



## RELOCATING CRIME AND CRIMINAL JUSTICE IN THE SOCIETY OF SOUTH ASIA: WITH SPECIAL REFERENCE TO THE COLONIAL PUNJAB

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### Abstract

The study of crime is not only the number of crimes committed or the criminals arrested that matter but also a host of other subsidiary factors, which have a bearing over the crime. The present paper intends to study crime and criminal justice in other words, measures taken by the colonial government to deal with it in the society of colonial Punjab.

Crime has been prevalent in Indian society since times immemorial. The origin of the word 'crime' lies in a latin word *krimos* meaning to accuse. In Sanskrit equivalent is *aparadha*, or a sinful act. Any activity of the individual against the law of the society or group would result in an act of crime. Crime affects anybody objectively not the doer alone.<sup>i</sup> According to the Oxford Universal dictionary 'Crime' "is an act punishable by law, as being forbidden by statute or injurious to the public welfare".<sup>ii</sup> The Eminent French Sociologist Emile Durkheim stated:

"Crime is present not only in the majority of societies of one particular species but in all societies of all types. There is no society that is not confronted with the problem of criminality and there have been men who have behaved in such a way as to draw upon themselves penal repression."<sup>iii</sup>

A society without crime is probable, but it is unrealistic to hope for one. Crime exists in almost all the countries of the world, off course in varying degrees and it is a social reality.<sup>iv</sup> The crime is inevitable in any human society since some violation or the other of any code of conduct prescribed for the members of a society is bound to occur. Mankind since its existence, despite herculean efforts made from era to era and generation to generation, has significantly failed to face and solve the problem of crime which is surging skyward.<sup>v</sup>

For a comprehensive study of crime it is not only the number of crimes committed or the criminals arrested that matter but also a host of other subsidiary factors, which have a bearing over crime, that have been probed. There is much truth in the statement, "Taken in themselves, statistics are nothing more than symptoms of unknown casual processes. Statistics are, at best only an incomplete source of information unless buttered by other relevant and subsidiary factors, properly correlated for sociological research and enquiry"<sup>vi</sup>.

Criminality is strongly influenced by the economic situation, the favorable factors for the increase in crime being feeble monsoons, bad harvests and rising prices.<sup>vii</sup> William Adrian Bonger, the famous Dutch Criminologist, firmly believed that the part played by the economic conditions in criminality is 'preponderant' even decisive.<sup>viii</sup> With cheap food, crimes against property decrease while those against persons increase.<sup>ix</sup> Religious hatred and bigotry occupied an important position, resulted crime. The congestion of population by itself gives an irresistible impulse towards crime and immorality.<sup>x</sup> Education has an indisputable influence upon crime in changing its character and making it less savage. But ordinarily education does not help in preventing crime, rather it makes criminal more clever.

In Ancient times, the code of Manu is the first Code of law which deals with the law of crimes in a chapter headed as *Danda Dharma*, or Penal law.<sup>xi</sup> In Arthashastra, written around 300 B.C., we find a long list of offences and penalties. The crimes committed against person, property, institution of marriage and administration of justice, were regarded heinous.<sup>xii</sup> During the medieval period, the administration of the criminal justice was primarily Islamic, based on *Quran*. The crimes were divided into three groups namely offences against God, offences against the state and offence against the private classes.<sup>xiii</sup> Under the Mughals, in the reign of Akbar theft and robbery on the roads had been fairly common. The conditions grew worse after his death.<sup>xiv</sup>

The Punjab region held a strategic position in the history of the sub-continent. The frequent raids from the West led to the chaos and lawlessness in the region. Under the stewardship of Maharaja Ranjit Singh there was some improvement in law and order over the eighteenth century turmoil.<sup>xv</sup> Though he did not gave much thought to the welfare of his subjects as Thorburn explained 'that he never made a single work of public utility'<sup>xvi</sup> yet Punjab enjoyed peace, prosperity and freedom from religious bigotry and persecution for the first time since Akbar the Great.<sup>xvii</sup> His judicial system though, crude, vague and lacking in elements of stability, had two merits which attract special attention, namely simplicity and expediency. There were no elaborate proceedings, no legal intricacies and no vexatious delays. The system was eminently suited to a rude and



primitive people, ignorant of the complexities of modern civilized life.<sup>xviii</sup> After his death in June 1839, neither his wisdom nor masterly spirit was in any measure possessed by his successors. On the loss of his strong hand, the Punjab was thus torn asunder by dissensions between rival princes, ministers, queens and sardars, and rapidly declined.<sup>xix</sup> The army directed the affairs of the state and for sometime the government was in abeyance.<sup>xx</sup> Owing to this state of insecurity, the crimes in the state increased considerably and six years of characteristics strife and hooliganism followed. As a result of the two Anglo-Sikh Wars, the Punjab was annexed by the British on 29 March, 1849.

