

Justice and Punishment during Mughal Empire (Based on Foreign Travelogues)

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Abstract: India, the home of an ancient and medieval civilization, has been much written of until recently as the land of luxury, exotic beauty, nature and synthetic culture, of mystic religious and the centre of the rich heritage. The Indian sub-continent has the image, which established by travelers from outside those remarkable people who ventured to remote lands in the garb of merchants, ambassadors, conquerors, rulers, chaplains, pioneers, administrators, soldiers, artists, writers, poets, seekers of philosophical back impressions to their countrymen through lively tales, anecdotes and travel journals. These travelers came from far and near. During Mughal times travelers to India came in large numbers from Islamic and Christian countries. Travenier, Thevenot, Ovington, Foster, Howkins, Manucci and other European travelers gave the historical information about the justice administration and punishment during Mughal empire period. This paper based on the original and standard translations of the foreign travelers accounts in English language. In the term of methodology, this paper made by the primary and secondary standard sources at Dr. Babasaheb Ambedkar Marathwada University Library and Maulana Azad Research Centre and Public Library, Majnun Hill, Aurangabad, Maharashtra.

Keywords: Law, Punishment, Mughals, Foreign Travelogues

1. Introduction

In Mughal India, from Badshah Jahangir's times, number of European companies came to India for trade and business. These travelers gave the historical information about the Mughal Empire in Indian subcontinent. Especially they gave the social, cultural and religious information. But in the financial interests of European companies, they gave the accounts on trade, economy and other facets of the political condition of all south Asia. This information has the significance data about the crime and punishment with judicial administration in Mughal India.

2. Justice Administration in Mughal India

Thomas Roe, a diplomat from Great Britain, noted the Justice administrative information about the Mughal Empire in seventeenth century Indian subcontinent. He noted that, the Emperor was the highest authority in the Mughal Empire and was the fountain of Justice. But in historical way, Emperor Shah Jahan and Emperor Aurangzeb were proclaim their decisions as far as possible on the orthodox law.¹ Also Giovanni Careri, quoted about the justice administration in Mughal empire that, the great Mughal was so absolute that there being no written Laws. Their will in all things are law. And the last decision of all causes, both civil and criminal from the Emperors.² Father Antonio Monserrate and Edward Terry explained the court life of Justice Administration during the Akbar the Great and the Emperor Jahangir's court.³

The Mughal Justice administration used to hold court everyday and where ordinary cases decided by the Mughal officials and the Emperor. But Akbar gave the Thursday of every week for administration of justice in his court, and Emperor Jahangir Tuesday, Shah Jaan and Aurangzeb at Wednesday. William Hawkins who visited Indian subcontinent during Mughal Ruler Emperor Jahangir's reign within 1608-13, said that the Indian Emperor sat 'Daily in Justice every Day'. Nicholas Withington observed that,

'Emperor Jahangir sat in his Darbar at Agra three times a day to do his 'Great Justice', in his *Purchas*.⁴ William Hawkins, the sea captain and merchant, referred the golden chain of justice during Jahangir's reign. Emperor Jahangir had a bell or bells hanging in his harem building with a cord which reached out into an outer room. Any complainant who had failed to secure justice could ring the bell. Emperor Jahangir sent up for him, examined the case and pronounced judgment. Shah Jahan continued the maxims of his father that true justice must be enforced. Nicolo Manucci from Venice of Italy, said, Aurangzeb was also a great lover of Justice.⁵ Francis Bernier quoted the *Diwan I Am* court of Mughals. Mughal emperors used to hear cases in the *Diwan I Am* on special day for reserved for administering justice. 'The petitions of the aggrieved concerning different matters were presented before him. The persons involved were ordered to present themselves before the emperor who heard their complaints and delivered judgment usually on the spot. Some time, Emperor ordered full investigation, detailed report and then gave his decisions. Bernier said about the justice chamber of Mughal Emperors, which was called as *Adaalat Khaana*, where Mughal emperor was assisted by two principal *Qazis*.⁶

Manucci noted the special orders of the Mughal emperor towards the officers in provincial level in empire. For the control of organized robbers, the Governor of empire used to dispatch armies. Governors were to ensure the safety of the people from robbers. For all cases of thefts and robberies in their jurisdiction the responsibility lay with the respective executive officers or Governors.⁷ French traveler, Jean De Thevenot noted the works of *Faujdar* in Mughal India. These *faujdar* were responsible for the maintenance of law and order in the district level under the Governor of Mughals. Whenever a robbery took place in his jurisdiction, he was to trace the robbers, find out the lost goods, or compensate the sufferer etc. Also he sent the report to Governor about the investigation and punishments.⁸ Again, Manucci noted the works of *Kotwal* within the justice administration of city level law and order during Mughal India. He said the *kotwal* was an important officer and the

chief of the city police. He as the chief magistrate ruling over the whole city. Due to *Farmans* of Akbar and Aurangzeb, *Kotwal* responsible for the all works under *Qazi* and Governor for prison, punishment, investigation etc. works.⁹

The *Qazi* was the important person to justify the cases in District level. It was necessary for the *qazi* to know the Quran, the *Sunna* and the perfect knowledge of the canonic laws or *shariat*. According to the *Fatawa I Alamgiri*, *Qazi* could sit in a mosque or the office which was situated in the middle of the town.¹⁰ In Seventeenth century India, the *Qazi* at Agra used to hold his court in the *Katchery* situated outside the gate of the Agra Forts. The gate came to be known as the *katchery* gate. The *Katchery* or *Chabutra* of *Qazi* were famous for justice administration in Mughal India. William Finch, John Baptista Tavernier and Sebastien Manrique noted the works and the office holds of *Qazi* during seventeenth and eighteenth century Indian subcontinent.¹¹ Some *qazis* were known for their honesty in Aurangzeb rule. Abdul Wahab's predecessor had the courage to refuse the proclamation of Aurangzeb to the throne while Shahjahan was still alive for which he was removed from his post.¹²

The *Qazis* were to be assisted by the *Muftis* in Mughal empire. According to Satya Prakash Sangar, the *Muftis* were those who gave the fatwa by a judicial consultation based on one or more precedents. Also *Muftis* expounded the law and supplied the *Qazi* with fatwas or decisions. Bernier gave the information about the power of *Muftis* in Judicial administration.¹³ From the 12th century AD, number of foreign travelers had gave the accounts on the socio cultural situation of Indian subcontinent.¹⁴ Nicholas Withington and Sir William Norris gave the information about the cases of the foreigners in Mughal India. According to an agreement of 1618 between Prince Khurram, the Mughal Governor of Gujarat, and Sir Thomas Roe, the English Ambassador at Jahangir's Darbar, the East India Company had been permitted to decide cases of dispute between the English themselves in Mughal Empire.¹⁵

3. Punishments

Akbar permitted to the governors of provincial regions to award death punishment without his permission in 1582.¹⁶ Monserrate wrote that, when Akbar acted as a judge in court, the guilty was given death penalty only when the order had been issued for the third time. French travelers Thevenot observed that no civil or criminal judge was authorized to put any offender to death. That power was reserved by the king to himself. The case of a criminal deserving death was referred to the king through a special messenger and the punishment was executed only on receipt of his confirmation.¹⁷ The method of punishment was to get the criminals trampled under the feet of elephants. Emperor Shahjahan kept an official with several baskets full of poisonous snakes for punishing the guilty.¹⁸ In another place, Thevenot wrote about the custom in most countries of the India's, is mutilation of both the hands for theft. Manucci recorded, Shahjahan once ordered the banishment of an ordinary soldier when he wrongfully usurped the wife of a Hindu clerk.¹⁹

4. Theft and Robbery

Ralph Fitch, the Portugese priest, Father Monserrate and William Hawkins noted about the thieves and robberies in Mughal Indian subcontinent. William Finch, wrote about the thieves of Surat and Agra rout.²⁰ Sir Thomas Roe refused to agree to the proposal of Prince Khurram, the governor of Gujrat, that the English should no carry arms. That way their caravans, which went from Ahmadabad and other parts of the country every year, would be exposed to the danger of thieves and robbers on the way.²¹ Tavernier said that theft was rare during Emperor Shahjahan's reign.²² As Manucci recorde, robbers had a free hand during the Wars of Succession in Mughal empire. He noted, 'the villagers and thieves were plundering on the highways, and created good deal of tribulation to travelers, robbing and slaying them'.²³ Father Monserrate noted the names of robber tribes in Central and Deccan part of the Indian subcontinent. Satya Prakash Sangar noted that, "Besides the individual thieves and organized bands of robbers, there were in Mughal times certain tribes notorious for their nefarious activities. They were the Ghakkars, Kathurs and Dalzaks, Kolis and Grasiyas, Rajputs and Pathans, Baluchis and Marathas."²⁴ Fryer claimed directly that, during Aurangzeb's reign, Kolis, Marathas, Rajputs and others plundered and ruined the people in Gujarat.²⁵ According to Manucci, when Aurangzeb fell ill in 1694, robbery became rife.²⁶

Numbers of officers were responsible in Mughal administration for these robberies. The local officers were held responsible for all the thefts and robberies in the localities and were required to produce either the culprits or the stolen properties. The governor was responsible for the robberies committed in his province. Also the *Faujdar* was responsible for all the robberies that occurred in his jurisdiction. He was to guard all the roads and compensate the plundered travelers. He was to traverse the country along with his soldiers and hunt out the robbers. Manucci and Ovington noted, the *faujdar* was a police magistrate in charge of a district or *sarkar* region of Mughal Empire.²⁷ The *Kotwal* was answerable for all the robberies committed in the town. Manucci noted the *kotwal's* responsibility for thefts and robberies and describes how the *kotwal* utilized sweepers who went to clean every house twice daily as his spies. Bernier, noted the interesting events about the watchmen in Mughal India. He noted in his Travels in the Mughal Empire, 'To prevent robberies in the capital every noble provided watchmen who continually perambulated his particular quarters during the night, crying out *Khabrdar*. There were guards posted round the whole army at every five hundred paces who kindled fire and also cried out *Khabrdar*. In addition to these precautions, the *kotwal* sent soldiers in every direction, especially to the bazaars, crying out and sounding a trumpet.'²⁸

5. Conclusion

These foreign travelers' accounts gave us the significance data about the Mughal India. It was the very active administration during the Mughal India from Jahangir to Aurangzeb for the control of Crime and Orders in South Asia. For example, Hawkins gave the historical information about the golden chain of Justice or *Janjir e Adl*

of Jahangir. Shahjahan, Aurangzeb and the Governors of the Mughal India maintained the law and order in Indian subcontinent during their period. Foreign travelers noted the administrative hierarchy in Mughal India. The discussed about the *Qazi*, *Kotwal* and other administrative posts in Justice and Crime control administration offices. And also about the discussions on the crime and punishment in Mughal empire, has the very important historical sources for the learners of Mughal Indian History. As a result, it has been a systematic and comprehensive accounts on criminal law and procedure of Judicial administrations during Mughal Indian History.

References

- [1] Sir Thomas Roe (1615-19) Embassy to India, Edited by William Foster, pp.89-104; Majumdar, R.C. (1974) The Mughal Empire, Bharatiya Vidya Bhavan, Bombay, pp. 537-554.
- [2] Sen, S.N. (Edi.) Indian Travels of John Franets Giovanni Careri, Calcutta, p. 240.
- [3] Kaul, H.K. (Edi.) (1980) Travellers India: An Anthology, Oxford University Press, Calcutta, p. 211.
- [4] Nicholas Withington (1905-07) Purchas: His Pilgrims, Edited Volume, Haklytus Society, James MacLehose and Sons, Glasgow, p. 115; Hawkins, Early Travels in India, p. 113; Majumdar R.C. (1974), opt. cit., pp. 537-552.
- [5] Foster (Edi.) Early Travels in India Containing the Accounts of William Hawkins (1608-15), p. 113; Nicolo Manucci, Storia do Mogor Edi. By William Irvine, Volume I, pp. 167,260; Satya Prakash Sangar (1967) Crime and Punishment in Mughal India, Sterling Publishers Pvt. Ltd. Delhi, p. 12; Srivastava, A.L., "Law and Legal Institutions", in Majumdar, R.C. Edi. (1974) The Mughal Empire, