup>181</sup>

Describing criminals in "racialized" terms was also evident in Britain. Linda Mahood noted that reformers and politicians often described child criminals in Britain as racially "other" labelling them Arabs, savages, outcasts and uncivilized.<sup>182</sup> Street ruffians were also likened to the thuggee.<sup>183</sup> Hints of this sentiment can also be seen in the writings of English social reformer Henry Mayhew, evident in his description of the undesirable poor as wanderers, vagabonds and nomadic tribes.<sup>184</sup> He also defined 'our criminal tribes' as 'that portion of our society who have not yet conformed to civilized habits' and compared such 'tribes' with Bedouin and gypsies.<sup>185</sup> Such descriptions of British criminals are consistent with depictions of the "criminal tribes" in India and essentially equated the nomadic characteristics of many Indian communities with criminality. The perception was that criminals, or even the lower classes in Britain who displayed these "wandering" tendencies were underdeveloped like their Indian counterparts. These comparisons signified the belief in the inferiority of races that belonged to the non-Western world, suggesting that criminality was only present in individuals who had yet to reach the fully evolved stage of human civilisation. Additionally, these characteristics were equated with juvenile criminals in Britain. It was understood that British juvenile criminals simply acted this way because they were young and would potentially grow out of such underdeveloped tendencies. Indian adult criminals were thought to possess these qualities because of their race rather than juvenility. As discussed further in Chapter Four, Indian criminals were often accorded the status of "juveniles" due to the

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<sup>181</sup> David Arnold, 'Crime and Control in Madras, 1858-1947,' in *Crime and Criminality in British India*, ed. Anand Yang, (Tucson: University of Arizona Press, 1985), pp. 86-87.

<sup>182</sup> Linda Mahood, *Policing gender, class and family: Britain 1850-1940* (London: UCL Press, 1995), pp. 20-21.

<sup>183</sup> 'The November Session of the Central Criminal,' *The Times*, December 01, 1862, p. 8, issue 24417.

<sup>184</sup> Henry Mayhew, *London Labour and the London Poor vol. 1* (London: George Windfall and Son, 1851), p. 1.

<sup>185</sup> Henry Mayhew and John Binny, *The Criminal Prisons of London and Scenes of Prison Life* (London: Griffin, Bohn, and Company, 1862), p. 384.

perception that they were underdeveloped because of their race and in need of “guidance” towards civility. It was not until mid-1870s that ‘atavism’ became a popular explanation for deviant and criminal behaviour, however evidently these ideas were already in place by the 1860s. The emphasis placed upon the science of race and Britain’s general ideas on criminality is consistent with colonial representations of India criminality.

### **Prison Labour and Education**

Other parallels between Britain and India prison reform were evident from the recommendations in the 1864 IC report, demonstrating that prison reform in India was taking on the shape of British policy far more than it had in the 1830s. A prominent feature of the 1864 IC report was a focus on labour, consistent with the reform tendencies in Britain. As we have seen, jaded sentiment in Britain stressed a return to a prison policy based more strongly on deterrence. The purpose of prison labour was therefore a heavily debated topic in Britain. Hard labour was often seen as a primary means of deterrence and also the best way to instil productive qualities in the criminals. In Britain during the 1850s, when the focus of prisons shifted to deterrence and economy, prisoners were increasingly put to work on public building and construction projects which would otherwise have gone to private contractors. Such labour also increased the deterrent factor of prison in Britain as building breakwaters, harbours and fortifications was considered to be arduous and exhausting work.<sup>186</sup> Britain’s penal policy was beginning to emphasise a harsher approach to prison labour, an approach reminiscent of the use of convict labour on public works in India discussed in Chapter One.

Concern was expressed in Britain that hard labour standards had slipped between 1848 and 1854. It was noted that prisoners once had to engage in hard labour for a minimum of eight

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<sup>186</sup> Bailey, p. 136.

hours a day during their first month of imprisonment with a reduction of two hours for each additional month in their sentence.<sup>187</sup> However, by 1854, due to the rising prisoner numbers and objection to the use of the crank,<sup>188</sup> this was no longer the norm.<sup>189</sup> The definition of what constituted hard labour was also of particular concern to some. In 1863, the recommendations of the Earl of Carnarvon and his 'Select Committee' on prisons were debated in the House of Commons.<sup>190</sup> For the Earl and the committee, the prisoner was to be placed under a progressive system which would give him the opportunity to improve himself both morally and materially and show his good intentions through work. The committee believed that there was insufficient industrial work and instruction in trades and were of a mind that 'reformation of conduct, whenever possible, must be tested by the practical proofs of an industrious disposition'.<sup>191</sup> However, despite the assertion that reformation was important, overall the committee supported increased enforcement of hard and punishing labour. Along with a focus on industrious work it was suggested that supervised stone breaking be introduced and a strict rule of silence was to be enforced.<sup>192</sup> It was noted during Parliament's discussion of the Gaol Bill a year later that only the crank and shot drill constituted hard labour and there was a desire, by way of an Act of Parliament, to attain an authoritative definition of hard labour.<sup>193</sup> It was also suggested that prisons needed to be supplied with the right equipment and machinery for the crank, tread-wheel and shot drill.<sup>194</sup> By the 1860s in Britain discussions on enhancing punitive labour had taken precedence over attempts to reform prisoners, exhibiting overall a harsher approach to prison reform. The era

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<sup>187</sup> 'The Earl of Carnarvon on Prison Discipline,' *The Times*, October 20, 1863, issue 24694, p. 10.

<sup>188</sup> The crank was a narrow iron drum consisting of a handle which the prisoner would turn while the pedals at the bottom pushed through sand, a task which was both arduous and solitary. See J. F. Saunders, 'Institutionalised Offenders' (PhD diss., University of Warwick, 1983), pp. 119-120.

<sup>189</sup> 'The Earl of Carnarvon,' p. 10.

<sup>190</sup> See *Report from the Select Committee of the House of Lords, on the Present State of Discipline in Gaols and Houses of Correction; together with the proceedings of the committee, minutes of evidence, appendix and index*, 1863, IX.1.

<sup>191</sup> Ibid.

<sup>192</sup> Ibid.

<sup>193</sup> 'Gaols Bill – Second Reading,' HC Debate, 20 June, 1864 vol. 175, cc2046-88. Hansard.

<sup>194</sup> Ibid.



was filled with complaints that prisoners were treated too well and that prison conditions were not only lenient, but also luxurious.

Not all reformers of the British prison system shared this hard-line sentiment. Likewise, the Indian model did not always emphasise harsh, punitive labour. As discussed later in this chapter, some prison officials in India were unwilling to champion the harsher approach to labour in India typical of the 1830s. In Britain, some felt disillusioned by the sometimes harsh modes of labour enforced. A chaplain for the Manchester City Prison expressed his belief in the benefit of education for prisoners rather than hard labour. He labelled the use of the crank in prisons as degrading and detrimental to any attempts to reform them.<sup>195</sup> What eventuated from the debate over prison labour and its desired intentions was a far more mixed approach from prison administrators.<sup>196</sup> There was great discussion over whether it should be society or the prisoners who benefitted most from the work. However, most favoured the need for prison to be a place of punishment, a shift reflected in the nature of labour recommended for prisoners. Such an interest in specific detail on prison labour regulations was in part caused by the decline of the use of transportation as a punitive measure.<sup>197</sup> Primarily though, as demonstrated earlier, it was how criminals in Britain were perceived by reformers and the public that made the most difference to prison labour recommendations. The shift away in Britain during the 1860s from reforming criminals to deterring them inevitably impacted upon the future course of prison labour recommendations for both Britain and India.

As discussed in Chapter One prison labour in 1830s' India was primarily aimed at keeping prisoners occupied and making use of them as labour force for building infrastructure in

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<sup>195</sup> 'Currency of India: The official correspondence,' *The Times*, May 01, 1860, issue 23608, p. 9.

<sup>196</sup> Priestly, p. 123.

<sup>197</sup> Bailey, p. 127.

India. Prison labour was perceived as the means to either punish prisoners or assist the Empire, sentiments which continued on into the second half of the century. Reports and returns on Indian prisons in the 1850s demonstrated the tendency to use prison labour as a way for prisoners to pay for their upkeep. In 1852 C. B. Thornhill, Inspector of prisons for the North Western Provinces, noted that the Magistrates tended to favour the practice of using able-bodied convicts for road works over purely punitive labour because it had far more ‘value’ for society.<sup>198</sup> As demonstrated, this approach to prison labour may have influenced British penal policy once attitudes towards incarcerated British criminals had begun to harden by the 1850s. Prison reports from India also demonstrated a desire from many prison administrators to focus more on the deterrent aspect of labour. Thornhill argued that putting prisoners to work on public projects such as roads compromised the deterrent value of the labour because they got to work in a group, giving them constant contact with their ‘friends’.<sup>199</sup> Again, as we have seen with the emphasis on separation of prisoners, this assumption was underpinned by an anxiety about prisoners corrupting each other’s behaviour. However despite such concerns, economic benefits of labour were prioritised, as the practice of putting prisoners to work on public projects was favoured right into the 1850s in India.

The prison returns of the 1850s and 1860s in India focussed strongly on the financial aspects of prison life and included data on cost-cutting efforts, the role of prisoners’ labour in funding the upkeep of the prison and recordings of the profit gleaned from prison labour. One report detailed how the manufacture of clothing in prisons could provide coats for Europeans and

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<sup>198</sup> *Report of Inspector General of Prisons, North Western Provinces 1852* (Agra: Secundra Orphan Press, 1853), p. 4.

<sup>199</sup> *Ibid.*

trousers for the Native regiments.<sup>200</sup> Mouat's 1856 report on prisons in the lower provinces of Bengal was preoccupied with monetary matters. Everything was calculated including the gross maintenance of prisoners, extra guards and medicine. Additional calculations included how much each prisoner earned and the net profit for each jail.<sup>201</sup> Notably, goods manufactured by the prisoners were of particular interest for Mouat as he expressed his desire to increase productivity and to use raw material more economically. Mouat praised the Hooghly jail for doubling its profit from the previous year and noted that Alipore jail profits would have been better if not for the old-aged prisoners whose labour was 'of little value'.<sup>202</sup> Likewise in 1863, C. G. Wiehe, Inspector General of prisons for the Bombay Presidency, praised the industry of the typographic and lithographic printing press and the manufacture of gunny bags in Alipore declaring it a 'self-supporting jail'.<sup>203</sup> He went on to commend both Alipore and Hoogly jails as 'models of financial management' and 'marvels of perfection which had reached that goal which prison economists in this country had so long striven to attain, viz. self-maintenance'.<sup>204</sup> Profit, in other words, was on the immediate agenda of prison labour in India. Furthermore, the cost of prisoners and the utilisation of their labours to finance their own care were given the utmost attention in prison reports. Little had changed in mentality during the second half of the century in India except that industry and manufactures rather than public construction now took precedence. This mode of "prison reform" was aimed at increasing the efficiency of prisons rather than addressing the needs of its inhabitants.

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<sup>200</sup> 'Report on the Epidemic Cholera, Agra Central Prison,' in *Annual Report with Tabular Statements Showing the General Results of the Management of the Jail Department, North Western Provinces 1860* (Allahabad: Government Printing Press, 1861), p. 132.

<sup>201</sup> F. J. Mouat, *Report on the Jails of the Lower Provinces of the Bengal Presidency for 1856-57* (Calcutta: Military Orphan Press, 1857), p. 9.

<sup>202</sup> Mouat, *Jails of the Lower Provinces*, pp. 6-7.

<sup>203</sup> C. G. Wiehe, *Journal of a Tour of Inspection of the Principal Jails in India 1862 and 1863* (Byculla: Education Society Press, 1865). Selections from the Record of the Bombay Government, No. XC, pp. 17-22.

<sup>204</sup> Ibid.

In addition to the economic emphasis, the use of prison labour as a punishment in India continued on into the second half of the century. This was expressed in 1868 by Sir J. Bowring, an English political economist. During a Parliamentary debate he objected to the teaching of trades to Indian prisoners. He believed that labour should primarily be a deterrent and that teaching a trade to a criminal put him in better stead than an 'honest' man. He also argued that prison labour would be put unfairly in competition with honest labour and that the teaching of other trades would lead to a scarcity of agricultural workers and thus lead to a rise in wages, to the detriment, he believed, of agricultural interests.<sup>205</sup> The arguments for labour as a deterrent and the objection to giving any advantage to criminals over the honest man were common. Indeed, as previously demonstrated, the 1838 PDC used these very arguments to ensure punishment acted as a proper deterrent, and stressed that any advantage by way of incarceration was not permissible.<sup>206</sup> The 1864 IC was, like the 1838 PDC, geared towards the punitive function of labour: 'Labour is the principal means of enforcing discipline in prisons.'<sup>207</sup> The 1864 IC report made it clear from the outset that labour was not to be 'remunerative', but that it should render the prison a place of dread, apprehension and avoidance.<sup>208</sup> Different categories of labour were to be established, specifically hard: tasks such as oil-pressing and pounding bricks for soorkee;<sup>209</sup> medium: stone-cutting and paper-making; and light: dyeing and tailoring. These were to be based on the prisoner's ability to work and the duration of their sentence. There was even a proposal to introduce the crank to serve the purpose of both 'aimless' and 'productive' labour.<sup>210</sup> It is difficult to find any specifications for the rehabilitative potential of labour in the 1864 IC report as it was primarily preoccupied with sanitation, statistics and administrative details and was devoid of

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<sup>205</sup> 'The British Association for the Advancement of Science,' *The Times*, August 24, 1868, issue 26211, pg. 7.

<sup>206</sup> 1838 PDC Report, pp. 30, 107-109.

<sup>207</sup> 1867 ICR, p. 80.

<sup>208</sup> Ibid.

<sup>209</sup> The mortar or paste used to bind construction blocks together.

<sup>210</sup> 1867 ICR, pp. 80-81, 146.

any real focus on the prisoners themselves, let alone what benefitted their needs beyond physical health. The 1864 IC report focused on reform that was generally geared towards making punishment more efficient and carried the sentiment that labour must be useful, profitable and beneficial to the State.

During this period, criminal activity in India was increasingly becoming associated with unemployment, or more accurately, the lack of *visible* work.<sup>211</sup> As we have seen, concern over idleness among prisoners was also a feature of the 1838 PDC, a concern which prison administrators were increasingly seeking to address more directly. Anderson argued that transportation during the second half of the nineteenth century was often perceived as having reformatory possibilities because of the hard labour the Indian prisoners were required to do once they arrived. The ‘active and laborious servitude’ on public works was thought to help prevent idleness among prisoners.<sup>212</sup> The association of idleness and unemployment with criminality was not unique to India. As early as 1790, observers from Europe applauded the prison in Walnut Street, Philadelphia in part because the prisoners were constantly employed in productive labour and thus preserved from idleness.<sup>213</sup> Major George Hutchinson,<sup>214</sup> Inspector General of Police in the Punjab and prison reformer, noted that vagrants in England, meaning any person not having any visible means of subsistence, could be committed to the House of Corrections for three months of hard labour.<sup>215</sup> However, the anxiety over wandering vagabonds committing crimes out of a lack of paid work manifested itself differently in India and was reflected in the “criminal tribes” policy. As Sandria Freitag noted, the instances of collective crime were categorised as ‘extraordinary’ crime because of

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<sup>211</sup> Sen, *Disciplining Punishment*, p. 89.

<sup>212</sup> Anderson, *Convicts in the Indian Ocean*, p. 34.

<sup>213</sup> Emsley, pp. 171-172.

<sup>214</sup> Not to be confused with James Hutchinson who wrote on prison health.

<sup>215</sup> Major George Hutchinson, *Reformatory Measures Connected with the Treatment of Criminals in India*, (Punjab: Punjab Printing Press, 1866), p. 87.

the threat it posed to perceptions of authority, a crucial component of any social order.<sup>216</sup> The state was not concerned with individual crime but with ‘group’ crime, thus constructing prison punishment and lifestyle accordingly. Sen rightly asserted that both punitive and reformatory labour in an Indian prison context was often aimed in the later part of the century at ‘curing’ or ‘stabilising’ these wandering criminals. However, Sen’s argument dealt largely with the Andamans and he acknowledged that such an argument cannot necessarily be applied to the mainland. Labour as a means of reformation was promoted on the Andamans because of its relatively isolated nature. The Andamans was its own micro-society, one that could be made functioning and self-sustaining through the rehabilitation of convicts. Sen’s argument of the punitive and rehabilitative purpose or ‘dual function’ of prison labour structure in the Andamans was not as evident in the recommendations of the 1864 IC report for mainland prisons.<sup>217</sup>

As in Britain, there were a variety of views on penal labour in India and a consensus on the purpose and aim of such labour was rare. It is reductive to suggest that prison reform measures only stressed penal labour as an exercise in punishment and deterrence or as a means of free labour for public works. Rather, the second half of the century included a combination of these realities as well as the call for labour which linked more closely with rehabilitation and the reformation of the criminals. Despite the 1864 IC report’s sentiment, there was an increase in the discussion on how the work could benefit the prisoners themselves. Labour that was “aimless” and punishing, as sometimes proposed in the 1838 PDC and 1864 IC reports, was often considered pointless by some observers. Some sought to advocate work and physical labour for Indian prisoners for the same reasons that were emphasised in Britain in the first half of the nineteenth century; namely, as a way of making

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<sup>216</sup> Sandria Freitag, ‘Crime in the Social Order of Colonial India,’ *Modern Asian Studies*, vol. 25, no. 2 (1991), pp. 229-230.

<sup>217</sup> Sen, *Disciplining Punishment*, p. 86.

criminals more industrious and providing them with skills to help them obtain work upon release. Although the idea of reforming the prisoner through industrious work was characteristic of earlier penal reform in Britain, in both Britain and India the concept did not completely fall out of favour with all reformers in the second half of the nineteenth century. Like the Earl of Carnarvon in England, notions of using prison labour to engender industrious habits in prisoners were taken up by two men working on Indian prisons, Mouat and George Hutchinson. They articulated their aspirations for prison labour to have reformatory benefits. Mouat wrote of his belief in the ability of education and ‘productive’ labour to help reform the minds of criminals in India, while Hutchinson advocated reformation as an essential accompaniment to deterrent and punitive measures. While prison labour in English prisons was becoming increasingly viewed as a means of deterrence, the British officials in India sought to channel the work for more expedient means, while some, like Mouat and Hutchinson, even advocated labour which benefitted the prisoner in some way.

In his treatise on prison ethics and labour in India, Mouat lamented that any attempt to bring about the moral improvement of the prisoners was ignored in the cause of keeping the prison a place of terror.<sup>218</sup> Mouat rejected a prison system in India based on physical punishment and isolation and instead advocated a system whereby the prisoner would earn their freedom and mitigation of sentence through good behaviour. Mouat’s position was similar to that of Elizabeth Fry and Bentham who also recognized the need for prisoners to be taught skills to maintain a living after being released, although, Mouat believed religious and spiritual conversion was not part of the Indian prisoners’ reformation.<sup>219</sup> Mouat wanted to transform Indian prisons into schools of industry where the criminal would be taught to enjoy rather

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<sup>218</sup> F. J. Mouat, ‘On Prison Ethics and Labour,’ *Journal of the Royal Statistical Society*, vol. 54, no. 2 (1891), p. 215.

<sup>219</sup> Forsythe, p. 23.

than loathe work.<sup>220</sup> He therefore expressed his objection to the 1838 PDC's emphasis on dull work. He also objected to the use of the tread wheel, crank and the shot drill because, for him, they were 'purely aimless tasks'. Mouat was adamant that this kind of labour tended to 'harden and degrade the individuals subjected to them' thus leading to resentment and proving destructive to attempts at reform.<sup>221</sup> This position is surprising, given the increasingly hardened approach to similar matters in prisons back in Britain. Mouat also objected to "aimless" labour not just because it lacked reformatory goals, but also because it was not profitable. He maintained that sentenced prisoners should be made to repay the State, as much as was practicable, the cost of their imprisonment.<sup>222</sup> As we have seen, the upkeep of prisons in India was costly for the Government of India. Making or saving money was constantly prioritised.

Even more so than Mouat, George Hutchinson was concerned with utilising the prisoners as a labour force, stating at one point in his report that Indian prisoners from the agricultural and labouring classes could be employed on public works to the 'great advantage of the State, and to themselves'.<sup>223</sup> Hutchinson demonstrated in 1866 that British officials in India were becoming more willing to adopt the reformatory sentiment which had characterised earlier Western prison reform:

Deeply impressed with the absolute necessity of introducing into this country, that great principle now recognised and adopted in nearly every State in Europe, that

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<sup>220</sup> Mouat, 'On Prison Ethics,' pp. 219-220.

<sup>221</sup> Ibid., p. 222.

<sup>222</sup> Ibid., p. 230.

<sup>223</sup> G. Hutchinson, *Reformatory Measures*, p. 135.



punishment shall be awarded and carried out, not solely with the view of *punishing* but also of *reforming* the offender.<sup>224</sup>

In his report, Hutchinson compared India with the systems in place in both English and Irish prisons stressing the need for India to mimic them and ensure that labour was present in prisons to combat idleness, which for many including Hutchinson was the beginning of criminal practice.<sup>225</sup> Hutchinson advocated an ‘individualisation’ approach to reform, dividing Indian prisoners into ‘casual’ and ‘habitual’ offenders. Hutchinson thought the ‘casual’ offenders had the best chance of benefitting from reformatory measures and emphasised the importance of teaching them industrious work habits.<sup>226</sup> More aid was thought to be needed for ‘habitual’ criminals and Hutchinson’s solution was to enforce an ‘intermediate’ stage before release from prison whereby prisoners were taught habits of self-control and assisted in the search for honest work. This resembled the ‘ticket-of-leave’ system that had been tried with success in Ireland and was currently being proposed for wide scale adoption in England.<sup>227</sup> For Hutchinson, all attempts at reform were to be aimed at habitual offenders, those who consistently committed crimes and were generally thought to belong to the criminal tribes. He viewed habitual offenders as those ‘addicted’ to crime who must have both repressive and reformatory measures brought upon them. He did not specify how this was to be achieved, however, as his report focused on how best to deal with Indian prisoners upon their release. Hutchinson believed that the State should take responsibility for seeing that the prisoner gained proper employment lest he return to a life of crime in desperation. Hutchinson also advocated the construction of ‘industrial’ buildings which, like poor houses in England, would provide food, shelter and work to aid prisoners being released

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<sup>224</sup> G. Hutchinson, p. 3.

<sup>225</sup> Ibid., pp. 87-89.

<sup>226</sup> Ibid., p. 138.

<sup>227</sup> Ibid., pp. 136, 147.

from a long prison sentence.<sup>228</sup> In essence, Mouat and Hutchinson were both advocating the same thing: education in trades and work habits for criminals in the hope of transforming their behaviour and placing them into productive employment upon their release. Although seemingly interested in assisting prisoners, teaching skills to convicts was of far greater advantage to the State in India than the prisoners themselves. This was illustrated by a comment made in a report on prisons in India's North Western Provinces:

The primary object in establishing manufactures within the walls of the jail is the gradual abolition of the objectionable system of working the convicts on the roads. At the same time the extent to which the state is relieved of the cost of punishing offenders by turning their labour to profitable account is not lost sight of.<sup>229</sup>

### **Prison Education**

As we have seen for much of the first half of the nineteenth century, Britain was at least invested in the religious instruction, if not the secular education, of prisoners, while in India the 1838 PDC concluded that an education would be too costly and wasted on criminals.<sup>230</sup> However, during the 1860s, the move to better educate prisoners in India was beginning to gain favour with prison officials primarily because of its potential to secure employment for prisoners upon their release. This was largely in keeping with the Government of India's general stance on education at the time. In 1870, efforts to educate the poorer classes in India were taken up by the British in order to try and instil self-discipline and habits of industry.<sup>231</sup> Similarly in Britain, the government were keen to get the urban poor off the streets and into 'productive' work. This was expressed in the advocating of work houses and reformatory

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<sup>228</sup> Ibid., pp. 148-150.

<sup>229</sup> *Report of the Inspector General of Prisons North Western Provinces 1854* (Roorkee: Thomason College Press, 1855), p. 8.

<sup>230</sup> 1838 PDC Report, pp. 53-55, 107-109.

<sup>231</sup> Seth, p. 47.

schools for children, a matter which will be discussed in Chapter Four. Although education was not discussed in any great detail in the 1864 IC report, there were a few recommendations for its usage. The first mention of education in the report suggested its use as a ‘reward’ for the intelligent prisoners and alternatively as a punishment for the less intelligent. Additionally, education was to be used as an opportunity to keep prisoners occupied in times of ‘idleness’ when they were not otherwise engaged in labour.<sup>232</sup> In the 1850s, Thornhill made a similar argument, commenting that education would potentially help to combat idleness. He emphasised that it should not, however, be an excuse for relaxation in punishment.<sup>233</sup> Mouat once stipulated that the 1864 IC attached no importance to the education of the Indian prisoners as an instrument of reform.<sup>234</sup> While Mouat supported the 1864 IC’s position, saying that ‘education as an instrument of moral reformation is utterly inefficacious’, he also maintained that industrial training and instruction in handicraft was a far better way to reform Indian prisoners as it would engender a good work ethic.<sup>235</sup> To his mind education was of ‘secondary’ importance to industrial employment.<sup>236</sup> In the 1864 IC report he lamented that despite the fact that industrial trades were taught no real attempt at education had been adopted.<sup>237</sup> He was to later express his position on the point of discipline in prisons as the means to ‘render the convict self-reliant, and to furnish him with the means of working out his own redemption when he had regained his freedom, so as to prevent his relapse into crime’.<sup>238</sup>

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<sup>232</sup> 1867 ICR, pp. 75, 87.

<sup>233</sup> *Report of Inspector General of Prisons, North Western Provinces 1854*, p. 11.

<sup>234</sup> F. J. Mouat, ‘On Prison Discipline and Statistics in Lower Bengal,’ *Journal of the Statistical Society of London*, vol. 30, no. 1 (1867), p. 30.

<sup>235</sup> Mouat, ‘On Prison Discipline’, p. 46.

<sup>236</sup> F. J. Mouat, *The Foundation of Prison Discipline and of the Reformation of Criminals* (London: Spottiswoode and Co., 1873), p. 12.

<sup>237</sup> 1867 ICR, p. 152.

<sup>238</sup> Mouat, ‘On Prison Ethics,’ p. 240.

Annual prison returns and reports for the 1850s and 1860s indicated a lack of emphasis on reading, language and numeracy skills, consistent with the 1864 IC's stance on education. Annual reports on the prisons of Bombay from 1863 to 1867 indicated little priority was given to education. In the 1863 report 'no education attempted' was noted for numerous jails.<sup>239</sup> Despite this, attempts at prisoner education were evident in some jails. In Madras prisoners were given books although no attempt was made to instruct them.<sup>240</sup> In Dharwar, a convict was employed to instruct prisoners in the vernacular, however it was noted that the number of students quickly dwindled.<sup>241</sup> Some jails were noted to have provided education in the past such as Allahabad but this was evidently not maintained. The jails of Agra and Benares were also noted to provide education, although it was emphasised that education was most beneficial to the young boys. In the early 1860s, prison inspector C. G. Wiehe noted that indeed, there was no systematic attempt at education in prisons. He observed that in the Bombay and the Punjab paid teachers were employed to instruct prisoners in reading, writing, arithmetic and their own language, although this was only provided for the European prisoners.<sup>242</sup> Exceptions to the lack of emphasis on education were made only for juveniles and when skills such as writing and numeracy had a direct application to post-prison employment. In Chapter Four we will see that education of a more reformatory and intellectual nature was given much more attention when dealing specifically with juvenile offenders, in both India and Britain. As Brown once noted, the British saw the potential of education to direct the thoughts of children more effectively than if applied to adult prisoners.<sup>243</sup>

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<sup>239</sup> *Annual Report on the Jails of Bombay, Including Sind and Aden 1863* (Byculla: Education Society's Press, 1866). Selections from the Records of the Bombay Government, No. XCV, pp. 78-115.

<sup>240</sup> Wiehe, p. 15.

<sup>241</sup> *Report on the Jails of Bombay 1863*, p. 72.

<sup>242</sup> Wiehe, pp. 33-40; 71-72.

<sup>243</sup> Brown, 'Ethnology and Colonial Administration,' p. 207.

Remarkably, although educational efforts were minimal at best, some prison reports nonetheless kept detailed records of literacy rates among the prisoners. For example the Annual Report on the Bombay Gaols documented that out of the 16,118 prisoners admitted to jail for the year 1863 only 230 males were considered to be ‘fairly educated’ and 854 males could read and write.<sup>244</sup> A chart was included in the 1864 report on the jails in Sind which detailed the ‘educational’ capacity of the inmates. It noted that 1.1 per cent of prisoners were ‘fairly educated’, 1.65 per cent could read and write and that 97.25 per cent were ‘entirely ignorant’.<sup>245</sup> This was an example of the colonial government collecting “useful knowledge” about its native subjects, a concept that will be explored in more detail during Chapter Three’s discussion on sanitation and health policies in the colonial prisons. Cohn asserted that the concern with recording the characteristics of the population and gathering statistics was rooted in British administrators’ belief in the necessity of ‘knowing’ their subjects.<sup>246</sup> The institution of the prison provided the means of gauging the knowledge of the lower classes in India while simultaneously seeking to provide them with the “right” kind of education, namely instruction in trades. Moreover, the confirmation that the Indian masses were illiterate and therefore “ignorant” further bolstered the legitimacy of intervention in the lives of Indians in the eyes of the British. As Krishna Kumar pointed out, illiteracy reinforced for the British the perceived ‘moral and intellectual decadence’ of Indian society.<sup>247</sup> Western education and its emphasis on higher learning therefore positioned the British above Indian forms of knowledge enabling the colonial government to prescribe its version of acceptable education.

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<sup>244</sup> *Report on the Jails of Bombay*, p. 60.

<sup>245</sup> *Annual Report on the Jails in Sind for the Official Year 1864-65* (Byculla: Society’s Education Press, 1866). Selections from the Records of the Bombay Government, No. XCVIII, p. 30.

<sup>246</sup> Cohn, pp. 243, 248-250.

<sup>247</sup> Krishna Kumar, *Political Agenda of Education: A Study of Colonialist and Nationalist Ideas, Second Edition* (New Delhi: Sage Publications, 2005), p. 17.

Like labour, education for Indian prisoners was advocated as being of advantage to the State. Education was the best way of ensuring prisoners became ‘productive’ members of society, by becoming efficient in agricultural endeavours and trades. This was also true of the situation in Britain. However, as we have seen, Britain placed more emphasis on education’s reformatory potential for criminals. Criminals in India were feared more because of their potential to disrupt the political stability. Therefore the essential point that Mouat, Hutchinson and the 1864 IC report stressed in relation to both labour and education was its potential for keeping criminals, prisoners and ex-convicts productively occupied. Regardless of any desire to provide prisoners with more opportunities, the ideas relating to prison labour and education in the second half of the century can be linked to the British association of a “progressive” and civilised society with self-governance. Brown pointed out that for John Stuart Mill, utilitarian and British East India Company employee, education was an ‘engine’ of good government that could assist in the elevating of the natives to higher civilisation and self-governance.<sup>248</sup> Hutchinson asserted that as was the case in Britain, Indian prisoners needed to participate in labour that imparted useful skills. Hutchinson dismissed teaching adult prisoners to read and write stating that writing was ‘almost infallible’ and ‘certainly absolutely useless’ to prisoners from agricultural and labouring classes.<sup>249</sup> He instead stressed the virtues of work and its ability to imbue habits of industry and to ensure an honest living upon release.<sup>250</sup> Hutchinson tellingly used the example of giving land to the ‘Sansees’ and ‘Pukhewars’ tribes, explaining how it gave them the opportunity to settle and overcome their ‘wasteful and filthy habits’ in the process of bringing the given land under cultivation.<sup>251</sup> This stance was in keeping with the broader colonial administration’s association of crime with

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<sup>248</sup> Brown, ‘Ethnological and Colonial Administration,’ pp. 206; 209.

<sup>249</sup> G. Hutchinson, *Reformatory Measures*, p. 155.

<sup>250</sup> *Ibid.*, p. 90.

<sup>251</sup> G. Hutchinson, ‘Address on the Treatment of Criminals in the Punjab,’ *LSE Selected Pamphlets* (1865) p. 12.

mobility. Settled, agricultural living was understood as the best way to combat criminal activity.

There is little evidence to suggest that “education”, as proposed by prison officials in India, meant literacy and numeracy or other forms of education that did not pertain to physical or industrial work. Labour and education became interchangeable terms. Hutchinson suggested that the system used in Ireland, where the prisoners were given lectures, taught ‘valuable’ skills such as reading, writing, arithmetic, geography, could be applied in the ‘east’.

However, he made no specific suggestion of what the curriculum might entail. Education in Indian prisons was therefore aimed not at literacy and numeracy or elevating the criminal to a higher intellectual plain, but at getting people into work that was, as Sen put it, geographically settled, taxable, visible and open to supervision by the Government of India.<sup>252</sup> This sentiment was also echoed earlier in an 1855 report on the jails of the North Western provinces which explained the reasons for educating prisoners:

Those of the agricultural rank...who are under term-sentences, should be made proficient in reading and writing in village measurements, in the principles and details of village administration, and in village accounts.<sup>253</sup>

Such emphasis on knowledge of “applicable” skills for adult prisoners was often the consensus among prison administrators in colonial India. Mouat for example consistently reiterated his belief that criminal behaviour would not eventuate if honest work was available, indicating that labour and education were essential to the prison system. He stated that ‘a

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<sup>252</sup> Sen, *Disciplining Punishment*, p. 89.

<sup>253</sup> *Report of the Inspector General of Prisons, North Western Provinces 1854* (Roorkee: Thomason College Press, 1855), p. 72.

profitable self-supporter' was the desired outcome of prison.<sup>254</sup> In addition to the association of work with the counteraction of criminal tendencies, it was also another form of surveillance and control of the criminal population in which both those in prison and those classified as belonging to "criminal tribes" were the target.

Furthermore, Sen has emphasised the Government of India's association of labouring and working for a living with loyalty to the state. This argument is especially significant when looking at the motivations behind Mouat and Hutchinson's emphasis on ensuring work for released criminals. As we have seen, much of their stance on "rehabilitation" for prisoners in India stemmed from the desire to see them actively employed and contributing to society. Sen argued that the desire for colonial subjects to be engaged in work went beyond a simple 'hunger for revenue' (or in Mouat and Hutchinson's case a method of rehabilitation), and became concerned with the implications of what work itself represented: a political statement, or more accurately, an act of submission and an acceptance of the British authority in India by the colonial subjects.<sup>255</sup> This indicated a change from earlier in the century when prison labour was mainly envisioned as a way of using the criminal population for the purpose of contributing to public works and empire building both in India and abroad. This was still true of the second half of the century in India, but prison labour and education were also now seen as the means to transform the criminals' behaviour so they would *want* to work for their livelihood.

### **Administrative Prison Reform**

One of the most striking features of the 1864 IC report was the enormous emphasis placed on administrative measures and an emphasis on consistency and order. This stance reflected the

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<sup>254</sup> Mouat, 'On Prison Discipline,' p. 46.

<sup>255</sup> Sen, *Discipline Punishment*, pp. 87; 90



period's tendency toward the standardisation of institutions in India which included dispensaries and hospitals.<sup>256</sup> Emsley has argued that the nineteenth century was a period of increasing bureaucratization and regulation across Europe in the area of law and order.<sup>257</sup> Prison reform in nineteenth-century Britain often stressed the need for "uniformity" in all aspects of prisons, including discipline, classification, sanitation standards and diet.<sup>258</sup> Wiener called this preoccupation with penal administration the 'fetish of uniformity'.<sup>259</sup> From the 1830s onwards the concept of "uniformity" was stressed as an essential element of a "successful" prison. Wiener argued that inconsistent prison conditions were viewed as unjust and that the ideological climate demanded order and stressed the association of legitimacy with equality and morality with predictability.<sup>260</sup> As early as 1822, in one of SIPD's earliest reports, it was stated that 'the security and welfare of society demand the uniform punishment of crime'.<sup>261</sup> The concept of uniformity as a goal for prison administration was most prominent in the 1860s. In 1864, the House of Commons debated the Gaols Bill which advocated uniformity in the areas of diet, labour and discipline in prisons: '[O]ne great objective of reforming our prison rules was to arrive at something like a uniform system.' It was implied that a substandard but uniform prison was preferable to a system which had 'uncertain application throughout the country.'<sup>262</sup> In the same year, concern was expressed by prison inspectors that the discipline and treatment of prisoners differed even within the same county.<sup>263</sup> Prison officials were operating under the assumption that if prisons were more organised and regimented, they would be easier to control and maintain.

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<sup>256</sup> Arnold, *Colonizing the Body*, pp. 247-249.

<sup>257</sup> Emsley, p. 2.

<sup>258</sup> McConville, p. 235.

<sup>259</sup> Wiener, p. 103.

<sup>260</sup> Ibid.

<sup>261</sup> SIPD, Fourth Report, p. 14.

<sup>262</sup> 'Gaols Bill – Second Reading,' cc. 2046-88.

<sup>263</sup> 'The Reports of the official Inspectors of Prisons,' p. 9.

The emphasis on administrative matters from the 1864 IC report was the most obvious way in which the British in India replicated the policy on prison reform carried out in Britain. Mouat recommended adopting England's policy of uniformity:

Now that the prisons in England have been placed under the control of a responsible prison board, uniformity of system, a graduated scale of labour, rewards, and punishments have been introduced, I see no reason why the plan should not be tried at home.<sup>264</sup>

This statement was consistent with the recommendations in the 1864 IC report.

The sheer detail of the report was primarily due to the emphasis placed on administrative matters. Statistics was one particular area of focus, with the report constantly expressing the need for statistics on prisoner numbers and other details pertaining specifically to disease and offences. It was recommended that everything should be recorded: the Medical Officer of the jail would keep up a 'Register of Admission', 'Register of Discharge', 'Register of Death' and a case-book detailing and tracking fatal diseases. Additionally an 'Order Book' was proposed to record punishments inflicted on prisoners and an 'Officers Misconduct Book' to log complaints. Employment positions within the jail were outlined in detail and even diet was rigidly laid out, including charts drawn up that prescribed portion sizes with specific measurements.<sup>265</sup> In keeping with the situation in Britain, the intensive emphasis the 1864 IC report put on the need to document and record all aspects of prison life reflected an overall attempt at attaining uniformity.

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<sup>264</sup> Mouat, 'On Prison Ethics,' p. 236.

<sup>265</sup> 1867 ICR, pp. 51, 53-62, 96-100.

Sen and Brown have previously shed light on the reasons behind the more rigid emphasis on categorisation of prisoners and the push for stricter record keeping. They argued that the events of 1857 reinforced the point that the British did not “know” their Indian subjects and this anxiety led them to try and achieve some sense of order. Keeping records and statistics in prisons helped inform the Government of India on the general population, especially in matters to do with disease and crime statistics. This is reminiscent of Cohn’s argument that the 1871 census in India was based on administrative necessity. Cohn argued that the British saw the collecting of data on their subjects as vital to governance.<sup>266</sup> As Arnold observed, crime statistics and reports were some of the most valuable sources of information on the behaviour of Indian society’s subordinates or subalterns.<sup>267</sup> Sen and Brown argued that the Government of India was seeking a more effective mode of surveillance and control.<sup>268</sup> Simon Cole argued similarly, using the example of fingerprinting. In India fingerprinting was another way in which the British sought to combat their sense of uneasiness and the potential for political instability caused by the Mutiny. Although fingerprinting started as a method of civil identification, Cole concluded that the suppression of criminal activity was considered just as important in the search for greater and more effective social control and identification.<sup>269</sup>

The arguments made by these historians are equally applicable to the prison reform measures of the 1860s as the prison acted as the only place in India where proper control and surveillance could be achieved. Anderson used the example of the British using convict dress, tattoos and facial hair in order to identify individuals and allow for greater surveillance of

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<sup>266</sup> Cohn, p. 242.

<sup>267</sup> Arnold, ‘Crime in Madras,’ p. 62.

<sup>268</sup> Sen, *Disciplining Punishment*, p. 166, and Brown, ‘Race Science,’ p. 353.

<sup>269</sup> Simon Cole, *Suspect Identities: A History of Fingerprinting and Criminal Identification* (Cambridge: Harvard University Press, 2001), pp. 64-65.

prisoners.<sup>270</sup> Sen pointed out that comprehensive surveillance was more realistic in the isolated Andamans, as the high turnover rates in mainland prisons made it difficult to gain a complete knowledge of individual prisoners.<sup>271</sup> More generally however, the push for a more organised, administrative prison reflected the Government of India's aim of controlling and monitoring the native population. The 1864 IC report suggested a 'Jailor's Order Book' to detail minor offences within the prisoner population. The report listed the offences and then stipulated that in the case of a violent outbreak guards had permission to fire upon prisoners.<sup>272</sup> Indians employed in the prisons were also targeted by the 1864 IC. Not only was the competence of Indian jail workers questioned but also their moral integrity and their ability to do their jobs without engaging in corrupt behaviour such as taking bribes and mistreating prisoners.<sup>273</sup> Mouat believed that the employment of native jailors was a mistake and one that rendered effective penal discipline and management 'impossible'.<sup>274</sup> A preference for European jailors, guards and attendants was evident in Indian prison returns and reports as the Darogah (native superintendents) were often derided as lazy and incompetent.<sup>275</sup> This anxiety reflects the prevailing view that all colonial subjects, not just the criminal ones, needed to be monitored as they were potentially untrustworthy.

The effort to extensively classify and categorise the prisoners was also indicative of attempts to both "know" and control criminal subjects. Classification, while present in the 1838 PDC report, was intensified in both detail and scope in the 1860s. Like the 1838 PDC, the 1864 IC report maintained the reasoning behind its stricter categorisation was to prevent

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<sup>270</sup> Anderson, 'Fashioning Identities: Convict Dress in Colonial South and Southeast Asia,' *History Workshop Journal*, no. 52 (2001), p. 154.

<sup>271</sup> Sen, *Disciplining Punishment*, p. 177.

<sup>272</sup> 1867 ICR, p. 84.

<sup>273</sup> Hutchinson, 'Reformatory Measures,' p. 140.

<sup>274</sup> Mouat, *Report on the Jails of the Lower Provinces*, p. 7.

<sup>275</sup> *Prison Returns the North Western Provinces for the Year 1860* (Allahabad: Government Press, 1861), pp. 70, 81, 91-92.

‘contamination’ of less ‘depraved’ prisoners.<sup>276</sup> As Yang has demonstrated, rioting and resistance in response to prison regimens was not unheard of and given the post-Mutiny atmosphere the need for separation of potentially disruptive individuals would have been considered an urgent matter.<sup>277</sup> George Hutchinson believed that a registry of crime would be difficult to achieve in India but was in favour of introducing the English classification system for offences and criminal types.<sup>278</sup> The 1864 IC report recommended that an extensive register was kept of the prisoners’ personal details such as the type of crime they committed, details of their family, health status, caste and religion.<sup>279</sup> It also suggested that each prisoner be assigned a serial or register number which would be his ‘distinguishing mark’ throughout the term of his imprisonment.<sup>280</sup> Wooden tickets were to be worn around each prisoner’s neck with their identification number etched on them. An 1855 prison report demonstrated earlier examples of this wooden tag system. The report included images of wooden identification tags which were recommended to record the prisoners’ crimes and sentences. Separate confinement for prisoners was greatly desired by prison administrators in India, but was constantly cited as difficult and expensive to implement. The report noted that the tags provided an alternative to the comprehensive separate confinement that was wanted.<sup>281</sup> Some, like Hutchinson, believed this kind of identification to be degrading. However, as we have seen, Hutchinson demonstrated his own desire and methods of keeping tabs on Indian prisoners. His justification for the use of judicial statistics was its potential to test the effect of ‘our’ laws on the happiness and well-being of the people.<sup>282</sup> However, his extensive plan for following up recently released prisoners spoke volumes about the administration’s desire to monitor, control and survey. His attention to the issue of criminal tribes demonstrated the

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<sup>276</sup> 1867 ICR, p. 69.

<sup>277</sup> See Yang ‘Disciplining “Natives,”’ pp. 29-45 and ‘The Lotah Emeutes’.

<sup>278</sup> Hutchinson, ‘Reformatory Measures,’ pp. 168-169.

<sup>279</sup> 1867 ICR, p. 73.

<sup>280</sup> Ibid.

<sup>281</sup> *North Western Provinces 1854*, pp. 84-87.

<sup>282</sup> Hutchinson, ‘Reformatory Measures,’ p. 167.

preoccupation that most prison officials had with the perceived problem of hereditary criminal classes in India. These examples demonstrate, as Anderson once put it, that the desire to recognise the prisoners also implied the need to control.<sup>283</sup>

## Conclusion

Indian prison reform in the second half of the nineteenth century took its cue from Britain in developments relating to administration and discipline. During the 1860s it was evident that Britain was increasingly treating their own criminals the way they treated their criminal subjects in India. Reformative sentiment for criminals was lacking support in Britain, as was the case in 1830s India. However, while the British were increasingly concerned with making their prisons places to deter British criminals, the prison officials in India sought more than ever to “reform”, or more accurately, mould the minds of their criminals. In particular, prison administrators such as Mouat and George Hutchinson demonstrated a preoccupation with indoctrinating good work habits in the criminal colonial subjects through prison labour and education. Many prison officials believed that getting criminals into recognisable and geographically stable work was the best means of controlling and curtailing criminal activity during this period. The prisoner, who did not have as many legal rights as the free man, was an easier target to coerce, manipulate and experiment upon.<sup>284</sup> Meanwhile the 1864 IC report recommended stricter controls and prison regimens reflecting both the Government of India’s anxiety over the recent events of 1857 and the goal of uniformity which characterised British prison reform in the same period. Furthermore, the Mutiny had acted to expose the reality of the “unknown” natives creating a heightened tension which was reflected not only in the extensive “criminal tribes” policy but also in the approach to jail management and its functions. While the 1830s prison reform in India reflected a period in the process of

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<sup>283</sup> Anderson, ‘Fashioning Identities,’ p. 154.

<sup>284</sup> Sen, *Disciplining Punishment*, p. 89.

consolidating and cost-cutting, the 1860s demonstrated a progression in terms of efficient jail management and change which focused on cleanliness, order and efficiency all aimed at ensuring the criminal was a stable and conformist member of society. This prison reform policy ultimately reflected the Government of India's desire for a sense of cohesion and control, a goal which historian Jane Buckingham stated, was seen as 'necessary symbolically... for the maintenance of order.'<sup>285</sup> Punishment was no longer just about deterring crime but also controlling and directing the behaviour of the Indian prisoners through constructive labour, training in industrial skills and intensification of administrative measures. Ultimately, the issues and problems which were identified by the British as being unique to India, especially the "criminal tribes", meant that colonial prison reform took on a different shape to the penal policy wrought in Britain. However there is no denying the evident shift in the second half of the nineteenth century which, overall, saw a more scientific and clinical approach to prisons and criminals in both Britain and India. Furthermore, by the second half of the century, criminals in India had become more than just a source of labour, they were a valuable sample pool of information and statistics which could be applied to the wider Indian population. Prison populations provided data on caste numbers, crime, lifestyle and diet, education and, as we will see in the next chapter, disease and health.

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<sup>285</sup> Jane Buckingham, 'To make the precedent fit the crime: British legal responses to sati in early nineteenth-century North India,' in *Crime and Empire*, ed. Dunstall, Godfrey, p. 192.

## Chapter Three

### Health and Sanitation Reforms in British-India Prisons

During the 1860s health was an increasingly urgent issue in Indian prisons because of high mortality among prisoners and the 1864 IC report placed an enormous emphasis on sanitation. Overall, the 1864 IC focused on ways to eliminate the causes of the high mortality by addressing issues such as hygiene, overcrowding, clothing and adequate bedding, and emphasising the need to secure medical examinations and monitor the personal habits of the prisoners. High mortality was already an issue in the 1830s, however, as we have seen, the 1838 PDC focused more heavily on prison management and discipline. By focusing on health, the 1864 IC report demonstrates a significant divergence from the 1838 PDC, revealing an overall more reformative sentiment. The first section of this chapter will examine the 1838 PDC's approach to health in prisons with particular reference to diet. This chapter will then examine the nineteenth-century ideas on health and discuss the reasons behind the more intensive focus on sanitation in the 1860s. The Government of India's investment in the health of its subjects demonstrated a concern over how death and disease threatened the security, economic gain and political stability of India. By looking at the 1838 PDC report, the 1864 IC report and contemporary medical observation reports, it is possible to examine imperial discourse through the lens of sanitary reform. Additionally, Mouat's 1856 report on prisons will be used to examine the presence of humanitarian sentiment in the prison reform measures of the second half of the century. His report focused largely on the health of the inspected prisons and he used language and ideas that indicated a genuine interest in the needs of the prisoners despite some examples that clearly align the purpose of his work with that of the colonial administration.



### **Health and Sanitation in the 1838 Prison Discipline Committee Report**

At first glance, there was little discussion of health issues in the 1838 PDC report. As Arnold noted, not only was there not a single doctor appointed among the members of the PDC, but also no medical professionals were consulted in the course of the inquiry. By contrast, the 1864 Inquiry Committee had numerous medical officials and health was targeted as the main issue on the agenda.<sup>286</sup> Certainly there were glimpses of a concern over the health of the prisoners in the 1838 PDC report, or at least an affirmation that maintaining the health of prisoners was an essential role of the Government of India. However, these were often vague references to the importance of the British contribution to the Indian penal system that lacked depth and detailed discussion. In one passage the 1838 PDC report described the pursuit of health as being ‘highly honorable to the Government of British India’.<sup>287</sup> This statement implied an over-inflated sense of purpose on the part of the Government of India in such matters, one wrapped up in the conception of the British way of life as a positive and civilising influence on India and its institutions. Arnold explained the setting up of the 1838 PDC in terms of the influence of utilitarian thought on government in India which was on the increase during the 1820s, one that reflected the ‘Anglicisation’ of India from the likes of Thomas Macaulay.<sup>288</sup> A number of more specific issues relating to health were raised, including mortality resulting from chronic disease and concern about poor ventilation and overcrowding in a hot climate. The mental health of prisoners is briefly discussed in terms of the use of solitary confinement.<sup>289</sup> However these issues lacked any substantive discussion or recommendations for addressing the situation and yet were the main references to medical issues throughout the 1838 PDC report.

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<sup>286</sup> Arnold, *Colonizing the Body*, p. 98.

<sup>287</sup> 1838 PDC Report, p. 66.

<sup>288</sup> Arnold, ‘The Colonial Prison’. For a comprehensive examination on Macaulay and utilitarian policy in early nineteenth-century India see Stokes, *The English Utilitarians*.

<sup>289</sup> 1838 PDC Report, pp. 65, 111.

## Diet and the 1838 PDC

While issues of health were not on the immediate agenda of the 1838 PDC, the report did discuss the issue of nutrition and what kind of diet would best benefit the health of the prisoners. While discussions of a proper diet appeared to indicate a concern with issues pertaining to the health of the prisoners, it was actually aimed at introducing a rations system. As Anand Yang has illustrated, the major “reform” of the 1838 PDC was taking away the prisoners’ monetary allowances and freedom to cook their own meals, implementing instead a rations system.<sup>290</sup> This system introduced the practice of prisoners not only eating together but also eating the same food prepared from the same source. This practice meant caste distinctions were ignored, provoking anxiety among the prisoners about who was touching and preparing their food. The 1838 PDC greatly disapproved of the money allowance system, believing it to be a luxury which enabled prisoners to ‘fare better and more fully than the agricultural labourers.’<sup>291</sup> A uniform dietary system was therefore considered necessary for the proper implementation of a ration and messing system, one that ensured: ‘a proper variety of food, and a sufficient quantity of stimulating condiments to assist digestion.’<sup>292</sup> Far from being primarily concerned with the health of prisoners, dietary reforms were actually used as a new way to add to the punishment of the prison sentences. As we have seen in Chapter One, the 1838 PDC was invested in the notion of the prisons as a deterrent to crime, a place which should inspire terror rather than provide a refuge for the poor and desperate. The PDC described the act of cooking one’s own meal as one of the ‘greatest joys’ of the lower orders in India, believing that depriving them of this would enhance the effect of imprisonment. The PDC reported that:

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<sup>290</sup> Yang, ‘Disciplining “Natives,”’ pp. 29-45.

<sup>291</sup> 1838 PDC Report, p. 30.

<sup>292</sup> Ibid., p. 34.

We have little doubt that absence of the two pleasures of marketing and cooking would add materially to the severity of the punishment of imprisonment....<sup>293</sup>

Clearly, the PDC targeted Indian cultural practices in order to increase the efficacy of the punishment. It was emphasised that the diet of the prisoners should not exceed the quality of the free poor diet, but it was also recommended that the diet must be sufficient to maintain the wellbeing of the prisoners.<sup>294</sup> “Reform” in this context was therefore a balancing act between the desire to punish and the need to keep the prisoners in a generally good condition. Consequently, the use of a prisoner’s diet to punish misbehaviour, through deprivation or reduction, was seldom mentioned in the report. One passage in the report stated that in the event of breaching prison rules solitary confinement and ‘privation of food’ were desirable forms of punishment.<sup>295</sup> The focus on the dietary needs of prisoners and the hesitation to recommend food deprivation as punishment could be readily explained by its potential to interfere with the labour projects the prisoners were expected to carry out as part of their sentence. However, this explanation was cited only in the 1864 IC report, which strictly prohibited deprivation of food as punishment.<sup>296</sup> Even so, diet was used as a way of exerting further control over the lives of the prisoners in the earlier stages of Indian prison reform. By taking the control of food out of the prisoners’ hands and also introducing the messing system, prison officials completely ignored the cultural and religious consequences, particularly the breaking of caste. Yang pointed out that because the new system threatened to violate the rules of ritual purity it was met with much hostility from the prisoners.<sup>297</sup> The innovation of diet and the introduction of messing were therefore aimed not at improving the

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<sup>293</sup> Ibid.

<sup>294</sup> Yang, ‘Disciplining “Natives,”’ pp. 30-31.

<sup>295</sup> 1838 PDC Report, p. 123.

<sup>296</sup> 1867 ICR, pp. 85, 229.

<sup>297</sup> Yang, ‘Disciplining “Natives,”’ p. 31.

prisoner's health, but at attacking the mind of the prisoner by attempting to break social and ritual relationships.

### **Health and Sanitation in Nineteenth-Century India**

Despite the concern with high mortality in prisons, as expressed three years earlier by James Hutchinson, Secretary to the Medical Board of Bengal, the 1838 PDC instead focused primarily on discipline and administration.<sup>298</sup> The perceived supremacy of Western medicine had not fully taken root at the time of the 1838 PDC. As Arnold noted for example, medical personnel would often combine their medical efforts with the local medicine in order to treat cholera.<sup>299</sup> The definitive feature of the 1838 PDC was the attempt to create order within the chaos of an ill-equipped penal system. Consequently, rather than health it focused on discipline, prisoner accommodation, administrative functions and how best to deal with prisoner numbers.<sup>300</sup> It was not until the 1860s that true dominance over the Indian people in the sphere of medicine was asserted by the Government of India. One possible explanation for the lack of discussion on health in the 1838 PDC report may be related to the fact that medical knowledge was less advanced in the 1830s than in the 1860s. The 1860s was a period when there was a better understanding of the relationship between disease and poor sanitation. However, as this chapter will demonstrate, medical thought in the nineteenth century was fairly consistent. Sanitation measures for prisons were attempted in the 1830s, the 1864 IC report merely intensified the focus on these measures.

Warwick Anderson and Mark Harrison argue that until the later nineteenth century the British were convinced of the ability of the native body to withstand the intensely hot, Indian

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<sup>298</sup> See James Hutchinson, *Observations on the General and Medical Management of Indian Jails and on the Treatment of Some of the Principal Diseases Which Infest Them: Second edition* (Bengal Military Orphan Press, Calcutta, 1845).

<sup>299</sup> Arnold, 'Cholera and Colonialism,' p. 113.

<sup>300</sup> See Arnold, *Colonizing the Body*, p. 99 and Singha, p. 229.

climate. Additionally, natives were also believed to have an innate immunity to the prevalent diseases and fevers of their regions.<sup>301</sup> Conversely, the British believed the climate to have a detrimental effect on European bodies, asserting that the tropics, with its maladies and heat, were ‘no place for a white man’.<sup>302</sup> In order to cope with the climate, hill stations and in some cases mimicking the native dress, diet and way of life were recommended for Europeans living in India.<sup>303</sup> However, prison reports of the period demonstrated that heat and humidity resulting from confined spaces were considered deadly to all prisoners regardless of whether they were European or Indian. In the late 1850s A. Bettington, the Inspector General for prisons in Poona, recommended the removal of palisades (defensive wall structures) from the Ahmednugger jail because it restricted the circulation of air. Similarly at the Ahmedabad jail he recommended that sub-division walls be removed to improve ventilation.<sup>304</sup> Ten years later, a report on sanitary improvements in India cited ‘defective ventilation’ and overcrowding as the main cause of prison mortality in Madras.<sup>305</sup> In the 1864 IC report, the Chief Commissioner of Oude argued that Indians suffered more from the cold, meaning that ‘over ventilating’ the prisons was just as detrimental to their health as the lack of fresh air:

The Natives of India are particularly susceptible of cold, and cannot endure strong currents of air, especially in the winter season, without suffering in a very marked manner from a formidable type of diseases.<sup>306</sup>

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<sup>301</sup> Warwick Anderson, ‘Disease, Race and Empire,’ *Bulletin of the History of Medicine*, vol. 70, no. 1 (1996), pp. 62-67; Mark Harrison, “‘The Tender Frame of Man’: Disease, Climate and Racial Difference in India and the West Indies, 1760-1860,’ *Bulletin of the History of Medicine*, vol. 70, no. 1 (1996), pp. 71-72.

<sup>302</sup> W. Anderson, p. 62.

<sup>303</sup> See Judith Kenny, ‘Climate, Race, and Imperial Authority: The Symbolic Landscape of the British Hill Station in India,’ *Annals of the Association of American Geographers*, vol. 85, no. 4 (1995); and Harrison.

<sup>304</sup> *Report on the Prisons of the Bombay Presidency for 1857*, (Byculla: Education Society’s Press, 1859), pp. 6-7.

<sup>305</sup> *Memorandum on Measures Adopted for Sanitary Improvements in India up to the end of 1867; Together with Abstracts of the Sanitary Reports Hitherto Forwarded from Bengal, Madras, and Bombay* (London: George Edward Eyre and William Spottiswoode, 1868), p. 86.

<sup>306</sup> 1867 ICR, p. 225.

Here, the Commissioner made a connection between race and endurance of climate reinforcing the nineteenth-century British belief that the physiology of Indians and Europeans differed significantly. Ultimately, the importance placed on fresh air changed very little throughout the course of the nineteenth century, even though the 1864 IC report demonstrated a newfound assurance of the superiority of European sanitary habits.

Because of British anxiety about the nature of tropical climates and their adverse effect on a human's health, particularly Europeans, fresh air and proper ventilation were emphasised in both the 1838 PDC and 1864 IC. The 1838 PDC compared the climate of India with England, remarking that it was difficult to construct a ward that was sufficiently secure without condemning Indian prisoners to a confined, hot, and almost uninhabitable space.<sup>307</sup> The report went on to use the example of a prison in Maine in order to highlight issues relating to cold, damp cells and the need for fresh air and to also highlight the need for providing prisoners with adequate bedding and blankets.<sup>308</sup> Likewise, the 1864 IC emphasised the need to ensure a constant supply of fresh air by roof and lateral ventilation and was concerned with 'stagnation of impure air in sleeping wards' and the 'evils of overcrowding'.<sup>309</sup> A parallel can also be drawn with the colonial hospitals. Perceiving the link between poor air quality and disease in 1840, the leprosy hospital in Madras emphasised the need for proper ventilation, prompting the construction of extensions to the building.<sup>310</sup>

In addition to the consistent discourse on climate and ventilation, there is much to suggest that British attitudes towards the Indian people and their perceived role in disease causation did not change a great deal during the nineteenth century. Both the 1838 PDC and the 1864

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<sup>307</sup> 1838 PDC Report, p. 41.

<sup>308</sup> 1838 PDC Report, pp. 41, 51.

<sup>309</sup> 1867 ICR, p. 103.

<sup>310</sup> Buckingham, *Leprosy in Colonial South India*, pp. 45-46.

IC report were quick to blame the Indian prisoners for health issues. The idea of the “dirty” native was very much entrenched in the British colonial discourse of the nineteenth and early twentieth centuries. The tendency to emphasise the health risks of “primitive” habits was a constant feature of health reform.<sup>311</sup> Ideas relating to climate and disease in India acted to harden perceived racial boundaries with nineteenth-century medical texts emphasising the fundamental differences between the natives of India and Europeans in terms of susceptibility to disease and adaptability to hot and humid climates.<sup>312</sup> In the 1838 PDC and 1864 IC reports there were instances of “othering” the Indian prisoners by referring to their ‘habits’ or comparing their personal hygiene to Europeans.<sup>313</sup> The discussions on health in these reports reinforced the British nineteenth-century perception of the Indian people as victims of their own habits who desperately needed guidance and the benefit of Western medicine. This idea was explicitly expressed by the 1838 PDC: ‘The great majority of all prisoners are persons of depraved habits’.<sup>314</sup> While in the eighteenth century disease was blamed on the Indian climate, the British in the nineteenth century were just as likely to blame natives for the prevalence of diseases such as cholera.<sup>315</sup> This mentality was only to increase by the 1850s. In his 1856 Report, Mouat described the detriment that ‘native habits’ caused to efforts of sanitation reform stating that they had an ‘utter disregard of all suffering that does not immediately affect themselves.’<sup>316</sup> In the 1864 IC report, the constant repetition of airing out clothes and bedding every day is emphasised as is bathing the prisoners to get rid of ‘vermin’.<sup>317</sup> Medical examinations by Medical Officers were enforced and tickets were worn around the prisoners’ necks divulging their health status.<sup>318</sup> Under the guise of sanitation

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<sup>311</sup> Harrison, p. 81.

<sup>312</sup> Ibid., pp. 78-80.

<sup>313</sup> 1838 PDC Report, p. 66.

<sup>314</sup> Ibid., p. 27.

<sup>315</sup> See Radhika Ramasubban, ‘Imperial Health in British India, 1857-1900,’ in *Disease Medicine and Empire*, ed. Roy Macleod and Milton Lewis, (London: Routledge, 1988), pp. 42-46.

<sup>316</sup> Mouat, *Report on Jails Visited and Inspected*, p. 153.

<sup>317</sup> 1867 ICR, pp. 56-59.

<sup>318</sup> Ibid., pp. 51, 73.

reform it became possible for prison officials and administrators to gain access to a large number of people; people who were under the Government's complete control and could be 'civilised' or decontaminated.

While general ideas relating to disease had changed little during the period between the 1838 PDC and the 1864 IC, the focus had shifted from treating ailments to attempting to prevent illness from occurring. Two medical observational reports on prisons in India indicate a consistent preoccupation with health and sanitation: James Hutchinson's medical observation report on prisons in 1835 and Mouat's 1856 report on jails he had inspected. Mouat, who was also a member of the 1864 Inquiry Committee, raised issues of a similar nature to Hutchinson, much of which was replicated in the 1864 IC report. When comparing their medical assessment of the state of prisons, knowledge of disease causation does not appear to differ significantly. In Hutchinson's report attention is drawn to dysentery, gangrene and cholera, but it is evident that little was known about how to treat these ailments. Bloodletting was cited by Hutchinson as being useful in some cases of cholera.<sup>319</sup> A combination of sulphate of copper and opium are recommended in the treatment of dysentery and the treatment of scurvy was said to be aided by wine or fermented liquors. A Bengal surgeon detailed the treatment of gangrene with a combination of nitric acid and quinine or a solution of arsenic.<sup>320</sup> Mouat's report did not offer such treatment suggestions and stuck strictly to issues of cleanliness, building regulations and ventilation in a bid to combat epidemic disease.

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<sup>319</sup> J. Hutchinson, p. 100.

<sup>320</sup> Ibid., pp. 97-98.



Mouat's knowledge and understanding of diseases and how they spread fared little better when compared with Hutchinson. Hutchinson's concern with the relationship between air and disease contraction was evident:

[W]henver human beings are unduly crowded together, disease...seldom fails to manifest itself.<sup>321</sup>

Mouat's observation report demonstrated that "miasma" theories were largely unchanged. Nineteenth-century medical thought believed that disease was caused by miasma or contaminated air which emanated from the environment or a sick person.<sup>322</sup> Mouat believed that cholera 'struck' usually at dawn when the atmospheric conditions were 'right' for its germination.<sup>323</sup> His observation on the Santhal tribe demonstrated his ignorance of how malaria spread in the 1850s:

Like the Negro race, they do not appear to be much affected by malaria, which is not to them a poison of the same character as it is to the white race....<sup>324</sup>

As demonstrated, instead of recommending various remedies like Hutchinson, the 1864 IC report replicated Mouat's emphasis on ventilation. The miasma theory was to prevail throughout the mid-nineteenth century.<sup>325</sup> The development of the "germ theory" did not emerge until the 1880s, years after Mouat's report and 1864 IC report were published. The

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<sup>321</sup> Ibid., p. 103.

<sup>322</sup> Poonam Bala, *Imperialism and Medicine in Bengal: A Socio-Historical Perspective* (New Delhi: Sage Publications, 1991), p. 96.

<sup>323</sup> Mouat, *Report on Jails Visited and Inspected*, p. 25.

<sup>324</sup> Ibid., p. 55.

<sup>325</sup> Guha, 'Sanitation, Hygiene, and the Likelihood of Death,' p. 400; Kavita Misra, 'Productivity of Crises: Disease, Scientific Knowledge and State in India,' *Economic and Political Weekly*, vol. 35, no. 43 (2000), pp. 3886-87; Mark Harrison, *Climates and Constitutions: Health, Race, Environment and British Imperialism in India, 1600-1850* (New Delhi: Oxford University Press, 1999), p. 205

details on sanitation in Mouat's report and the 1864 IC report reflected the wider approach of the Government of India to health during the 1860s. The 1860s was a period when sanitary science was adopted as the means of understanding disease and emphasis was placed on statistical surveys and medical enquiries as ways of controlling disease.<sup>326</sup> Furthermore Guha has argued that it was ignorance of the exact cause of infectious disease in the second half of the nineteenth century which led medical authorities to enact such an intensive campaign of sanitary measures.<sup>327</sup> The recommendations of the 1864 IC report for prisons in the 1860s and the importance it placed on preventative sanitation measures came out of this context.

### **Health and Sanitation in the 1864 Inquiry Committee Report**

In stark contrast to the 1838 PDC, the 1864 IC report had little but medical content. Improved hygiene and sanitation were the absolute goals of this committee. The 1864 IC sought to eliminate the causes of the high mortality within Indian prisons, addressing issues such as hygiene, overcrowding, water and sewerage, clothing, and the need to secure medical examinations and monitor personal habits. The new sanitary regulations were to be enforced by a 'Medical Officer' appointed to every jail and it was recommended that medical men be given pivotal roles within the prison. Recommendations stipulated that Medical Officers should be the Superintendents of jails, Civil Surgeons should have charge of the district jails, and also that a specially-qualified medical officer should be selected as the Superintendent of a central jail.<sup>328</sup> The appointed doctors would help manage the disease and help ensure a higher standard of sanitation.

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<sup>326</sup> Buckingham, *Leprosy in Colonial South India*, p. 126.

<sup>327</sup> Guha, 'Sanitation, Hygiene, and the Likelihood of Death,' p. 390.

<sup>328</sup> 1867 ICR, p. 16.

The insistence on appointing medical professionals to supervisory positions in prisons was primarily related to the importance placed on the labouring efforts of prisoners. As we have seen, labour and work, whether productive or punitive, was a constant feature of Indian prison life. The 1864 IC report asserted that labour was the ‘principle means of enforcing discipline’.<sup>329</sup> Additionally, as demonstrated in Chapter Two, the output of prison labour and the expense of the prisoners were closely monitored and as Sen asserted, economic productivity was an important consideration in the context of mainland prisons.<sup>330</sup> The 1864 IC report therefore recommended that doctors were employed, partly to ensure prisoners were healthy enough to participate in prison labour. These doctors were to ensure that prisoners did not evade work on false claims of ill health. Additionally, the Medical Officer had to assess whether or not a prisoner was in fit state of health to receive corporal punishment.<sup>331</sup> In 1858, T. H Lloyd of the Englishmen Office observed this principle in action. In a report he described an incident when about forty sepoy<sup>332</sup> prisoners rushed the guard in an attempt to escape the Alipore jail. The ring-leader of the group, Subadhar Major, was questioned as to why he refused to participate in prison work, to which he answered that his wrist was dislocated. A doctor was then brought over to examine his wrist and upon finding nothing wrong with it the prisoner was again questioned. When the prisoner again refused to work he was administered thirty stripes from the rattan. Another of the group was given the same punishment for also refusing to work.<sup>333</sup> The penalty for not working in the Alipore jail was severe and the prisoners were given little choice in the matter: If they were healthy, they had to work. As Sen observed, sickness was defined as the inability to do work in the Andaman penal colony.<sup>334</sup> Rather than being the instigators of healing, doctors became prison wardens

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<sup>329</sup> 1867 ICR, p. 80.

<sup>330</sup> Sen, *Disciplining Punishment*, pp. 133-135.

<sup>331</sup> 1867 ICR, p. 85.

<sup>332</sup> Native infantry soldiers.

<sup>333</sup> T. H. Lloyd, ‘The Prisoner and the Madhouse,’ *Englishman Journal* (October, 1858), pp. 4-5.

<sup>334</sup> Sen, *Disciplining Punishment*, pp. 133-135.

in colonial Indian prisons. In a very real way the 1864 IC report recommendations distorted the role of medical professionals to ensure more effective and efficient punishment and the economic productivity of labour.

As with the 1838 PDC, diet featured heavily in the 1864 IC report. Diet charts were drawn up throughout the report, indicating the amount and type of food consumed by the prisoners.<sup>335</sup> Great importance was attributed to having a vegetable garden in every prison yard. Although this was a cost-cutting measure, gardening was yet another way to emphasise and instil the skills of settled agrarian labour and self-sufficiency in prisoners. ‘Animal’ food or meat was considered to be essential food for labouring prisoners. It was thought that vegetables and cereals were not adequate for maintaining weight and physical strength.<sup>336</sup> In addition to these specifications, it was emphasised at various points in the 1864 IC report that diminution of food as a punishment was to be strictly prohibited.<sup>337</sup> Like the placement of medical doctors in prisons, the importance placed on diet was related to the desire to ensure prisoners could participate in labour. However, not all aspects of the sanitary reforms of the 1864 IC can be explained in these terms. With the report constantly reinforcing sanitary and health practices, this chapter will now explore the broader reasons behind this dramatic shift in penal reform policy.

### **Military Health in India**

The 1838 PDC report indicates that issues of health and sanitation had not yet permeated the consciousness of prison administrators. It was not until mortality and sickness significantly threatened colonial interests and the European population, specifically the army, that British

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<sup>335</sup> 1867 ICR, pp. 156-162.

<sup>336</sup> Ibid., p. 196.

<sup>337</sup> Ibid., p. 182.

administrators developed a public health policy.<sup>338</sup> As most histories have maintained, the Indian Mutiny of 1857 generated concerns about the health and strength of the army. With high mortality rates among the British troops in India in the years before the Mutiny, mainly due to the prevalence of epidemic disease, it became the job of the Government of India to address the situation.<sup>339</sup> The sanitation and health provisions of the 1863 Royal Commission on the Sanitary State of the Army in India clearly influenced prison reform measures. Specifications such as how many cubic feet of space each soldier was to have and the need for better ventilation emerged in the 1860s, as it was believed that the lack of windows and air vents contributed to cases of malaria and cholera.<sup>340</sup> Regulations began to stipulate that barracks should be two stories high, in keeping with the belief that air was damper lower down and that therefore more ‘malarious’ (sic) conditions were present.<sup>341</sup> The same recommendations for barracks became applicable to jail cells, with similar space specifications evident in the 1864 IC and Royal Commission reports. Although the sanitary reforms of the 1860s were put into practice across Indian society, the military were given priority. A Memorandum on sanitary measures, released in 1868, detailed the state of sanitation in the Indian Presidencies up until the end of 1867. It demonstrated a definite bias towards military health with the sections on soldiers going into greater detail.<sup>342</sup> The heightened anxiety about a weakened military and threat of insurgence fostered the dissemination of sanitary policy, influencing the overall focus of the 1864 IC report.

### **Prisons as Sources of “Useful Knowledge”**

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<sup>338</sup> Bala, p. 101.

<sup>339</sup> *The Royal Commission on the Sanitary State of the Army in India Report*, 1863 as cited in Mark Harrison, *Public Health in British India: Anglo-Indian Preventative Medicine, 1859-1914* (Cambridge: Cambridge University Press, 1994), p. 61; and Ramasubban, p. 39.

<sup>340</sup> Harrison, *Public Health*, p. 65.

<sup>341</sup> Ibid.

<sup>342</sup> *Memorandum on Measures Adopted for Sanitary Improvements*, pp. 26-28, 35-40, 43-46, 61-68, 72-79 etc.

It is hardly surprising that the health of the British army, the source of power and control in India, concerned the Government of India. However, it is less obvious why such concern was extended to Indian prisoners. Brown argued that instances of ‘native depravity’ such as sati and thuggee acted to redirect the colonial government towards a shift in mentality, one that emphasised the need to have the interests of the native people in its sights.<sup>343</sup> Native society, previously thought best to be left to its own devices, was increasingly viewed as a ‘nascent’ civil society during the 1830s and 1840s. Brown identified the government’s engagement with thuggee as the first moment when the British began to re-imagine their task in India and governance was becoming a goal in its own right.<sup>344</sup> The increasing emphasis on prisoner welfare in India as the nineteenth century progressed reflected this new orientation in the Government of India’s mentality and by the 1860s health and sanitation measures became another governmental exercise.

Alternatively, Arnold has emphasised the place of the colonial prison during the 1860s as an ideal site for medical experimentation and observation for the Government of India because of the access to, and control over, incarcerated criminals.<sup>345</sup> He noted that because of the unrestricted access the colonial administration had to prisoners it was possible to gain knowledge of a range of medical issues.<sup>346</sup> Physicians found it difficult to obtain bodies on which to conduct post-mortems or dissections for educational purposes, a practice strongly objected to by Indians. Jails therefore became a ready source of cadavers and from the 1860s post mortems were conducted on prisoners who died during their sentence.<sup>347</sup> From these autopsies, medical understanding of the nature of diseases could be better ascertained.

Similarly, the dietary investigations that were made through the prison system provided

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<sup>343</sup> Brown, *Penal Power*, pp. 54-56.

<sup>344</sup> *Ibid.*, pp. 56 and 66.

<sup>345</sup> Arnold, *Colonizing the Body*, and ‘The Colonial Prison’.

<sup>346</sup> Arnold, *Colonizing the Body*, p. 112.

<sup>347</sup> *Ibid.*, pp. 107-108.

useful information on the food or money needed for those who sought state relief during famines and also the amount of food required for performance in physical labour.

Compulsory and experimental inoculations and prophylactic drugs could also be trialled through the prison system without cultural and social hindrance.<sup>348</sup> Addressing the high mortality and sickness rates in Indian prisons therefore contributed to colonial knowledge.

The health measures in prisons also demonstrated colonial medicine as an agent of disciplinary control. Here Arnold, drawing primarily on the ideas of Foucault, applied them to colonialism by emphasising how prison discipline in India targeted the mind of the offender through measures and “reforms” such as transportation, solitary confinement and diet.<sup>349</sup> Arnold’s observations are compelling and help to make plain the nature of prison reform during the second half of the century.

The prison was essentially a test site for the sanitation and health measures put forward by the 1864 IC report. The previous chapter discussed how the desire of the British to “know” their native subjects was evident in their thorough administrative recommendations for the prisons of India. In terms of addressing health in the report, this translated into detailed statistics on mortality and disease and methods of combatting their prevalence.<sup>350</sup> The prison became the primary place where the government could learn, not just about its criminal subjects, but also about disease in India. Other reports on prisons during this period demonstrated a similar orientation. An 1867 report on the Bombay jails kept a detailed record of disease, dividing them into five categories: zymotic, constitutional, local, developmental and violent.<sup>351</sup> When recording mortality, tables were drawn up to include a number of sub-categories of the deceased: labouring and non-labouring prisoners, untried prisoners and the crimes the

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<sup>348</sup> Ibid.

<sup>349</sup> Ibid.

<sup>350</sup> 1867 ICR, pp. 37-59.

<sup>351</sup> *Annual Report on Bombay Gaols Including Sind and Aden for the Official Year 1867-68* (Byculla, Education Society’s Press, 1869). Selections from the Records of the Bombay Government, No. CXII, pp. 8-9.

prisoners had committed. It even recorded mortality rates along religious and caste lines. For example, of the deaths recorded for 1867, 123 were Hindu, 64 Mussulmans (sic) and two were Christian.<sup>352</sup> Comprehensive prison health records were a feature of this reform period, signalling a preoccupation with disease rather than prisoner care. It would have been difficult to gather such comprehensive information on disease from the public without encountering resistance as was evident in attempts at vaccination schemes.<sup>353</sup> Mouat explained in one of his reports how some prisoners objected to the small-pox vaccination on caste grounds but dismissed such objections.<sup>354</sup> Because of their status as prisoners any objections could evidently be suppressed, a more precarious task when involving free, non-criminal subjects since the British were generally concerned to avoid stirring up any hostility as a direct result of interventionist policies. Although Anil Kumar has pointed out that the colonial response to the epidemic diseases that afflicted India did not yield successful results,<sup>355</sup> within the confines of the prison attempts were made to test sanitary measures primarily because prisons were a controlled environment where the prisoners could be forced to comply. Additionally, records of disease and causes of death could be kept with as much ease as it took to catalogue and register prisoners.

Despite the information prison populations supplied on health and the control and order the 1864 IC sought from such measures, it is a mistake to view the sanitary recommendations as evidence of the Government of India's power in India. Amna Khalid used the example of the low caste street sweepers to demonstrate how the participation and cooperation of Indian

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<sup>352</sup> *Report on Bombay Gaols, 1867-68*, pp. 10-20.

<sup>353</sup> See Arnold, miscellaneous, and Biswamoy Pati, Mark Harrison eds., *Health, Medicine and Empire: Perspectives on Colonial India* (New Delhi: Orient Longman, 2001), p. 18.

<sup>354</sup> Mouat, *Reports on Jails Visited*, p. 122. For more on the management of smallpox in colonial India see Sanjiv Kumar, 'Re-devising jennnerian vaccines?: European technologies, Indian innovation, and the control of smallpox in South Asia, 1850-1950,' in *Health, Medicine and Empire*, ed. Pati and Harrison, pp. 217-269; and Arnold, *Colonizing the Body*.

<sup>355</sup> Anil Kumar, *Medicine and the Raj: British Medical Policy in India, 1835-1911* (New Delhi: Sage Publications, 1998), p. 161.



subjects was essential to sanitary measures. Khalid emphasised that far from being pawns in the Government of India's sanitation policies, these workers became indispensable to the sanitary system of the public health administration in the nineteenth century.<sup>356</sup> Rather than being helpless, these workers were aware of how crucial their job was, especially during epidemics. Various strikes drew attention to their role and the concessions made by the government attested to their power and influence.<sup>357</sup> In the prison context, prisoners and Indian employees were essential to maintaining sanitary regulations recommended in the 1864 IC report. Prisoners had to cultivate and tend to the gardens, submit to bathing frequently and 'scavengers' and sweepers were needed to clean out drains and remove dirty soil.<sup>358</sup> Additionally, prison officials were limited in what they could enforce without causing unwanted unrest among the prisoners. This was evident when it came to the standard practice to shave the heads and trim the beards of the prisoners. Mouat recommended that those who found it offensive on religious grounds were exempt from this measure despite the sanitary necessity of clean-shaven faces.<sup>359</sup> Similarly the 1864 IC report noted that the 'vessels' the prisoners used to consume their meals must not comprise of any material forbidden by their caste.<sup>360</sup> Mouat observed that in the Hazareebaugh penitentiary numerous people were employed in cooking in order to cater for an enormous subdivision of caste. This contradicted the group messing rules that had supposedly been introduced into the prison years earlier.<sup>361</sup> Evidently officials feared violent outbreaks from prisoners similar to the Lotus riots in the 1830s. This fear meant prisoners had the ability to influence prison reform.<sup>362</sup> The potential of prisoners to react violently to policy was evident in, for example, the banning of tobacco

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<sup>356</sup> Amna Khalid, "'Unscientific and Insanitary': Hereditary Sweepers and Customary Rights in the United Provinces,' in *Public Health in the British Empire: Intermediaries, Subordinates, and the Practice of Public Health, 1850-1960*, ed. Ryan Johnson and Amna Khalid (New York: Routledge, 2012), pp. 56-65.

<sup>357</sup> Ibid.

<sup>358</sup> 1867 ICR, pp. 59, 105, 178-180, 228.

<sup>359</sup> Mouat, *Report on the Jails of the Lower Provinces*, p. 23. The 1864 IC report made a similar recommendation. 1867 ICR, p. 72.

<sup>360</sup> 1867 ICR, p. 101.

<sup>361</sup> Mouat, *Report on Jails Visited and Inspected*, p. 63.

<sup>362</sup> See Yang, 'Disciplining "Natives"'.

which sparked unrest in prisons such as Alipore and Kamroop.<sup>363</sup> As Khalid noted, the mere threat of strikes from street sweepers ensured sanitary policy on their terms.<sup>364</sup> Furthermore, the native doctors employed at the prisons were key allies in ensuring the health measures were carried out properly. According to the 1864 IC report 'Native Doctors' were required to be ready for duty without delay. They were responsible for the safe custody of the medicines, instruments, keeping records, purchasing bazar medicines and for maintaining cleanliness, good order and discipline in the jail hospitals. Despite the assumption from the 1864 IC that sanitary and health regulation somehow demonstrated a sense of being in control, this was undermined by the fact that many of the recommendations were dependent on subordinate assistance and cooperation.

### **Health Reform: A Matter of Humanitarianism?**

There are a variety of explanations for the increasing emphasis placed on public health by the Government of India. As J. B. Harrison noted, military interests, trade, security and economics were all important factors shaping public health in India.<sup>365</sup> However what also proved to be an influential force behind enquiries into prison health was the ideology of the Government of India. McGowen demonstrated how the concept of sympathy for convicts emerged in early nineteenth-century Britain, with reformers emphasising that terror need no longer be relied upon to deter or address crime.<sup>366</sup> McGowen identified these reformers, usually members of the middle class alarmed by the brutality of capital punishment, as 'humanitarians'. These people sought to identify with the poor and the criminals because they believed that while fear was the proper object of punishment, it was not a viable route to

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<sup>363</sup> Mouat, *Report on Jails of the Lower Provinces*, p. 52, 89 (appendix).

<sup>364</sup> Khalid, p. 64.

<sup>365</sup> J. B. Harrison, 'Allahabad: A Sanitary History,' in *A City in South Asia*, eds. Kenneth Ballhatchet and John Harrison (London: Curzon Press, 1980), p. 171.

<sup>366</sup> McGowen, p. 314.

reform.<sup>367</sup> This concept of humanitarianism in a reform context was taken up by the 1838 PDC and the 1864 IC. In the early nineteenth century the “humane” mentality emerged within the Indian context in reaction to the perceived “barbaric” nature of punishment for criminals.<sup>368</sup> As we have seen, the 1838 PDC advocated transportation of convicts for labour and imprisonment as desirable alternatives to physical mutilation.<sup>369</sup> Similarly, the 1864 IC report presented the new emphasis on sanitation and health as a way to alleviate the sufferings of prisoners. However, when discussing sanitation reforms, the 1863 Royal Commission illustrated the imperial investment in humanitarian reform:

[A]part from the question of humanity, the introduction of an efficient system of hygiene is of essential importance to the interests of the Empire.<sup>370</sup>

Altruistic motives were almost always accompanied by the desire to protect the economic and security interests vital to the endurance of the Government of India. As Jeffery argued, imperial medicine represented a combination of both ‘social control and humanitarian concern’.<sup>371</sup> Arnold would argue however that medicine as a form of social control in India was often ineffective, largely due to resistance to colonial medicine by the Indian population.<sup>372</sup> Nonetheless, in a colonial context, humanitarianism or a concern for native peoples was often accompanied by, or formed the basis of, a desire to “elevate” or “civilise” their lifestyle and practices. As Arnold emphasises, through prison reform, attempts at control

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<sup>367</sup> McGowen, pp. 314-315.

<sup>368</sup> Singha, pp. 248-249.

<sup>369</sup> 1838 PDC Report, pp. 86-88.

<sup>370</sup> Misra, p. 3886.

<sup>371</sup> R. Jeffery, *Politics of Health in India* (Berkeley: University of California Press, 1988), p. 99.

<sup>372</sup> See Arnold, ‘The Colonial Prison’.

and civilising were almost always under the surface of claims of humanitarianism, particularly in a medical context.<sup>373</sup>

When looking at Indian prison reform the influence of nineteenth-century humanitarian rhetoric is evident. Much of the historiography relating to the Government of India's policies has been concerned with the civilising mission and the furthering of imperialist motives. The 'Foucauldian' interpretation of the actions of reformers emphasised broader narratives and the civilising process.<sup>374</sup> The discussions that considered the possibility of genuine concern for Indian society and its individuals demonstrate the overriding attempts of the Government of India to reinforce the "backwards" nature of India. Historians therefore align the motivations of such individuals such as Mouat, Mary Carpenter and George Hutchinson with imperialism. However, when discussing the ideal of "humanitarianism" in the context of prison reform, a focus on individual reformers and prison officials helps to better understand the nature of the reform itself. Emsley spoke in his book of the 'moral entrepreneur', arguing that it is possible to observe moral motivations and genuine anxiety over crime and disorder, which acted to fuel reformatory action. Much of Mouat's writings on prisons were steeped in the language of what could be called humanitarianism. The emphasis on treating prisoners with fairness and dignity was present in Mouat's work on Indian prisons in the late 1850s. Mouat's reports provided a glimpse of the actual prisoners, a rarity in colonial reports on prisons which tended to reduce prisoners to either a homogenous group or statistics. On a number of occasions during his report on jails in Bengal, Behar and Arracan, Mouat demonstrated what seemed to be a genuine concern for the wellbeing of prisoners. He wished to release elderly prisoners, seeing no point in incarcerating the infirm who were harmless.<sup>375</sup> Elsewhere, Mouat mentioned a prisoner who had two cataracts and was blind, calling him a

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<sup>373</sup> Ibid.

<sup>374</sup> Emsley, p. 160. Edward Said, *Orientalism* (London: Vintage Books, 1979).

<sup>375</sup> Mouat, *Report on Jails Visited and Inspected*, pp. 4-5.

‘fit subject for the remission of punishment’ thinking it unlikely that he would commit any more crimes.<sup>376</sup> Another prisoner, Komul Jaunee, was described as being in a ‘miserable state’ while another, Ramdoyal, was noted to be paralyzed.<sup>377</sup> Mouat also objected to the use of fetters and irons, describing the chaining of one prisoner (who was manacled at the foot, neck and body and chained to the bars of a window) as ‘barbarous and inhuman’.<sup>378</sup> However, although Mouat seemed to display genuine concern for the sick and infirm prisoners, his role as a doctor was also to assess the physical capabilities of prisoners for work.

As demonstrated in Chapter Two, prison labour was an important source of income for the prison as well as a disciplinary measure used to punish the prisoners. As a doctor, Mouat was actively carrying out the role intended for doctors laid out in the 1864 IC report: ensuring prisoners were healthy enough to work. In the course of his 1856 report he even alluded to this stating that the only limit to a task should be the physical endurance and health of the prisoners. He then emphasised the need of having medical officers in charge to regulate this.<sup>379</sup> Later in the report he also expressed concern that prisoners could exaggerate their ailments or feign sickness in order to avoid labour stating that: ‘Great care should be taken by the Medical Officer to prevent malingering’.<sup>380</sup> Although Mouat asserted that elderly or sick prisoners were unlikely to commit further crimes or negatively influence others, he also emphasised the fact that they were an ‘expensive incumbrance [sic]’.<sup>381</sup> Mouat was evidently trying to save money by pointing out the needless practice of incarcerating the sick and infirm. The elderly had little economic value to the government and this was equally true of

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<sup>376</sup> Ibid., p. 44.

<sup>377</sup> Ibid., p. 31.

<sup>378</sup> Ibid., p. 82.

<sup>379</sup> Ibid., p. 41.

<sup>380</sup> Ibid., p. 20.

<sup>381</sup> Ibid., p. 31.

elderly prisoners.<sup>382</sup> Even before the recommendations of the 1864 IC report, the role of British doctors in Indian prisons was evidently aligned with the productivity of prisoners.

Given Mouat's position within the Government of India, it is probable that the concept of the 'moral entrepreneur' cannot be directly translated into a colonial context. As we have seen in Britain, the call for prison reform initially came from individuals and reform groups. People like Jeremy Bentham, Elizabeth Fry, the Quakers and other individuals were the driving force behind early nineteenth-century prison reform in Britain.<sup>383</sup> It was these kinds of individuals Emsley was referring to in his work. Unlike Mouat, Mary Carpenter was not an employed colonial official and therefore better exemplified the 'moral entrepreneur'. As a woman temporarily entering a colonial context, Carpenter had a different agenda and identified issues that prison administrators often marginalised. Although the interventionist policies of the British encompassed most aspects of Indian life, female participation in the colonial state's agenda saw issues such as women and children being addressed more thoroughly. Despite any genuinely good intentions, administrators like Mouat were acting on behalf of a colonial government in a country and community vastly different from their own. They acted from a position of imperial power and were dealing with prisoners whose "otherness" was based on both race and class as well as British notions of criminality.

Schwan argued that it was not enough for the British to claim superiority and dominance over another culture on the basis of the "inherent" and "advanced" qualities of Europeans and the West.<sup>384</sup> They also considered it necessary and humane to spread these "advanced" values to India. Furthermore, the British Empire had to be seen to demonstrate humanitarianism in its conduct in order to reinforce the notion that intervention and control were in the best interests

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<sup>382</sup> Mouat, *Report on the Jails of the Lower Provinces*, p. 7.

<sup>383</sup> See Cooper, 'Jeremy Bentham'.

<sup>384</sup> Schwan, 111.

of the Indian people. This acted to further legitimize the British presence in India. Mouat's rhetoric fits into this brand of humanitarian policy because he simultaneously sought to address the needs of the prisoners while reinforcing the importance of his role as a government official by ensuring the efficiency of prison administration. This mentality was evident in both the 1838 PDC and 1864 IC report, even to the point of being self-congratulatory. One passage in the 1838 PDC report claimed that great attention to the individual was unlikely to be matched anywhere in Europe when compared with India.<sup>385</sup> The passage goes on to take this claim even further:

[We] do not disregard 'natural wants' or leave him cold, starved, or to live on the charity of others. He is not left in filth, stench, not left to die of disease without attempts to cure him, not compelled to bribe his gaoler to obtain necessities which the law allows him.<sup>386</sup>

This passage firmly establishes the 1838 PDC in a 'caregiver' role, one which Sen maintained was crucial to the justification of discipline within a prison context.<sup>387</sup> The 1864 IC report used similar language emphasising their commitment to ensuring that deprivation of food was never used as punishment, a rewards system for well-behaved convicts was in place, and that the physically weak and diseased prisoners were cared for properly.<sup>388</sup> One passage spoke directly to subordinate officers, emphasising that they should 'treat the prisoners with kindness and humanity' specifying that they 'shall not strike a prisoner'.<sup>389</sup> The sanitation measures of this report can be interpreted in a similar manner. Both British authorities and the British public often "saw" the British as best fitted to rule India. Such was

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<sup>385</sup> 1838 PDC Report, p. 66.

<sup>386</sup> 1838 PDC Report, pp. 67-68.

<sup>387</sup> Sen, 'The Female Jails,' p. 433.

<sup>388</sup> 1867 ICR, pp. 75, 80.

<sup>389</sup> 1867 ICR, p. 62.

the colonial Government's investment in the need to maintain this perception that they sought to address inconsistencies such as health and sanitation. In *The Times*, a correspondent commented on the state of the Calcutta gaols, noting that the conditions were 'not creditable to our Government' and that it would not appear satisfactory to the 'public at home.'<sup>390</sup> This correspondent was committed to the notion that British Government could not be seen to be in charge of defective institutions as it somehow tarnished its reputation as a superior and effective ruling body. The ideal of humanitarianism in the context of colonial Indian prison reform was an aspect of imperial discourse rather than a reality separate from the colonial authorities' agenda.

## Conclusion

How prison health was dealt with by the 1838 PDC and the 1864 IC was symptomatic of their different approaches to prison reform. While the 1838 PDC was intent on dealing with immediate problems such as punishment and deterrence, the 1864 IC report had a broader reformatory sentiment aimed at addressing the cause of disease and criminal behaviour. Although Mouat's 1856 Jail report and the 1864 IC report were littered with details on disease and sanitary precautions, the 1838 PDC report only made the observation that mortality and health were problems, suggesting a vague commitment to the health of prisoners while ignoring the evidence of high mortality and the work of James Hutchinson. A more comprehensive understanding of sanitation does not appear either in Hutchinson's or the 1838 PDC report. Having said that, an examination of Mouat and Hutchinson's reports and the recommendations of the 1838 PDC and 1864 IC indicate that medical knowledge more generally had not greatly improved during the course of the century. These reports all ascribed to the idea that Indians were partly to blame for health issues in prisons. Furthermore

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<sup>390</sup> 'Some Months Ago,' *The Times*, October 03, 1864, p. 6, issue 24993.



the reports all emphasised the issues of fresh air and ventilation and demonstrated a lack of understanding on how disease spread. By the 1860s, the prison officials still could not treat an existing disease, and sanitation was the only defence against the devastating mortality. The recommendations of the 1864 IC report were therefore not in response to a change in medical culture, but rather a newfound confidence in the importance of sanitary measures and their ability to “clean” and “civilise” Indian prisoners. Claims of humanitarian motivation for health reform in prisons were often underpinned by concepts such as these. Prisoners in India were subjected to immense change through the recommendations and policies of both the 1838 PDC and the 1864 IC, and while much of it was expressed in the language of humanitarianism, the reform often reflected the Government of India’s interests which went well beyond the simple goal of improved sanitation for the benefit of prisoners. Health, interventionist policies and prison reform related directly to imperial ideology and issues of the upkeep of the Empire such as cost-cutting, public health, gaining useful knowledge, consolidating power and controlling any threat to that power from Indian subjects, which included a restless prison population. The colonial prisons become a much needed site where the Government of India could build on its existing medical knowledge without the complications associated with enforcing medicine and health measures on the free population. Even the introduction of doctors in essential prison official roles was underpinned by the desire to ensure the productivity of prisoners rather than an endeavour to take better care of the prisoners. Lower sickness rates equalled higher output of prison industry. The health of the British troops in India was the turning point for public health and sanitation in India as it was the first time the Government of India felt concerned enough to conduct an inquiry into health. The Royal Sanitary Commission’s report in 1863 was the catalyst which spawned a broader focus on health in India.<sup>391</sup> Issues of health and sanitation in both the 1838

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<sup>391</sup> Kumar, *Medicine and the Raj*, p. 159.

PDC and 1864 reports were not only presented as a humanitarian endeavour but were cast in the language of health and cleanliness, exempting the British from pursuing reform policies that focused on the rights of the prisoners themselves.

## Chapter Four

### Juveniles and Women in British-India Prisons

[T]he most serious contamination could not be avoided under these circumstances...any boys who entered that gaol were irrecoverably plunged into a life of crime. ...If the case of the male offenders was bad, that of the female was dreadful beyond description!<sup>392</sup>

These comments, which conjured up the image of criminal behaviour as a contagious disease, were made by Mary Carpenter in 1865 upon her visit to the Ahmedabad jail in Guzerat. In her work in India, Carpenter often drew attention to deplorable jail conditions and gave attention to those she believed to be most vulnerable: women and children. Priority given to adult male criminals was proportionate to their prevalence within prisons and their representation in crime statistics. The 1838 PDC and 1864 IC reports did contain material pertaining specifically to women and the “juvenile delinquents” of colonial India. However, this material lacked in-depth discussion and juvenile and women prisoners in India were often on the periphery of prison administrators’ attention. As discussed in the introduction, Sen’s work and the broader post-colonial historiography on Indian women’s issues have explored the experience of incarcerated women. Consequently, this chapter will focus primarily on the place of juveniles in the nineteenth-century Indian penal system. Sen has discussed both juveniles and women as the target of colonial intervention and control in India and this chapter will discuss this with a specific focus on prison reform. It will examine how

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<sup>392</sup> Mary Carpenter, ‘An Account of Visits to Prisons in Southern India,’ *LSE Selected Pamphlets* (1865), p. 15.

juveniles and women were addressed under the prison reforms of the 1830s and the 1860s and how, if at all, the 1838 PDC and the 1864 IC differed in their approaches. These reforms will be explored partly in terms of how they reflected the policy in Britain, how they reflected a preoccupation with education and instruction and finally, how they demonstrated British perceptions of criminality in Indian women and children.

### **Juvenile Offenders**

Victorian society was preoccupied with the moral condition of their youth and Britain's first real attempts to deal with juvenile offenders separately from the adult criminal population began as early as the 1820s. Many were keen to remedy the evils associated with simply throwing children in jail and by the mid nineteenth century a general concern from the middle class about the vagrant and idle children of the streets had become a common feature of the Victorian era.<sup>393</sup> What concerned the middle class about the problem of "juvenile delinquency" was its apparent increase. It was believed that delinquency was most commonly caused by the problems of the home environment and anti-social conditioning. From the perspective of the upper echelons of society, the parents of the working class were often considered the source of a child's bad habits, 'irresponsibly' allowing their offspring to roam the streets unsupervised.<sup>394</sup> Urbanisation and industrialisation were also blamed for the rise in juvenile delinquency, and the growth of cities coupled with the expansion of trade made it possible for children to make a precarious living on the streets where theft was easy.<sup>395</sup>

Peter King identified the 1810s through until the 1820s in Britain as a time of confusion and debate over how best to deal with young offenders. Because there was little in the way of

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<sup>393</sup> 'Prison Regulations,' HC Debate, 26 April, 1838, vol. 42, cc609-14609; and 'Juvenile Offenders,' HC Debate, 16 April, 1833, vol. 17, cc. 146-56146.

<sup>394</sup> Mahood, pp. 25-27.

<sup>395</sup> Susan Magarey, 'The Invention of Juvenile Delinquency in Early Nineteenth-Century England,' *Labour History*, no. 34 (1978), p. 14.

alternative accommodation earlier in the century, prisons were used to confine children who had committed criminal acts. King demonstrated that the late 1840s and 1850s was a period when the specialised needs of juvenile offenders were beginning to be properly recognised. Similarly, Eric Hopkins has argued that interest in child welfare in nineteenth-century Britain was a significant departure from the harsh treatment of children characteristic of the eighteenth century.<sup>396</sup> Consequently, juvenile welfare became part of the prison reform discourse. Firstly, there was a concern that prison was unsuitable for children as its environment would further corrupt juvenile offenders. In 1837 the House of Commons discussed the penitentiary at Milbank, expressing the concern that juvenile offenders were worse off once they had left prison than when they arrived.<sup>397</sup> Another debate in 1848 concluded that a young person being committed for trial should not be allowed to associate with persons under suspicion of having caused an offence.<sup>398</sup> The issue of corruption of children by adult criminals was again drawn to attention.<sup>399</sup> By the late 1840s, the parliamentary debates in Britain indicated a strong preference among politicians for sending criminal children to reformatories, 'ragged' schools, and industrial schools in place of prison sentences.<sup>400</sup> The suitability of work houses as places for putting to work young vagrants and children deemed criminally minded were discussed at length with some Parliamentarians expressing the desirability of teaching good work habits as a method of combating criminal behaviour.<sup>401</sup> As Pamela Horn notes, the nineteenth century marked an increasing emphasis on education rather than labour for children and the development of the concept of childhood.<sup>402</sup> Reformers also focused on the mental development of children, in an effort to

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<sup>396</sup> Hopkins, p. 2.

<sup>397</sup> 'Milbank Penitentiary,' HC Debate, 28 Feb 1837, vol. 36, cc. 1173-1176. Hansard.

<sup>398</sup> 'Prison Discipline – The Separate System,' cc. 368-384.

<sup>399</sup> Ibid.

<sup>400</sup> 'Juvenile Offenders Bill,' HC Debate, 10 July, 1849, vol. 107, cc101-7101. Hansard. And 'Ragged Schools,' HC Debate, 24 July, 1849 vol. 107 cc. 897-920. Hansard.

<sup>401</sup> 'Juvenile Mendicancy (no. 2) Bill,' HL Deb, 12 July 1853, vol. 129, cc. 92-10192. Hansard.

<sup>402</sup> See Pamela Horn, 'The Growth of Mass Schooling' in *The Victorian Town Child*, by Pamela Horn (Thrupp, Stroud, Gloucestershire: Sutton Publishing, 1997), pp. 70-98.

understand, shape and control behaviour.<sup>403</sup> In the 1870s a number of Education Acts in England ensured that most children were attending elementary schools by the end of the century and child labour considerably lessened in industrial areas.<sup>404</sup> A more specialised approach to child offenders within a broader re-thinking of the “child” was a prominent feature of nineteenth-century Britain.

The early decades of the nineteenth century was a time of ambivalence about the management of juvenile offenders for the Government of India. However, unlike in Britain, any attempts to deal with the juvenile offenders as a separate criminal population did not figure prominently until the second half of the nineteenth century. The one exception was the 1850 Apprentice Act which sought to provide poor children with the opportunity to earn an honest livelihood so they did not resort to criminal activity to survive.<sup>405</sup> Discussions by colonial administrators and officials relating to improved prison conditions for juveniles reflected a reworking of ideas that had existed in Britain in the early decades of the century. Certainly reformatories were advocated and discussed, however legislative efforts in India to educate and reform juvenile criminals did not emerge until the 1870s.<sup>406</sup> The number of juvenile offenders in Indian prisons was generally low demonstrated by later prison returns which kept records on juvenile numbers. For example, in Bombay for the year 1857, 118 of the prisoners under the age of sixteen were classified as juveniles.<sup>407</sup> Returns on the Punjab jails showed that approximately only 1.24 per cent of the overall jail population for 1869 consisted of juveniles less than sixteen years of age.<sup>408</sup> These kinds of figures may explain why the 1838 PDC report and the 1864 IC report rarely mentioned juvenile prisoners in

<sup>403</sup> Horn, *Children's Work and Welfare*, p. 12.

<sup>404</sup> See Michael J. Childs' discussion of boys in the workforce in 'Boy labour in Late Victorian and Edwardian England and the Remaking of the Working Class,' *Journal of Social History*, vol. 23, no. 4 (1990), p. 784.

<sup>405</sup> G. Chatterjee, *Child Criminals and the Raj*, pp. 56-57.

<sup>406</sup> *Ibid.*, pp. 61-71.

<sup>407</sup> *Report on the Prisons of the Bombay Presidency*, p. 19.

<sup>408</sup> *Report of the Inspector General of Prisons in the Punjab 1869* (Lahore: Lawrence Press, 1870), p. 20B.

detail. Although the 1864 IC report gave considerably more attention to juveniles than the PDC, it was largely subordinate to the sanitation and administrative focus of the report. However, there were three main points of discussion in both the 1838 PDC and 1864 IC reports which related directly to the maintenance of juvenile inmates: separation of juveniles from the adult prison population, education and the use of corporal punishment.

### **Separation and Segregation**

Both the 1838 PDC and the 1864 IC reports asserted that incarcerated children must be kept separate from adult offenders for fear that they would be further corrupted and lured into crime.<sup>409</sup> Gautum Chatterjee identified the two main concerns expressed by prison administrators in relation to imprisoning adult and juvenile criminals together: Firstly that adults or habitual criminals would influence the minds of the younger, more impressionable criminals and secondly that this would lead to ‘evil contamination’.<sup>410</sup> The 1838 PDC report stipulated that the ‘House of Correction’ at Calcutta rather than the ‘district gaol’ was the most appropriate accommodation for those who committed minor offences, primarily young boys.<sup>411</sup> Similarly, the 1864 IC report specified the need for separation stating that the accommodation for juvenile offenders in prisons was ‘extremely defective’ as they should be separated from adults.<sup>412</sup> It was noted that in the Central Prisons of the North-Western provinces boys were kept in separate wards and at the District Jails boys were to be kept separate from adult prisoners while being educated and ‘carefully looked after.’<sup>413</sup> The preoccupation with segregation was in keeping with the debate on juvenile offenders back in Britain. The word “contamination” with reference to the need to separate or segregate children from adult or more experienced criminals was seldom absent during parliamentary

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<sup>409</sup> See 1838 PDC Report and 1867 ICR, 1838: p. 22; 1867: pp. 69-71 and 228.

<sup>410</sup> G. Chatterjee, pp. 93.

<sup>411</sup> 1838 PDC Report, p. 13.

<sup>412</sup> 1867 ICR, pp. 145, 172.

<sup>413</sup> Ibid., p. 172.

debates on the issue.<sup>414</sup> The use of the word “contamination” demonstrated how immorality was perceived as a disease: something that could be passed on to young minds from hardened criminals. Prison officials believed in the ability to shape and influence the behaviour of the young through education and discipline. Similarly, early reformatory action in India operated under the assumption that children were ‘plastic’ entities, meaning that although they could be corrupted by external influences, they were also more amenable to reform.<sup>415</sup> This idea was consistent with the 1838 PDC report advocating the separation of juveniles from older criminals at a time when prison reform aimed specifically at juveniles was essentially non-existent. However, by the time of the 1864 IC, the separation of children from adults in prison also extended to segregation from family ties and the outside world. Despite some reluctance to interfere in the Indian parent-child bond, primarily because of the desire of the Government of India to avoid conflict, Indian families were seen by many colonial officials as a moral and political challenge to the authority of the colonial state.<sup>416</sup> By the 1860s, the discussion on separating juveniles from adult criminals related to the desire to prevent what the British believed was “inherited” criminal behaviour. This link between hereditary crime in India and the concern over juvenile delinquency impacted upon approaches to prisons and will be discussed later in this chapter.

### **Corporal Punishment**

As we have seen in Chapter One, the tendency of the Government of India to emphasise its more humane approach to discipline was typical of the earlier nineteenth century. In 1834 a regulation on corporal punishment for Indian prisons was put forward which highlighted the desire to transform the system of prison discipline and exclude ‘barbarous and cruel

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<sup>414</sup> ‘Prison Regulations,’ cc. 609-14609.

<sup>415</sup> Satadru Sen, *Colonial Childhoods: The Juvenile Periphery of India 1850-1945* (London: Anthem Press: 2005), p. 61.

<sup>416</sup> *Ibid.*, p. 12.



punishments'. It stated that the British Government should 'present in its own system the principles of the most enlightened legislation.'<sup>417</sup> Given this sentiment, the 1838 PDC report had fewer specific references to physical punishment. However, such restrained rhetoric had waned in the post-Mutiny climate and, as Sen has pointed out, punishments for mutineers were particularly violent.<sup>418</sup> Mouat viewed physical pain as the greatest deterrent for offenders of 'low moral susceptibility' such as thieves and 'habitual' criminals.<sup>419</sup> A discussion on the practice of flogging in India as late as 1877 demonstrated the tendency to frequently resort to this method of punishment for offences such as theft with approximately 72,650 'Indian subjects' reported as having been flogged.<sup>420</sup>

The tendency to physically discipline juveniles was demonstrated by the 1864 IC report, which stated that the Whipping Act, enacted in 1864 and defining a child as a person under the age of eighteen, had been carried out with 'much benefit' in the case of juvenile delinquents.<sup>421</sup> The report stipulated that in extreme cases the Officer in charge was allowed to inflict up to 30 strokes with a rattan (thin wooden cane) on the bare buttocks.<sup>422</sup> The report labelled boys identified as coming from the 'Ootageer' class 'incorrigible' and it was specified that whipping 'will undoubtedly assist in thinning the prisons of juvenile offenders'.<sup>423</sup> Similarly in Britain, returns relating to corporal punishment in England and Wales in 1860 recorded the instances of 'lashes', demonstrating its use for a wide variety of offences. For example, a nine year-old was hit twelve times with a birch for breaking a pair

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<sup>417</sup> 'Papers Relating to East India Affairs: Regulations Passed by the Government of Bengal, Fort St. George and Bombay, in the Years 1832-1836,' pp. 31-32. HC PP, 1837-38.

<sup>418</sup> Sen, *Colonial Childhoods*, p. 103.

<sup>419</sup> Mouat, 'On Prison Discipline,' pp. 25-26.

<sup>420</sup> 'India – Punishment of Flogging,' HC Debate, 28 June, 1880 vol. 253, cc960-2960. Hansard.

<sup>421</sup> Ibid., p. 104; 1867 ICR, p. 208.

<sup>422</sup> 1867 ICR, p. 80.

<sup>423</sup> Ibid., p. 243.

of spectacles and another was lashed 24 times for ‘housebreaking’.<sup>424</sup> During the early 1860s in Britain a whipping consisted of striking persons under sixteen with a birch rod, although the House of Lords discussed the use of other instruments such as the ‘cat-o’-nine-tails’.<sup>425</sup> Horn noted that reformers in England were more likely to advocate whipping than labelling a juvenile as a criminal for life by handing down a jail sentence.<sup>426</sup> Corporal punishment for juveniles was often seen as an ideal alternative to prison sentences. Despite contradicting the nineteenth-century trend of ‘non-violent’ penal discipline, physical punishments were employed in place of fines and imprisonment. Furthermore the corporal punishment inflicted on juvenile offenders was consistent with the everyday physical punishment of youths in England by the working classes.<sup>427</sup> Such punishment was cheap, quick and was thought to inspire fear in juvenile offenders.

There were some who protested the use of flogging on humanitarian grounds preferring to favour a system of confinement, deprivation and reward, most notably Carpenter and the British Army’s Commander-in Chief in India, Major General Charles Napier.<sup>428</sup> George Hutchinson was not convinced of the effectiveness of physical punishment, believing that enduring a good whipping from authority became like a badge of honour and a topic of conversation for the offending boys.<sup>429</sup> He wrote that flogging and whipping juvenile offenders compensated for any real action that would address juvenile offending ‘at its roots’, however, he was also quick to note that flogging was cheaper than imprisoning ‘young lads’.<sup>430</sup> Mouat however found corporal punishment to be preferable to throwing

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<sup>424</sup> ‘Return from each gaol and house of correction in the United Kingdom, of all cases in which corporal punishment has been inflicted,’ pp. 3-5, HC Papers, 1860.

<sup>425</sup> ‘Security from Violence Bill (no. 103) Second Reading,’ HL Debate, 09 June, 1863, vol. 171, cc. 553-64553. Hansard.

<sup>426</sup> Horn, *The Victorian Town Child*, p. 201.

<sup>427</sup> Lionel Rose, *The Erosion of Childhood* (London: Routledge, 1991), p. 231.

<sup>428</sup> Sen, *Colonial Childhoods*, p. 20.

<sup>429</sup> Hutchinson, *Reformatory Measures*, p. 93.

<sup>430</sup> *Ibid.*, pp. 144 and 166.

impressionable youth into prison cells. He concluded that a ‘good canning’ was the most suitable punishment for boys who committed petty offences.<sup>431</sup> Citing the case of a twelve year-old boy stealing a rupee, Mouat lamented that he would most likely be sent to Jessore where the seeds of future crime would be sown.<sup>432</sup> Corporal punishment was seen as a more effective way of preventing future criminal offences by children. Furthermore, using physical punishment instead of prison sentences meant that prison officials did not have to deal with the reformation and general management of juveniles as prisoners. The 1864 IC report attributed low juvenile numbers in both the Mypore and Berar prisons to whipping.<sup>433</sup> As Mouat wrote, it was preferable to flog the boy on the spot and be done with him.<sup>434</sup>

Prison reform of the second half of the century therefore endorsed corporal punishment as the most effective deterrent for young boys in India. In 1864, a letter to *The Times* from a Calcutta correspondent expressed concern over the difficulties of jail management in India. The correspondent noted that whipping prisoners who have misbehaved was the ‘most deterrent punishment that had been tried.’<sup>435</sup> They went on to applaud the recent Bill to make corporal punishment lawful, noting that juveniles in particular responded to flogging. The correspondent then put to those who would object to such harsh punishment to point out a more effective way of emptying the gaols and deterring crime.<sup>436</sup> Despite the best intentions of prison officials, the 1864 IC report demonstrated that children were still subjected to a pre-modern system of penal discipline for their crimes at a time when, in Britain, there was a steady decline in the use of corporal punishment on juveniles.<sup>437</sup> As Sen argued, there was no ideological shift away from physical punishment in India. He noted that the ‘pre-modern’

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<sup>431</sup> Mouat, *Report on Jails Visited and Inspected*, p. 206.

<sup>432</sup> Ibid.

<sup>433</sup> 1867 ICR, p. 243.

<sup>434</sup> Ibid.

<sup>435</sup> ‘India,’ *The Times*, April 01, 1864, p. 9, issue 24835.

<sup>436</sup> Ibid.

<sup>437</sup> Mahood, p. 92.

infliction of pain as punishment such as flogging actually increased alongside the implementation of reform measures for juvenile criminals.<sup>438</sup> Because the building of separate facilities for juvenile offenders was often cited as being too costly at various stages in the 1864 IC report, employing whipping gave the impression that prison officials were in some way combating juvenile delinquency.<sup>439</sup> Sen noted that the Punjab government found the use of flogging cheaper than sanctioning the construction of new jail facilities that catered exclusively for child criminals.<sup>440</sup> Physical punishment saved authorities from needing to incarcerate children and expose them to the ‘moral cesspool of the penal institution’.<sup>441</sup> Additionally, corporal punishment provided colonial authorities with a sense of control over the native prisoners. Mouat once noted that it would be impossible to maintain discipline within the Indian prisons without resorting to corporal punishment.<sup>442</sup> Prison officials wanted to save money and ensure jail management went smoothly and therefore opted to resort to corporal punishment rather than prison sentences. The apparent lack of attention given to juveniles in prison reform measures was therefore often rooted in pragmatism rather than an ideological intent on the reform of Indian child criminality.

## Education

Education was the only other way in which the 1838 PDC and 1864 IC report addressed those categorised as child criminals. Education, dismissed as costly and undesirable even for children in the 1830s, became a point of attention in the 1860s’ reform. The 1864 IC report proclaimed that ‘youthful’ offenders were regularly taught, a turnaround from the 1838 PDC report where it was deemed wasteful and unfair to teach criminal children while honest

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<sup>438</sup> Sen, *Colonial Childhoods*, p. 90.

<sup>439</sup> 1867 ICR, pp. 274.

<sup>440</sup> Sen, *Colonial Childhoods*, p. 106.

<sup>441</sup> *Ibid.*, p. 108.

<sup>442</sup> Mouat, ‘On Prison Discipline,’ pp. 25-26.

children were left uneducated because of their deprived circumstances.<sup>443</sup> The 1864 IC's turn around on education and its stronger emphasis on separate spaces for child criminals reflected the more current trend in Britain of advocating reformatory schools rather than prison sentences for wayward juveniles. The report stated that juveniles should be taught different trades and be instructed in both reading and writing.<sup>444</sup> As demonstrated earlier, education and the teaching of trades were promoted as ways to address the bad habits of vagrant children in England. In 1849, during a parliamentary debate, Lord Ashley expressed his hope that introducing a more intensive system of education for juvenile offenders and vagrant children would combat criminal tendencies and behaviour. He stated that if children had no school to attend they would not acquire jobs and consequently be 'driven to crime and hopeless ruin.'<sup>445</sup> Ashley went on to emphasise health, attendance, arithmetic, reading, prayer and some form of industrial or handicraft training as vital components in effecting reformation in young offenders. The parliamentary debates relating to juveniles deemed criminal in Britain also presented a far more sympathetic view and acknowledged the realities of poverty and its role in driving children of destitute families to crime, out of want. Ashley lamented the example of three boys who stole out of necessity acknowledging that begging and stealing were often the only way of preventing starvation for many children.<sup>446</sup> Because of its potential to breed crime in the cities, poverty was one of main reasons why the British government concerned themselves with the task of educating juvenile vagrants and offenders.

Although the sentiment of needing to instruct and educate juvenile offenders was echoed in India by prison administrators and colonial officials, their motives were often related to a desire to control the juvenile criminal population rather than provide them with better

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<sup>443</sup> 1867 ICR, p. 230; 1838 Report, p. 117.

<sup>444</sup> 1867 ICR, p. 228.

<sup>445</sup> 'Ragged Schools,' cc. 897-920.

<sup>446</sup> Ibid.

opportunities. As previously discussed, Mouat showed particular enthusiasm for instructing prisoners and teaching them trades. He also advocated for some form of reformatory and expressed concern in 1867 that there was no special provision for the training and punishment of young offenders in the Lower Bengal area.<sup>447</sup> Carpenter pointed out that education was desired by those who had to deal with the incoming flux of juvenile offenders. Those connected with administrations of justice ‘expressed considerable anxiety that provision should be made for the education of criminal boys.’<sup>448</sup> The mantra of ‘useful members of society’ littered the parliamentary debates and writings on criminals in both the British and Indian contexts. However, while the British were concerned with reducing crime by ensuring an “honest” living for their prisoners upon their release, administrators in India defined “useful” in terms of obedience, submission and loyalty to the state through the pretext of “honest work”. This was where policy relating to juveniles in India distinguished itself from that in Britain. The purpose of education for offending or “at-risk” juveniles, while presented as having similar ends – specifically the chance for an honest means of gaining a livelihood upon release – was, in India, also concerned with curtailing future association with those who did not fit the criteria of a good native subject. As Sen has pointed out, the ‘racial identity and social location’ mattered because prison education was itself a process of ‘isolating juvenile delinquents from the society of criminals in the present and the future.’<sup>449</sup> As discussed in Chapter Two, the Government of India associated geographically settled people who engaged in “visible” work with law-abiding behaviour. The realities of poverty that were readily acknowledged in the British context were often ignored in favour of a focus on the discourse of criminal tribes and hereditary behaviour. Juveniles, who were easier to control and coerce, were ideal targets of colonial policies that pre-emptively addressed the issue of wandering and vagrant Indian populations.

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<sup>447</sup> Mouat, ‘On Prison Discipline,’ p. 25.

<sup>448</sup> Mary Carpenter, *Six Months in India* (London: Longmans, Green and Co., 1868), p. 77.

<sup>449</sup> Sen, *Colonial Childhoods*, p. 96.

A further explanation for the lack of focus on juveniles in the 1838 PDC and 1864 IC reports was the general lack of certainty or consensus in India on how to deal with juveniles. Any consideration of juveniles was largely subordinate to issues which affected the lives of adult male prisoners such as labour and health. Sen argued that up until the 1870s prison administrators were at a loss with how best to deal with native child criminals and segregation seemed to be the only consistent consensus on the matter.<sup>450</sup> Sen also pointed out that many did not ascribe to the belief that Indian juveniles were no different from their British counterparts. The concept of the “universal child” and the application of reformatory principles were therefore blocked by the need to distinguish the native Indian from the European race.<sup>451</sup> The 1830s was a period of uncertainty for the British trying to deal with both juveniles and adult prisoners. As we have seen, prison reform during the 1830s was aimed at coping with the immense task of creating and consolidating a more unified prison system for India, one in which consideration of pick-pocket children and the occasional troublesome “delinquent” was not prioritised. Britain also had yet to establish a unified approach to its “juvenile delinquents”.

### **Reformatories in India**

The lack of focus on juveniles in the 1864 IC report could largely be attributed to the tendency from the 1850s onwards to recommend providing a separate space for juvenile offenders, usually juvenile wards in the 1850s and 1860s. A push for reformatories much like the ones advocated in Britain was characteristic of this period. The setting up of the juvenile reformatory and industrial schools was a prominent feature of British prison reform.<sup>452</sup>

Industrial schools differed from reformatories as they tended to place emphasis on prevention

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<sup>450</sup> Ibid., p. 91.

<sup>451</sup> Sen, *Disciplined Natives*, p. 163

<sup>452</sup> King, pp. 114, 116, 140.

of juvenile delinquency through early intervention and were intended for children under the age of fourteen. Pioneered by Mary Carpenter, who also introduced them into India, reformatories were correctional schools intended for children, usually under sixteen years of age, who committed crimes that were punishable by imprisonment.<sup>453</sup> This chapter is primarily concerned with discussing juveniles within the prison context and not with the separate institution of schools for vagrant children of India. However, many of the “reformatories” in India were simply juvenile wards attached to prisons.<sup>454</sup> Much of what was considered the function of reformatory schools was carried out in prisons rather than in the separate institutions that were more characteristic of Britain. An 1861 Report on English reformatories emphasised the institution as a place to prevent rather than punish crime. Children were taken out of reach of harmful influences such as unfit parents and dubious peers and subjected to a system that sought to ‘prevent the growth of criminal habits in boys.’<sup>455</sup> Something similar to the reformatory schools in England was advocated by British proponents working in India.

In 1853 Charles Hathaway, Inspector General of Prisons in the Punjab, complained that the system in place for the punishment of juvenile offenders was inadequate, and detrimental to any hope of reforming their behaviour.<sup>456</sup> In 1866, George Hutchinson advocated the construction of reformatories for India based on the models used in England and Europe. He was avid in his recommendation of compulsory attendance at industrial feeding schools for ‘beggars’ and ‘vagrants’ in order to ‘rescue’ boys who had fallen under the law.<sup>457</sup> He went

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<sup>453</sup> Pamela Horn, *Children's Work and Welfare, 1780-1880s* (London: Macmillan Press, 1994), pp. 75-76. Literature relating directly to reformatories in Victorian England is limited. However, reformatories are discussed more broadly in the works indicated above on juvenile delinquency. Reformatories often receive attention in the many histories written on Victorian childhood. See for example Rose's *The Erosion of Childhood*.

<sup>454</sup> Sen, *Colonial Childhoods*, p. 91.

<sup>455</sup> ‘The new Report of the Inspector of Reformation,’ *The Times*, August 08, 1861, p. 6, issue 24006.

<sup>456</sup> Sen, *Colonial Childhoods*, p. 89.

<sup>457</sup> Hutchinson, *Reformatory Measures*, p. 166.



on to call the reformatory schools of England an ‘incalculable blessing’ for India and ‘of the greatest possible advantage to the state’ because it would act to reduce crime at its roots.<sup>458</sup> Carpenter also supported such an endeavour. In her work *Reformatory Schools* Carpenter suggested that good reformatory schools could be utilised instead of a gigantic prison which, in her mind, sent forth the young children only for them to return again and again, until they became hardened criminals.<sup>459</sup> Her insistence on the value of reformatories extended to advocating their existence in India. On her visit to the local jail at Ahmedabad she noted that there was an existing clause in the law which permitted an authorised reformatory in the district, even though no such establishment existed and nor was there any provision made for establishing one. She observed that the law appeared to be an isolated clause and not a complete Act formed as part of the laws of the country as with the ‘case of our Industrial and Reformatory Schools Acts.’<sup>460</sup> In the minds of colonial administrators and reformers, targeting children for reform was an opportunity to prevent crime. There was therefore support for the establishment of reformatories in India as an alternative to regular prison sentences. Given the increasing emphasis placed on the need to put at risk juveniles in reformatories, the reason for the lack of focus juveniles received in the 1864 IC report becomes slightly more evident. For example, the report noted that outside the Lucknow Central Prison a jail reformatory for juvenile offenders was set up in a set of Barracks where offenders from all districts were to be sent. The report went on to state that reformatories were also said to be established at Lahore.<sup>461</sup> The 1864 IC report therefore provided details of reformatories, reflecting contemporary views that stressed the need to provide more specialised facilities for juveniles.

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<sup>458</sup> Ibid.

<sup>459</sup> Mary Carpenter, *Reformatory Schools*, Reprint (New York: A.M. Kelly, 1969), p. 268.

<sup>460</sup> Carpenter, *Six Months in India*, p. 77.

<sup>461</sup> 1867 ICR, p. 172.

Like corporal punishment, reformatories also had their practical advantages. The all-consuming issues of over-crowding in Indian prisons added credence to the argument that more buildings and facilities needed to be constructed in order to better separate and categorise offenders. The 1864 IC report discussed separate barracks for juveniles alongside ways to combat accommodation issues and to meet space requirements. This included the suggestion of utilising store rooms, building new wards and even pitching tents.<sup>462</sup> However, the construction of facilities for juveniles was costly and was often rejected.<sup>463</sup> In 1867 Mouat noted that there were definite reservations about establishing an institution such as the reformatory recommended in the 1864 IC report. Many were concerned about the cost while others thought ‘unworthy’ parents in India would actually encourage their children to commit criminal acts in order to gain a free education and maintenance.<sup>464</sup> Juveniles were marginalised in the 1838 PDC and 1864 IC reports simply because it was not feasible to pile children into already overcrowded jails and it was deemed too expensive to ensure proper education and accommodation for them.

### **Criminal Tribes and the Child Criminal**

Although the 1838 PDC and 1864 IC reports marginalised juvenile offenders, the increased advocacy for reformatories indicated a heightened concern for the criminal child during the second half of the century. Anxiety over the Indian child in the 1860s coincided with the consolidation of ideas related to criminal tribes and the British understanding that criminal behaviour was not just habitual but hereditary. It was believed by British officials that children learned and inherited their criminal behaviour from their families and practised crime not just as a means to an end, but as a way of life. For example, Singha noted that British officials in India believed the male children of “thugs” were contaminated by the

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<sup>462</sup> Ibid., pp. 232-238.

<sup>463</sup> Sen, *Disciplined Natives*, pp. 162-164

<sup>464</sup> Mouat, ‘On Prison Discipline,’ p. 26.

thuggee cult and were therefore detained along with the gangs.<sup>465</sup> The repeated emphasis on both segregation measures and education and instruction for child convicts reflected how the juvenile delinquent in India was often, as Sen has established, associated with those identified as predisposed to criminal activity, the criminal tribes. This is where the situation in India diverged significantly from Britain. As Chatterjee pointed out, the concern over juvenile crimes was not as acute as it was for the thuggee. Juveniles lacked organisation, were less numerous and consequently they posed no real threat to imperial power. The future, however, was a concern.<sup>466</sup> Children were often seen as sponges, absorbing and reflecting the environment around them. Much of the policy directed toward Indian cultural practices such as sati and child marriage perpetuated the “rescue” mentality which was also present in the discourse on juvenile offenders in India. Because the British constructed criminality as a communal and social phenomenon in India, the logical consequence of this understanding was the assertion that children needed to be extracted from this way of life. Sen pointed out that the phenomenon of ‘rural delinquency’ as opposed to urban was not present in Britain. While in Britain most criminally minded children were thought to be products of poor parenting and confined to the cities, Sen identified the Government of India’s concern over the threat of uncontrolled and mobile rural children. Controlled by the adults of the supposed criminal tribes, these children were criminalised, not because of any criminal act they had committed, but because of their social identity.<sup>467</sup> Child criminals in India were open to further categorisation that went beyond the archetypes of the wandering vagrant or the pick-pocket synonymous with the juveniles of Britain.<sup>468</sup> Children who were “hereditary” criminals and therefore prone to habitual offending were identified as being different from children who committed one-off offences. In Britain the concern over juvenile offenders was

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<sup>465</sup> Singha, p. 209.

<sup>466</sup> G. Chatterjee, p. 20.

<sup>467</sup> Sen, *Discipline Natives*, p. 164.

<sup>468</sup> Mahood, pp. 20-21.

often fuelled by middle-class anxiety over the supposed degeneration of the family and the values associated with family life. Similarly, British officials were concerned that criminal activity was being reinforced as an acceptable way of life in India for children who grew up within communities labelled as criminal tribes.

Hutchinson demonstrated the Government of India's preoccupation with criminal tribes in his report while discussing the 'Thuggee Department'. He praised its efforts to reform its prisoners, noting that they established industrial prisons where not only the thug was kept but also his whole family. Here, children were trained in the 'habits of industry' and their manufactured wares were well known throughout India. Hutchinson proclaimed this as a wise move, remarking that the children had to be cared for otherwise they would try to follow in the practices of their father. He believed that by 'taking care' of the whole family and utilising, as he called it, 'the humanizing and beneficial influence of family ties', the administration acted to prevent future crime while also ensuring that the family paid for the support of the thug with their labour. He expressed the hope that sixteen boys, then being taken to the police, would benefit from this system and 'shake off the bad instincts [attached] to their birth'.<sup>469</sup> Hutchinson's discussion revealed the importance placed on the criminal's family interactions, targeting not just the criminal but their background, family and way of life. This was a complex task which could not be adequately addressed in the short prison sentences given to juveniles. To compensate, the 1864 IC report placed more emphasis on education for juveniles. These children were not just the street urchins of England or even the vagrants of the Indian cities. These children were perceived as "hereditary" criminals, something far more threatening to the colonial state and its plans for India. As Sen asserted, 'deeply entrenched notions about the incorrigibility of certain subgroups of Indian criminals'

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<sup>469</sup> Hutchinson, *Reformatory Measures*, p. 213-215.

meant ambivalence about how children should be treated, especially ones thought to largely come from hereditary sections of criminalized populations.<sup>470</sup>

The brief inclusion of juvenile criminals under the prison reforms of the 1860s merely foreshadowed more stringent and formal attempts at dealing with criminal children which were beginning to emerge in the 1870s and consolidated in the post-First World War period.<sup>471</sup> George Hutchinson, who consistently articulated the importance of addressing the needs of child prisoners, praised the ‘great improvements’ made in 1864 in the areas of sanitation, diet, bedding and clothing. However, he proposed that reformatory principles, as understood in Europe, were not yet being incorporated and lamented that the system did nothing to try and improve the prisoners morally. On the contrary, he believed the prison tended to degrade and demoralize individuals.<sup>472</sup> Hutchinson’s comments pinpointed the reality of the 1864 IC. Sanitary regulations, while necessary, did not address more complex prison issues such as reform, rehabilitation and the criminals’ behaviour. The sheer detail on health and administration in the report skirted the problematic realities of criminals. In the case of juvenile offenders, Chatterjee noted that there was hesitation to initiate reform for the children of the “criminal tribes” for fear of revolt.<sup>473</sup> While the emphasis on health in the 1864 IC report has already been explained in this thesis in terms of contemporary trends and civilising rhetoric, prison administrators evidently chose to focus on the problems they knew they *could* comprehend and address with some success.

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<sup>470</sup> Sen, *Discipline Natives*, pp. 163-164.

<sup>471</sup> Sen, *Colonial Childhoods*, pp. 90-91.

<sup>472</sup> Hutchinson, ‘Address on the Treatment of Criminals,’ p. 5

<sup>473</sup> G. Chatterjee, p. 143.

## Female Prisoners

The female prisoners in India were not as highly prioritised by reform measures as juvenile criminals. Numerically, prison reports and returns demonstrated that male prisoners vastly outnumbered their female counterparts. In 1856, prison returns for Bengal showed female prisoner numbers were frequently in single digits while the men numbered in the hundreds in just one jail. Arrah jail in Shahbad for example recorded 424 males and just three females.<sup>474</sup> Sen identified infanticide, prostitution and petty theft or vagrancy as the most common crimes committed by women in colonial India, noting that there was often reluctance from authorities to confine women. Prison sentences were rare for women who had committed infanticide and lock hospitals became an alternative system of incarceration for women who prostituted themselves.<sup>475</sup> Sympathy toward Indian women who had committed infanticide was often the most common response in the first half of the nineteenth century, especially if the woman was unmarried or widowed.<sup>476</sup> Because of their meagre prison numbers, women confined to prisons in India were often not given the attention afforded to men. Sen's research has focused on the prisons of the Punjab, revealing that mortality rates for female prisoners were higher than males and men typically received more rations.<sup>477</sup> According to Sen, more attention was given to female convicts in the later period of the nineteenth century and up until the 1870s, much like their juvenile counterparts, prison reform did not prominently feature women. Even so, by 1870, the majority of the prisons in the Punjab region provided women matrons and separate wards for female prisoners. Nonetheless, prison

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<sup>474</sup> Mouat, *Report on the Jails of the Lower Provinces*, p. 10 (index).

<sup>475</sup> Sen, *Disciplined Natives*, pp. 220-221. For more on the female criminal see Anagol, 'Women Crime and Survival Strategies,' in *The Emergence of Feminism in India*, pp. 141-179.

<sup>476</sup> James Mills, *Madness, Cannabis and Colonialism: The 'Native Only' Lunatic Asylums of British India* (London: Palgrave Macmillan, 2000), pp. 97-100; and Anagol, p. 158. Sympathy for women who had committed infanticide was also evident in England and Europe. Some emphasised that women who killed their new born babies felt acutely ashamed and were acting on a desire to save their child from a life of misery. Marital status was also taken into account and women who were unmarried were less likely to receive condemnation for their action. See Lucia Zedner, *Women, Crime and Custody in Victorian England* (Oxford: Clarendon Press, 1991), pp. 29-30.

<sup>477</sup> Sen, *Disciplined Natives*, p. 233.

administrators cited the need for an improvement to facilities for women prisoners prior to the 1870s.

Both the 1838 PDC and 1864 IC reports mentioned women, though they were given even less consideration in the reform measures than juvenile offenders. Two clear recommendations for the care of female prisoners were made in the 1838 PDC report. Firstly, women must be separated from male prisoners, presumably in an effort to insulate them from sexual contact and secondly, physical punishment should only be used on female prisoners as a last resort. Beyond this, the most that the 1838 PDC report had to say on the matter of women was to advise that they should not be put to work on the tread-wheel.<sup>478</sup> The 1864 IC was also reluctant to physically discipline women, recommending that women were not to be fettered unless they became extremely violent.<sup>479</sup> Punishment or efforts to deter women from crime were therefore complicated by the fact that unlike children, prison administrators were reluctant to whip or flog female prisoners. Much earlier in the century, Britain was also ambivalent about inflicting corporal punishment on females, as evidenced by the 1817 Bill, which proposed abolishing public whipping for the punishment of females.<sup>480</sup> The 1864 Act which authorised the punishment of whipping in India also specified that females were not to be whipped.<sup>481</sup> Physical punishment was therefore gendered, indicating a reluctance to inflict pain on women despite the fact that children, who were often small and vulnerable, were not given the same consideration. By the time the 1864 IC released its report, more rigorous efforts were being made to separate females from males and each other even though separate jails were not forthcoming.

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<sup>478</sup> 1838 PDC report, pp. 12, 16, 21.

<sup>479</sup> 1867 ICR, p. 85.

<sup>480</sup> 'Bill to Abolish Punishment of Public Whipping on Female Offenders,' HC PP, 1817.

<sup>481</sup> *A Collection of the Acts Passed by the Governor General of India in Council for the Year 1864* (Calcutta: Military Orphan Press, 1865), p. 21.

The 1864 IC report's resolution on the matter of separate confinement was to make females a distinct category of offender, to separate them from male prisoners and to provide female turnkeys and attendants for the female wards. Furthermore, it was recommended that women in central prisons be supervised by English or Eurasian Matrons.<sup>482</sup> In the years before the 1864 IC, efforts at separation were evident, however in many instances jails often failed to provide even the most basic of separated accommodation for women. In 1856, in a Sandoway jail, Mouat was appalled to find female prisoners separated from male prisoners by no more than a mat partition which the men could easily look over and see the women.<sup>483</sup> Around six years later C. G. Wiehe noted in the Benares jail that female and civil prisoners were kept in the same building and that there was no distinction made between female civil and convict prisoners.<sup>484</sup>

Despite the scarcity of separate prison facilities for women, there were exceptions. Most notable was the Lahore Penitentiary for women. The 1864 IC report argued that this prison was possible because it only had to accommodate a small number of female civil prisoners.<sup>485</sup> The jail in Alipore had a completely separate building for its female prisoners with premises 'far better' than any other Carpenter had seen.<sup>486</sup> Financial stability was an important factor in ensuring such facilities at Alipore where, as demonstrated in Chapter Two, the printing press work done by the inmates helped pay for the upkeep of the prison. Ultimately however, the low numbers of female prisoners negatively affected the 1864 IC report's recommendations on confinement. In Mysore for example, it was stipulated that the low female numbers did not warrant the construction of separate facilities.<sup>487</sup> A separate

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<sup>482</sup> 1867 ICR, p. 60.

<sup>483</sup> Mouat, *Report on Jails Visited and Inspected*, p. 189.

<sup>484</sup> Wiehe, *Journal of a Tour of Inspection*, p. 28.

<sup>485</sup> 1867 ICR, pp. 208-209.

<sup>486</sup> Carpenter, *Six Months in India*, p. 202.

<sup>487</sup> 1867 ICR, p. 264.



penitentiary for women was desired in Oude, but again the 1864 IC report argued that the number of long-term prisoners did not justify its construction. It was noted however that the females had a separate hospital and were cut off from communication with the male prisoners. In British Burmah (sic) women were separated from men but not among themselves. This meant that civil, untried and tried women were incarcerated together.<sup>488</sup> This was a common problem. Men were meticulously divided into categories according to their offence while the approach to juveniles was mixed. Women however, were lumped together, so that a petty thief could be confined with a murderer. Additionally, the 1864 IC report stipulated that hiring a European female matron for the Burmah jail was not possible because her salary would be too high.<sup>489</sup> Such examples were common when administrators considered accommodation for women criminals. Like separate confinement, cost was the crucial factor that barred the construction of facilities and the hiring of appropriate staff. Although there were attempts at separate facilities for women, the already vastly overcrowded jails hindered efforts to provide separate accommodation for male prisoners. Exceptions for a marginal female population were therefore unlikely. In her work *Six Months in India*, Carpenter frequently referred to incarcerated Indian women as ‘wretched’ and expressed her shock at the conditions in which they were kept. Upon observing both the Surat and Ahmedabad prisons, her biggest concern was that women were ‘herded’ together and that they were being looked after by male warders. Again, this time in the Jail at Kishnaghur, she noted that women ‘of the worst character’ were locked up together under male warders. Similar conditions were also noted at the Calicut jail in Madras where ‘murderesses’ were confined with petty criminals.<sup>490</sup> Carpenter made these observations after the 1864 IC convened, indicating that the problem was ongoing.

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<sup>488</sup> 1867 ICR, pp. 228, 254.

<sup>489</sup> Ibid.

<sup>490</sup> Carpenter, *Six Months*, pp. 51, 266, 297.

## **Criminality of Indian Women**

Indian female prisoners were often perceived by the colonial authorities as out of control, oversexed and ‘fallen’ women or as victims who were in desperate need of protection from the British administration.<sup>491</sup> In Britain, the perception of criminal women was similar.

Criminal women were often seen in Britain as victims of their own emotional fragility or, at least in the case of prostitution, led astray by wicked men. Prison authorities in Britain often described female prisoners as wild, passionate and uncontrollable inmates prone to violence and fits of screaming or crying.<sup>492</sup> To combat such inappropriate female behaviour, a group of volunteer women workers known as the ‘Lady Visitors’ visited female prisoners in England in order to exert a moralising influence. It was hoped that by associating with women of a higher social standing the prisoners would seek self-improvement.<sup>493</sup> SIPD’s Fourth report in 1822 spoke of how the Ladies’ Association at the Borough Compter, a prison in central London, extended their ‘kind care’ and humane influence to the prisoners. The report also emphasised that a matron was necessary for female prisoners if the positive influence was to continue.<sup>494</sup> This idea was used again decades later in colonial India by Carpenter. She likewise emphasised the potential of European females to be a positive and civilising influence on Indian women who had ‘fallen’.<sup>495</sup> In Chapter One, we saw how the promotion of education by the British in both India and Britain revealed the overlap of class and race based concerns. Similarly, efforts to civilise female prisoners demonstrated the preoccupation with civilising both the lower classes in Britain and the destitute. The visiting women were prized for their middle and upper classes values and in India because they possessed the ‘higher’ influences of Western values. As with juveniles, the criminality of

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<sup>491</sup> Sen, *Disciplined Natives*, p. 219.

<sup>492</sup> Forsythe, pp. 128-129.

<sup>493</sup> Zedner, pp. 122-123.

<sup>494</sup> SIPD, Fourth Report, pp. 43, 67.

<sup>495</sup> Mary Carpenter, *Suggestions on Prison Discipline and Female Education in India* (London: Longmans and Co., 1867), p. 18.

women in India was blamed on the wider cruelties of their society. Carpenter's desire to provide European matrons for the women prisoners attested to the perception of Indian women as misguided victims of an unforgiving culture in need of maternal and preferably white middle class female attention and guidance.

### **The Needs of Women Prisoners or Their Children?**

By the 1860s it was evident that female prisoners were beginning to be given slightly more specialised attention despite their low numbers, foreshadowing later efforts in the 1870s. Prison reforms aimed at women during the 1860s increasingly reflected the emerging discourse relating to the nineteenth-century ideal of women as homemakers. Judith Walsh argued that during the nineteenth century there was a global discourse on domesticity originating in the 'bourgeois, European ideas on home and family life', which formed part of the colonial civilising mission in India.<sup>496</sup> This discourse was evident in the prison reform measures related to incarcerated women and their children. Often, when a woman was convicted of a crime and sent to prison in India, her baby or young child was incarcerated along with her out of necessity. Mouat in particular expressed concern over this practice citing the case of a child who was born in jail to a mother who was serving time for murder. Mouat insisted that children in such circumstances should not be brought up by an 'unfit' guardian nor should they be brought up within the walls of prisons, resolving that they must be sent away to be cared for by relations. He noted that these children were often neglected, mentioning the case of an eight year-old boy who received half the amount of rations allowed to his mother and the other female prisoners.<sup>497</sup> The 1864 IC report resolved that if a woman was still nursing her child or children, they were to remain with her in prison until the age of two whereupon they were to be released to relatives or guardians for the remaining duration

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<sup>496</sup> Judith Walsh, *Domesticity in Colonial India: What Women Learned When Men Gave Them Advice* (Lanham: Rowman and Littlefield Publishers, 2004), p. 2.

<sup>497</sup> Mouat, *Report on Jails Visited and Inspected*, pp. 151, 228.

of their mother's sentence.<sup>498</sup> During her visit, Carpenter also expressed trepidation over the wellbeing and future of such children. In the Alipore jail she was appalled at the number of the female prisoners who had their young children with them.<sup>499</sup> Carpenter's concern was related to the preoccupation with targeting children in order to prevent the causes of crime in India. Concern was also directed at the impact incarcerating females had on their broader obligations as mothers. The European middle-class emphasis on the role of women as wives and mothers, family values<sup>500</sup> and the anxiety over hereditary crime in Indian society underpinned the considerations of Mouat, Carpenter and the 1864 IC report. As demonstrated earlier in the chapter, a similar concern was evident in Britain, however, the Government of India was already struggling to deal with the cultural minefield of female issues such as sati, infanticide and child marriage which threatened the colonial notion of a stable social sphere. Criminal women were therefore seen as yet another distortion of the family unit in India. Consequently, children and the ideal of family values rather than actual women were the primary target of these reform recommendations. Like juvenile prisoners, the offspring of female prisoners not only needed to be "rescued" from their destitute lives, they also had to be integrated back into the domestic sphere by placing them with appropriate caregivers.

### **Labour and Education for Females**

As for the male prisoners, prison labour and education for women was aimed at combating idleness, instilling habits of industry and a work ethic. This sentiment harked back to the recommendations of Elizabeth Fry who advocated teaching criminal women in Britain to be proficient in tasks such as sewing.<sup>501</sup> As we have seen, education in Indian prisons eventually came to mean training in industry or trades. This mode of "prison reform" was ultimately

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<sup>498</sup> 1867 ICR, p. 71.

<sup>499</sup> Carpenter, *Six Months*, p. 203.

<sup>500</sup> Walsh, p. 12.

<sup>501</sup> Zedner, pp. 116-120.

aimed at combating the mobility of the released prisoners and generating revenue for the upkeep of the prisons. However, as Sen has noted, prison education for females was not solely concerned with profit and inculcating productive work habits but also with reformatory and moralising work.<sup>502</sup> Attempts at education more generally for Indian women were minimal at best during the nineteenth century despite the fact that there was much debate and discussion on the subject among both the Indian élites and the British. Early in the nineteenth century only missionaries and the private initiatives of colonial officials advocated education for females as the Government of India did not declare support for it until 1850.<sup>503</sup> In his discussion on gender and education in colonial India, Seth noted that advocates for women's education believed it would help them to become better wives, mothers and increase the efficiency of household management. In particular, many thought education to be important for women so they could better instruct their children.<sup>504</sup> Carpenter emphasised that instruction for Indian girls should be aimed at training them in the habits of 'neatness' and 'order' and competence in needlework 'which are so essential to a woman in whatever position in life she may be placed'.<sup>505</sup> Similarly, prison education for women in colonial India became about reinforcing their role in society as perceived by both Indian and British contemporaries, a role, as we have already seen, closely associated with domesticity. As with the 'lady visitors', this was simply a reworking of the measures that were recommended in the very early stages of British prison reform at the beginning of the century. For example, SIPD recommended keeping female convicts 'busy' with sewing, washing and mending.<sup>506</sup> In India, although Carpenter applauded the attention paid to industrial work in prisons, she lamented that the nature of the work for women would do nothing to improve their

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<sup>502</sup> Sen, *Disciplined Natives*, p 217.

<sup>503</sup> Seth, pp. 130, 137.

<sup>504</sup> *Ibid.*, pp.139-141.

<sup>505</sup> Carpenter, *Suggestions on Prison Discipline*, p. 13.

<sup>506</sup> SIPD, Fourth Report, p. 79.

character.<sup>507</sup> Mouat's stance was to emphasise work 'suitable for their sex' such as spinning thread, weaving or paper-making.<sup>508</sup> In Shikarpoor jail, Wiehe applauded the use of female convicts to cook the food for the whole prison. He declared that not only was this fitting employment for women but also that the food was better prepared as a result.<sup>509</sup> The Lahore Female Penitentiary prison was notable for its efforts to teach reading and writing to its inmates, however, the women were generally employed in weaving cloth for prison clothing, knitting and spinning worsted or cotton.<sup>510</sup> Like the males, the women also generated revenue for the prison, but by doing work specifically aimed at their gender which would encourage them into the refined female role they had forsaken. The idea of female convicts as "useful" has been explored by Sen, particularly in relation to the penal colony in the Andamans. Here, the purpose of many criminal women was to become wives for the male convicts in order to prevent the forming of male same sex relationships.<sup>511</sup> Carpenter suggested that work for incarcerated women 'should be of a kind to fit the women to earn their livelihood on their discharge', a concept that was widespread in the mainland prisons. Work that was deemed appropriate and "useful" for women was advocated in order to create, as Sen put it, 'productive, orderly and modest members of the labouring class.'<sup>512</sup>

## Conclusion

Carpenter often expressed her moral outrage when confronted with substandard prison conditions in India. Upon visiting the county jail in Bombay she observed that the 'condition and habits of the women were so filthy', exclaiming that female prisoners were left in this

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<sup>507</sup> Carpenter, *Suggestions on Prison Discipline*, p. 18.

<sup>508</sup> Mouat, *Report on Jails Visited and Inspected*, p. 18

<sup>509</sup> Wiehe, *Annual Report on the Jails in Sind*, pp. 51 and 56.

<sup>510</sup> *Report of the Official Inspector General of Prisons in the Punjab*, pp. 51-52A.

<sup>511</sup> For full discussion see Sen, 'Rationing Sex: Female Convicts in the Andaman Islands' in *Disciplined Natives*, pp. 243-273.

<sup>512</sup> *Ibid.*, p. 217.

state ‘in a country under British rule!’<sup>513</sup> Her expression of disgust that such conditions existed in a British run country expressed the true source of the Government of India’s concern with Indian prisons: They were defective institutions that reflected poorly on the British administration. Similarly, the female and juvenile prisoners who lived in squalor undermined the ‘caregiver’ role of the colonial government. Reforming juvenile and females prisoners through education was given more attention because the existence of destitute women and children in India represented the failure of colonialism itself. Ultimately, “prison reform” for female prisoners simply meant reinforcing the narrow nineteenth-century perceptions of a woman’s role in society, directing behaviour through instruction and ensuring control over the future of their children. Juvenile offenders occupied a unique place under the prison reform measures, one that genuinely tried to distance them from the discourse of adult native penal discipline. While the 1838 PDC simply emphasised the need for juveniles to be properly segregated from the rest of the prison population, the 1864 IC report went further and attempted to more closely target the placement of children in Indian jails. The report did this by recommending that juveniles be distanced from the prison space, largely conceived as an adult space, through reformatories, and using corporal punishment as alternatives to lengthy prison sentences. Colonial prison administrators were often distracted by the enormity of ensuring that even basic jail facilities and standards were kept up to standard in overcrowded jail cells. Separation and education were difficult to sustain for an extended period and corporal punishment was therefore increasingly relied upon. A lack of consensus on how best to educate juveniles, lack of financial commitment to invest in separate facilities and reformatories for children and ambivalence about the capability to reform the behaviour of Indian children blocked more stringent efforts in this area of prison reform. This could largely explain why juvenile offenders did not feature as prominently in

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<sup>513</sup> Carpenter, ‘An Account,’ p. 16.

the 1838 PDC and 1864 IC reports, though it cannot fully explain the British colonial approach to juvenile offenders. As Sen, and to a lesser extent Chatterjee have argued, the discourse on criminal tribes and the desire to influence and educate Indian children in a British manner largely informed the type of prison reform aimed specifically at Indian children. The link made between criminal tribes and passing on hereditary criminal behaviour to impressionable children was evident in the pursuit of segregating and instructing child prisoners. In many ways, Britain's concern over its own juvenile delinquent population mirrored its treatment of not just Indian juvenile criminals but also of adult criminals and even the wider Indian society. Criminals and the so-called "criminal tribes" were at the heart of what British observers saw as a backward and morally corrupt way of life in India. Like juvenile delinquents, criminal tribes were constructed by the Government of India as underdeveloped communities incapable of making the correct decisions for their own welfare. The British government positioned itself firmly as the caregiver and protector of juvenile delinquents in Britain, often emphasising the role of legislative efforts in "rescuing" children. The Government of India sought to control and mould Indian juveniles while simultaneously distancing itself from the responsibility in the event of failures due to the supposed incorrigible nature of native children. In a jail in Alipore, Calcutta, Carpenter reflected on the condition of a child incarcerated with its mother:

How unconscious is it of the degradation around it! What is to be the future of that little child? Whose duty is it to shape its destiny? The State has deprived it of its natural guardian – who is to take her place? An answer would involve many grave considerations.<sup>514</sup>

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<sup>514</sup> Carpenter, *Six Months*, p. 203.



Although the child Carpenter was referring to was not in fact a criminal, her rhetoric highlighted how the colonial state perceived their purpose in India: one of a civilising influence helping to elevate Indian society and its people and practices, and one that cast the Government of India in the role of the parent who had to “care” for its wayward children, their mothers and by extension Indian society. This was an approach that seemed indicative of the administration’s approach to all of India’s criminals and destitute, regardless of whether they were children or adults.

## Conclusion

In his writings on Indian criminality in the nineteenth century, Brown noted that in 1829 William Bentinck, Governor General of British-India from 1829 until 1835, once referred to sati as a ‘foul stain on British rule’ that needed to be washed out. Brown argued that infanticide, slavery and thuggee were similarly targeted for this reason.<sup>515</sup> Mani concluded that although sati was ultimately viewed as a law and order issue by the East India Company, the emphasis on the ethical implications of allowing widow burning came from public opinion and missionaries in Britain. The allowance of such a practice under British rule was deemed morally reprehensible.<sup>516</sup> Likewise Wagner noted how thuggee was seen as a ‘blemish upon the British rule in India’ and that it undermined the establishment of British law.<sup>517</sup> Here, post-colonial historians of India argue that the British were concerned about local practices in India and that the allowance of them to continue reflected poorly on the colonial administration. This argument resonates particularly with the case of prisons in nineteenth-century colonial India. The high mortality rate, unsanitary conditions, issues of overcrowding, inadequate accommodation and the lack of a uniform system in the prisons of the Presidencies reflected poorly on the Government of India and potentially undermined its legitimacy as competent rulers. Furthermore, the state of women and juvenile prisoners also acted to undermine the role of the colonial Government as protector and carer, two roles that were linked to attempts at legitimising and justifying colonisation. Basic needs in prisons were not being adequately addressed by the administration. For the British during this period, the prison was an institution symbolic of order and civility and the attempt at reform between the 1830s and 1860s reflected the desire to maintain it as such. Therefore, although the 1838

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<sup>515</sup> Mark Brown, ‘The Most Desperate Characters in All India: Reconsidering Law and Penal Policy in British India,’ *Punishment and Society*, vol. 3, no. 3 (2001), p. 436.

<sup>516</sup> Mani, pp. 195-196

<sup>517</sup> Wagner, p. 220.

PDC and the 1864 IC differed in their approaches and areas of focus, in terms of the primary objectives of reform measures they both desired control and maintenance of order. These were the areas in which both the reforms of the 1830s and 1860s were of single purpose. The 1838 PDC attempted to achieve a sense of order through classification of prisoners and a more rigid approach to diet and discipline in order to cut down on expenditure. The 1864 IC report focused on health and sanitation in order to foster an environment more conducive to organisation of labour, to preserve a uniform system and reinforce a sense of benevolence. For the British, the prison was not just a means of incarcerating criminals in India; it was also an institution that represented political presence and authority. Prison reform was therefore akin to a public relations exercise on a grand scale: a constant battle to perpetuate the illusion of control and order the colonial government strove for in India.

As shown in the first section of this thesis, the adoption of ideas from the British prison system has been evident. As in Britain, prison officials in India promoted the separate system and paid greater attention to addressing the needs of women by the second half of the nineteenth century. In both Britain and India officials emphasised the need for an adult-free space for juvenile offenders while also favouring the use of corporal punishment for children. By the 1850s there was a push for instruction in trade and the assertion that prison must be aimed at deterrence and therefore be ultimately punitive in function. While these ideas were never fully integrated into the Indian penal system they nonetheless helped to shape and form a basically British model with priorities that reflected an imperialist agenda. Often these adopted ideas were not a good fit for the Indian environment although prison officials like Mouat, Hutchinson and Wiehe advocated elements of the English prison model that included tickets-of-leave, “European” education and facilities for juvenile offenders. Separate confinement and a uniform system were undermined by the immensely high number of

prisoners, dietary requirements that violated the rules of purity dictated by caste and the issues of overcrowding and climate which dogged efforts at health reforms.

Overall, despite the use of similar methods, British reformers were more focused on the reformation of criminals, while in India education and any other methods aimed at rehabilitation were marginalised because of the understanding that Indian criminals were unable to be reformed. However, reformers nonetheless discussed the possibility of behavioural reform, especially in relation to the criminal tribes. Prison reform was in its infancy in 1830s' colonial India and even the prison itself was a fairly new concept. The thirty years that followed saw a more detailed conception of how prisons in India should look. While the British Government in England seemingly put more effort into attempts to reform and rehabilitate its prisoners for their own good, by the 1860s faith in evangelical-like reform had waned and the emphasis on deterrence and more punitive measures was evident in both Britain and India. Additionally, the depiction of many British criminals by the upper and middle classes as underdeveloped and savage individuals was reminiscent of the race science and social Darwinism that characterised the treatment of Indians. This was also the period when the Government of India was more invested in attempts to reshape the behaviour of India's criminal population. The clearest distinction between Indian and British prison reform during the 1860s was how the British defined the Indian "criminals". Although previously explored by other historians, this colonial concept of the "criminal" has particular significance for this thesis as it often dictated the type of prison reform recommended by prison administrators. The prison reforms of colonial India reflected the British construction of the Indian criminal as a disloyal subject and furthermore the construction of crime as a collective phenomenon. This is most evident when we examine the changing role of prison labour and education. From the 1850s Indian prisons witnessed a shift towards the greater

utilisation of prisoner labour as prison life was increasingly directed towards engendering a work ethic in prisoners, with a particular emphasis on settled agriculture and trades. It was hoped that even simple acts like tending the prison gardens and cleaning out a cell would foster practical skills in prisoners, while more challenging work such as carpet-making and carpentry would inculcate marketable skills. The prison reform of the 1860s saw labour and education in India intersect and became of similar purpose with the ultimate goal of preparing prisoners for a productive and subordinate status upon release. All of this points to the ongoing preoccupation with the “criminal tribes” in India. Consequently, the British definition of Indian criminals shaped their approach to prison reform. This definition saw prison officials eventually emphasise rehabilitative work and attempt to minimise collaborative interaction between prisoners. Although prison officials in India incorporated many elements of British prison reform, they were considering the long-term subjugation of “hereditary” crime.

From the 1850s onwards, health and sanitation was at the centre of the reports and returns of various jails across the Indian Presidencies. The high rate of mortality in the prisons was an immense distraction and explains the stringent efforts of the prison administrators. This is evident from the sheer volume of health and sanitation data in reports and returns from the 1850s onwards. The shift of focus to health can be explained in terms of the increasing awareness of the role of good sanitation in preventing diseases. However, the uncertainty as to how to treat disease in the 1860s suggests sanitation reform was the means to compensate for this lack of knowledge. As with the emphasis on administration, the health recommendations reflected the desire to maintain a sense of cohesion and control. The reforms were presented by the 1864 IC and individuals like Mouat as humanitarian acts from a benevolent government. John Clive has emphasised that while nineteenth-century prison

reform was not on par with twentieth-century efforts, it should be regarded as innovative for its time and considered humanitarian in aim, if not in method.<sup>518</sup> This is a reasonable conclusion when examining the approaches to reform proposed by Mouat, James and George Hutchinson who often cast their recommendations in the language of humanitarianism. Additionally, Emsley's discussion of moral entrepreneurs presents the possibility of assessing the acts of individual recommendations on their own terms. This is especially true of Mary Carpenter who drew attention to the more neglected sectors of prisons: women, children and education. Efforts to curb disease and mortality were practical undertakings but Mouat often asserted that imprisoning sick criminals was hardly a sensible or necessary practice. Figures like Carpenter and Mouat should not be reduced to the status of actors playing a part in the story of British imperialism and colonisation. However, in this context, "humanitarianism" was definitively an aspect of imperial discourse not a goal separate from the ultimate aim of increasing stricter control of prisoners and their lives. There is little evidence to suggest that any of the reforms were exclusively beneficial for the prisoner. The prevailing motivation behind the health reforms was the potential of disease to affect the ability of prisoners to work. The introduction of Medical Officers to the prisons during the 1860s was ultimately to ensure prisoners were genuinely sick before they were exempt from labour. Colonialism was not the only ideology in play as such a fixed and narrow interpretation does not allow for the growing influence of humanitarian and philanthropic ideas that were developing in the nineteenth century. These ideas saw greater attention being given to the rights of criminals and also other potentially marginalised groups such as children. However, humanitarian and philanthropic activities were aspects of colonialism in India, not separate endeavours. The importance of "caring" for others reinforced for the British the importance of intervention in India from a "moral" and prosperous nation.

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<sup>518</sup> John Clive, *Thomas Babington Macaulay: The Shaping of the Historian* (London: Secker and Warburg, 1973), p. 448.

What was evident in both the 1838 PDC and 1864 IC reports and in the returns and reports of jails was a lack of interest in implementing reform measures that directly addressed the prisoners themselves. The British had an immense task to try and achieve a uniform prison system in India. In attempting to deal with disease, mortality and overcrowding, little room was left for other areas of prison administration to be adequately addressed. Simply ensuring the overall maintenance of functioning prisons encompassed much of the reform efforts. Other issues were consequently glossed over. Women and children were marginalised, reformation of the prisoner's character was often dismissed and even accommodation was generally discussed only in terms of how it affected the health of prisoners. In the 1864 IC report, the emphasis on profit and expenditure was an attempt to prop up the struggling institution. The financial aim of prison labour has not been emphasised enough by historians in the past. As well as increasing the efficiency of penal discipline, the emphasis on industrial trades and manufactures proved to be financially lucrative. With the possible exception of mortality, reports on prisons in the 1850s and 1860s show that the financial hardships faced by prisons was of greatest concern to administrators. By the 1850s it was evident that prison expenditure, profit and resources were all carefully monitored. Even punishment, both physical and mental, was invariably put aside to ensure the facilitation of a productive working environment. Although the work itself was a form of punishment, by the 1860s punitive or mindless labour was no longer prioritised by prison officials.

Attempts to ensure "order" and control within the prisons were also evident in the emphasis on categorisation and surveillance. In both the 1830s and 1860s a rigorous categorisation of offenders and their status was one of the main ways in which prison officials sought to maintain a sense of cohesion and order in the overcrowded jails. However, while the 1838

PDC primarily focused on classification according to crime, the 1864 IC report intensified this to include statistics on health status, caste, religion, the type of work the prisoners were employed to do, their education and a variety of other seemingly inconsequential facts, all of which was aimed at perpetuating a sense of control over the criminal population. Surveillance was considered crucial to the Government of India's attempts to curb future crime and disloyal tendencies towards the colonial state. Consequently, the efficacy of identification and classification were emphasised in prisons. The information gleaned from the prison population was of immense value to the colonial administration. Through the prison population, the Government of India could learn more about its subjects on issues such as health. Autopsies could be performed, vaccinations were administered without legitimate resistance and furthermore the prisons became hubs of sanitary activity. The subordination of the prisoners as both criminals and native subjects was the essential component that allowed the collection of such knowledge.

The place of women and children in prison reform reflected the wider experience of all prisoners in colonial India. The first half of the century merely focused on the issues of cost-cutting techniques rather than the needs of individual prisoners. Consequently, the different needs of female prisoners were given little consideration before the 1860s, especially because their numbers were so low. However, although limited in scope, the reform recommendations of the 1860s made assumptions about the nature of criminals based on whether they were male, female or juveniles. Prison officials increasingly tried to address prisoners in distinctive groups. This was an improvement from the homogenised reforms of the 1830s. Education of a more academic nature was generally only recommended for juvenile prisoners for it was believed that they were still young enough to not only mould, but also to instil an appreciation of learning and thus a desire to abandon criminal pursuits. Reforms that



considered women were aimed specifically at fostering the Victorian concept of the female in prisoners. Female prisoners were seen as mothers, home makers and wives and female crime was conceptualised as a moral crisis rather than a social or economic problem. Similarly, it was recognised that juveniles had different needs and required separate attention and space from their adult counterparts. The specific needs of women and juvenile criminals in India were more thoroughly reflected upon by individuals such as Carpenter, Mouat and G. Hutchinson than the 1838 PDC and 1864 IC. Suggestions and approaches in their writings gave particular focus on the need to educate and to civilise women convicts and to shelter and deter juveniles. Again, despite the lack of money and resources, discussions about the reform of women and children were not lacking from prison administrators. A discourse on female and juvenile prisoners was present, but it was often side-lined by the 1838 PDC and 1864 IC in the consideration of broader reform policies.

Despite the Government of India's preoccupation with progress, there was also present the underlying sentiment that India and its people were incapable of rapid growth and development. Sir Charles Wood remarked in 1853 that in India 'you have a race of people slow to change, bound up by religious prejudices and antiquated customs'.<sup>519</sup> While the Victorian era was invested in the 'civilising process' of its English criminals, the experience of prisoners in India was marginalised by the British because of the Indians' subordinate status both as criminals and as subjects of British rule.<sup>520</sup> The "othering" in India was twofold, based in both race and criminality. Indians were often constructed as criminals by the British on the basis of their lifestyle and practices. Drawing on Darwinist theories that "backward" races were more prone to commit crimes, criminal behaviour was considered to be a hereditary trait for groups classified as "criminal tribes". Although reform

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<sup>519</sup> 'Government of India,' HC Debate, 03 June 1853, vol. 127, cc. 1092-1951092. Hansard.

<sup>520</sup> See Wiener's argument on civilising English criminals in *Reconstructing the Criminal*, p. 49.

recommendations may have reflected an altered version of British policy, there was often a tendency to treat Indian prisoners as inherently lacking in the ability to benefit from attempts at behaviour modification. There was no comprehensive effort to create new or innovative strategies to cater for prisons in an immensely diverse country which had different needs to Britain. For historians, the colonial prison in nineteenth-century India can ultimately be viewed as a microcosm of Indian society under British rule because of what it can tell them about the Government of India's broader intentions and priorities. The prison provides a lens through which British attitudes towards governance of India can be observed. In the past, Historians have chosen to focus on criminality in colonial India, particularly the thuggee phenomenon and the criminal tribes.<sup>521</sup> The colonial prison is not a separate reality from these areas of research. Rather, it is another example of British reaction to the criminal "other" in India. In the introduction, this thesis posed a simple question: what was meant by "prison reform"? Fundamentally, in the Indian context, prison reform was an extension of the efforts to curb criminal activity viewed by the British as being uniquely Indian. Because of the potential threat criminal tribes and thuggee posed to order, an increasing concern in the post-Mutiny 1860s, reforms increasingly targeted the prisoners' attitudes towards work and lifestyle and prison conditions were accordingly altered to ensure a viable working space. The Government of India believed that a person's livelihood and community in India determined their inclination towards criminal acts.

A parallel can be drawn between prison management and the early infant schools in colonial India that ultimately illustrates the Government of India's perception of its role. Over thirty years prior to the 1864 IC, the first infant school in India was set up by Bishop John Mathias Turner. The overall objectives of this school were to instruct children in the habits of 'order,

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<sup>521</sup> For example Brown, *Penal Power and Colonial Rule* which focuses on the thuggee phenomenon and criminal tribes; Wagner and Singha.

cleanliness and usefulness'.<sup>522</sup> These words are repeated frequently in the prison reform objectives of the 1860s which demanded cleanliness, efficiency and the eradication of idleness. These “good habits” were reinforced for child education throughout the first half of the nineteenth century. Indian prisoners were treated as the wayward children of the British Empire. Prison officials conceived criminals as children who needed to have their behaviour “corrected” and when this was not feasible they at least needed to be brought under surveillance. What this observation also reveals is the broader focus of the Government of India during the nineteenth century demonstrating that attempts at order and efficiency and “taming” the native subject were not particular to prison reform. The colonial prison demonstrates the broader ideologies of colonialism and British imperialism while also throwing further light on the government’s treatment of the criminal sector.

Efforts to reform the Indian penal system continued into the final decades of the nineteenth century with the assembling of the Indian Jail Conference in Calcutta at the start of 1877. By the early twentieth century the nature of prisoners was beginning to change with the advent of political prisoners. As Arnold has demonstrated, these prisoners were able to recount their experiences of their time in jail through diaries and letters. Writing on the experiences of nineteenth-century prisoners is a much more difficult task. Because of their marginalisation by prison administrators they are mostly absent from the histories written on Indian prisons as there is no record of their experiences and reactions to the reforms. It is almost impossible to gauge the perception of the people the prison reforms most affected. We can only read into instances of resistance against such reforms as Yang has shown us with prison riots related to diet and eating practices. Colonial reports and returns on prisons do not lend themselves to individualising the experience of prisoners but rather reduced them to statistics. This does not

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<sup>522</sup> Helen May, Baljit Kaur and Larry Prochner, *Empire, Education, and Indigenous Childhoods* (Farnham: Ashgate Publishing Ltd., 2014), p. 115.

mean prisoners were compliant or non-resistant, merely that their viewpoint was not considered by the prison officials and administrators. What this thesis has shown is the impact nineteenth-century prison reform methods and ideas had on Indian prisoners' lives and how it forced them to conform to a certain style of living. This brand of prison "reform" acted to extend control over the prisons and prisoners were expected to learn new skills, tend gardens, clean, eat certain foods and dress in a certain way. Attempted and successful escapes and refusal to participate in labour or work were evident. We have also seen glimpses of some of the hardships of prison life through the accounts of Carpenter and Mouat. However, the prisoners were never completely passive and compliant. This demonstrated that colonial control over India was tenuous and incomplete because it relied on compliance from Indian subjects in addition to political and military prowess. Concessions were evidently made by prison administrators in order to mollify any potentially destructive behaviour, especially from the 1864 IC. Chief among the concessions was observing caste and religion on matters relating to diet, cooking, facial hair and accommodation and a reluctance to incorporate Christian elements into prison life. These were not examples of the British respecting the cultural nuances of India, but rather strategic appeasements in order to ensure order and peace. Prison administrators were all too aware of the power of prisoners to undermine their control and make imprisonment untenable. This thesis has provided a clearer picture of how prison reform policy in India changed and how these changes reflected both the British conception of criminality and the broader approach of the colonial government to nineteenth-century India. For the post-colonial historian, Indian prisons reveal the complex motivations and contradictory ideas of the governance of India by the British. Finally, amid the attempts to remedy the deplorable state of the colonial prison, prison administrators and officials and reformers in India were attempting to address questions vital to the continuation of British

imperial power in India: How could the prison prepare these criminals – men, women and juveniles – for a life as subordinate subjects and how could they be made to fit into society?

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