When the British took over the administration of the Punjab, a new era in the sphere of law and order was started.<sup>xxi</sup> Lord Dalhousie constituted the Board of Administration; the functions were assigned to the efficient generals under the political, financial and judicial heads. Each member had a charge of the concerned department. The British not only had the time, but also the talent for innovation. After the dissolution of the Board in 1853, a regular hierarchy i.e. Commissioners, Deputy Commissioners, Assistant Commissioners and *Tehsildars* was established to administer both Civil and Criminal justice.<sup>xxii</sup> In the first half of the nineteenth century enormous political and economic forces led to the increase of crime in the province in comparison to that in the rest of India. The crimes such as *thuggee*, dacoity, adultery, and cattle-lifting were quite rampant throughout the province and the frequent suspects were the tribesmen and the peasantry.<sup>xxiii</sup>

In 1850s, Punjab was not entirely free from the brutal crime of *thuggee*. The word '*thuggee*' comes from the '*Thug*' meaning 'cheat, swindler, robber.'<sup>xxiv</sup> Initially it was a crime confined to Central India gradually it found a home corner in the province as well. The *thugs* tracks were instantly followed up, and a separate department was instituted by the government. But the *thugs* of the province of Punjab were less dangerous as compared to the other parts of India. This crime was a new plant to the growth of which the soil of Punjab proved very unsuitable.<sup>xxv</sup>

"They (the *thugs*) had none of the subtle saga cities, insidious perseverance, the religious faith, the dark superstitions, the sacred ceremonies, the peculiar dialect and the mysterious bond of union which so terribly distinguish the Indian *thugs*."<sup>xxvi</sup>

However, by the year 1853, murders by *thugs* became almost extinct and the Branch *Thuggee* Office at Ludhiana was abolished in that year.

After the introduction of the new constabulary in 1860-61, marked increase in the crime was noticed in the province of Punjab. But this increase was proportionately greater in trans-Indus districts with the new force; it could not, therefore, be ascribed to the new constabulary. The famine which was raging the country was the chief factor.<sup>xxvii</sup>

In February, 1887, the government of India inquired from the provincial governments whether any increase in crime had been witnessed due to the release of the criminals on the occasion of Her Majesty's Jubilee.<sup>xxviii</sup> To this inquiry the Inspector-General of Police, Punjab reported:

There has certainly been an increase of crime in the province since 16 February, 1887, but there is no reason to attribute this increase to the release of prisoners, in connection with the Jubilee. It is due to the prevailing high prices of all the articles of the food.<sup>xxix</sup>

In 1889, there was an alarming increase in the rate of the crime in some of the districts of Punjab, the Government of India put up all the blame on the weakness and the inefficiency of the police.<sup>xxx</sup> The Lieutenant Governor, however, after touring some of the worst affected districts expressed views contrary to these expressed by the Supreme Government. He observed that the offenders in Punjab had now a better chance of escaping punishment than they had in the former years. The awe which the courts at first inspired had diminished. The pleaders had greatly increased in numbers and there was not ill-founded belief that well paid pleaders often succeeded in getting the criminals off an appeal. It was in Lieutenant Governor's judgement, for more these elements of weakness in the courts than any defect in the police system which had led to so much of the supposed increase of crime as might fairly be regarded as a reality. The Lieutenant Governor also felt that the work of the police was much more difficult than before.<sup>xxxi</sup>

During the years 1905-12, the wave of crime was steadily increased. The districts of Lahore and Rawalpindi, witnessed a slight increase in crime due to the political unrest. The reason behind the unrest was the prevalence of plague and high prices and partly to agitation against the 'Colonisation Bill', which was passed by the Government. An increase of 11 per cent was seen in the number of the cases dealt by the police. This increase was seen in the central range covering the districts such as Sialkot, Amritsar, Gujranwala and Lyallpur. Though there was a decrease in the number of murders from 421 in 1909 to 409 in 1910 yet several of these cases were marked by severe brutality and mutilation.<sup>xxxii</sup> On 11 December, 1908 the Government passed in a single sitting of Council the Criminal law (Amendment) Act, which changed the normal procedure of the Penal



Code. The Act also authorized the Government to declare, as unlawful, any association which it regarded as inimical to peace and order. The organization of meetings by such unlawful associations, and taking part in, or even attending or helping, any such meeting were punishable with imprisonment.<sup>xxxiii</sup>

In the same year serious offences against property were increased from 309 in 1910 to 476 in 1911. Dacoities rose from 48 in 1910 to 100 in 1911. There was also an increase in burglaries, cattle lifting and railway theft. These figures go a long way to strengthen the popular impression that the police was quite incompetent to deal with the crime.<sup>xxxiv</sup> The wave of crime which swept over the province, furnishes no parallel to the want of security of life and limb which spread over the North-west Punjab during the year 1911.<sup>xxxv</sup> No satisfactory explanation can be found to this increase in crime as the harvests were good and there was no scarcity. It must be remembered that the increase was in the graver forms of crime and these were always reported.<sup>xxxvi</sup>

The Inspector-General of Police remarked that the increase in crime and the poor results of the police working could be attributed to the police being over-worked. But the Lieutenant Governor did not agreed with his view.<sup>xxxvii</sup> Thus he remarked that during the past five or six years a very considerable addition had been made to the outlay on the police force in Punjab. The numerical strength of the police in all the ranks had been raised. An addition has also been made to the number of Sub-Inspectors, Inspectors and Deputy Superintendent and a substantial improvement has been affected in their salaries and prospects for promotions. During the same year the crime had increased substantially and the incapacity of the police to successfully cope with it had become more and more manifest.<sup>xxxviii</sup>

While explaining the causes of the increase in crime in Punjab, the Judges of the Chief Court wrote in 1913 that:

The rise in prices had tempted the menial classes to become thieves. The prosperity of the agricultural classes means that there is valuable property awaiting the burglar in the house of most well to do agriculturists. It also means that the Jat has more time on his hands than formerly and more money to spend on drink and litigation. The abnormally low proportion of the female population is undoubtedly at the bottom of much of the violent crime of the province.<sup>xxxix</sup>

Besides, inefficiency of the police and defecting training of the policemen also contributed to this high rate of crime. While highlighting the causes, the Chief Commissioner of the N.W.F. Province thus observed in 1913:

It is difficult to be too sanguine in mere training, without the requisite intelligence, and if we examine the bulk of the Sub-Inspectors and others likely to undertake the work of actual detection we cannot be sure that they possess the natural faculties for intelligent detection of difficult crimes. What should proceed higher training is recruitment from a more educated and intellectual class of people.<sup>xl</sup>

This deterioration of the working of the police was also accepted by Michael O' Dwyer, the then Lieutenant Governor of Punjab 1913. The Lieutenant Governor, too, criticised the police for its inability to prevent the growth of crime and deterioration in their methods of investigation and detection.<sup>xli</sup>

In the succeeding years a slight decrease in crime was seen which is evident from the following table.

**Table I. Gradual Decrease in the Number of Crime**

Year	Rioting	Murder	Dacoities	Robberies	Burglaries	Theft
1910	70	38	39	35	11.8	40.5
1911	62	39	21	37	11	39.5
1912	62	37	35	40	10.5	38
1913	66	46	34	38	11.4	38
1914	62	45	37	37	11.8	35.8

In 1914-15, the Ghadar activities created anarchy in the province. The outbreaks became very alarming in the early months of 1915.<sup>xlii</sup> Special Tribunals were appointed to institute an inquiry into Ghadar case and several other cases like Lahore Conspiracy and Supplementary Conspiracy cases. The accused after the judgement of the Tribunals had no right to appeal to the higher court.<sup>xliii</sup> However, effective and cordial cooperation of the people with the police helped the Government in maintaining peace in the province. It was observed that the people in general were not sympathetic towards the anarchist ideas.<sup>xliiv</sup> The Government was also not slow in rewarding the services rendered by the public to the administration.<sup>xliv</sup>



The removal of restraint, both moral and physical imposed by the four years of war conditions from 1914-1918, produced a reaction which inevitably led to the increase in crime.<sup>xlvi</sup> The poor crops, unsettling effect of demobilization, release of a large number of bad characters, acute political unrest, developing at one period into an open rebellion and invoking the declaration of martial law, were some of the reasons for the increase in the rate of the crime.<sup>xlvii</sup>

On 21 March, 1919 the Rowlatt Act was passed under the title of “Anarchical Revolutionary Crimes Act, 1919”.<sup>xlviii</sup> It confers upon the government extraordinary powers to deal effectively with sedition and the revolutionaries after the First World War. It was described as the “Black Act”<sup>xlix</sup> designed to suppress popular liberties and political life in India. The economic situation, the political discontent, the Khilafat and the Rowlatt Act, created an explosive situation in the country. After the incident of Nankana Sahib Tragedy, political unrest led to general disregard of authority and a consequent increase in crime. In 1921 prices of the commodities were high; crops were poor; resulted the poorer became poor. In the canal colonies, and the districts like Dera Ghazi Khan and Mianwali, there was an influx of poverty- stricken people from dry areas adjoining, led to an increase of crime.<sup>1</sup>

Further in 1922, there was a noticeable increase in serious crimes throughout the province, the figures for cognizable cases being highest since, 1915 and if the figures of the petty crimes were overlooked, the total is highest since 1912.<sup>li</sup> Nonetheless it may be pointed out that the crime situation in the whole of the British India during 1922 and 1925 was not good. This question of deterioration in law and order was discussed in the British Parliament in July, 1925.<sup>lii</sup> Consequently the Government of India sought from the Punjab Government the figures of the crimes in the province for the previous years.<sup>liii</sup> From the reports collected by the Government of India it was found that there was an improvement in the situation of crime in Punjab as compared to the other provinces of the British India.<sup>liv</sup> The decrease in various forms of crime in Punjab can be seen from the given table below:

**Table II. Record of Cases of Crime from 1922-1924 In Punjab<sup>lv</sup>**

Year	Rioting or unlaw full Assembly	Murder	Attempt at Murder	Culpable Homicide	Dacoity	Robbery	House breaking	Belonging to gangs of thugs, robbers and thieves	Total No. Of Cases
1922	1391	708	123	341	376	713	18,975	7	22,634
1923	1284	706	118	316	368	627	17,564	13	21,056
1924	960	653	106	333	211	434	16,870	8	19,575

Though there was a decrease in the total number of criminal cases in 1924, yet the districts of Lahore (+2272), Rawalpindi (+1792), Sialkot (+1707), Gurdaspur (+1090) and Karnal (+1029) showed an enormous increase in the cases of crime of various categories.<sup>lvi</sup>

In 1927-28, decrease in the dacoities and robberies were noticed in the province. This decrease was witnessed due to active and admirable co-operation in rounding up gangs of desperate and brutal marauders.<sup>lvii</sup> In 1928, in Montgomery district the villagers displayed exceptional courage in resisting an attack by dacoits on a wealthy shopkeeper. In spite of several of their number having been hit by shot fired from a gun in the possession of the dacoits, the villagers drove off the miscreants before they could secure any booty.<sup>lviii</sup> In the year 1931, due to the release of Civil Disobedience prisoners under the Irwin-Gandhi pact led to a recrudescence of protest against the execution of Bhagat Singh and his followers on 23<sup>rd</sup> March, 1931.<sup>lix</sup> The effect of it was decrease in serious crime against property and particularly in dacoities and burglaries. Burglaries fell by 10 per cent as compared with the year 1931. There were 145 dacoities in 1931 as compared with 195 in 1932. The number of murders was 816 in 1933 as against 827 for 1932. Adultery, blood feuds and land disputes were most fruitful causes of murders.

In 1936, in a village of Hoshiarpur district, the villagers made an attempt to capture a gang of four robbers armed with guns. Though they escaped, a villager succeeded in wresting a rifle from one of the dacoits.<sup>lx</sup> However, the menace of dacoits and robbers went on increasing after 1930 which forced the administration to step up their arrangements against the criminals. In 1932, the Government of Punjab sought the permission of the Supreme Government to train the police in the use of tear gas against the armed dacoits and robbers.<sup>lxi</sup> That year an experiment was successfully made in the use of tear gas against



dangerous armed criminals at Muktsar and Ferozpur.<sup>lxii</sup> The permission for the same was granted by the Government of India to use the tear gas against armed robbers and dacoits in 1934.<sup>lxiii</sup>

There was an alarming increase in crimes under every head in 1939. The murders established a new record, increasing from 1041 in 1938 to 1133 in 1939. Dacoity figures (149 cases) too were higher since 1932. The cases of burglary (674) were highest in the last ten years.<sup>lxiv</sup> The picture of the year was quite gloomy and a disturbing feature was that a large number of proclaimed offenders were still at large.<sup>lxv</sup>

At the end it can be concluded that with the passage of the time, the criminals developed their methods and means to commit crimes. They also started to use of modern automatic weapons. In 1942, the question of providing the Punjab police with some modern armaments capable of dealing with sub-machine guns, found in the hands of dacoits and deserters, was discussed.<sup>lxvi</sup> In July, 1942, the Government of Punjab wrote to the Government of India for the supply of the automatic weapons for the police to face the armed dacoits.<sup>lxvii</sup> The British authorities had instituted quite an efficient system of criminal justice on modern lines. They introduced for the first time written criminal law embodied in the codes. Police was thoroughly reorganised and a regular hierarchy of courts with definite powers and jurisdiction was instituted. Punjab under the British government had well organised and highly efficient machinery for the detection and prevention of crime, the apprehending of criminals and for bringing them to justice. Crime was more accurately reported and was thoroughly investigated. With the cooperation of the police and judicial departments became more effective for the suppression of serious crime. The British made persistent efforts to check crime through organised and effective judicial set up.

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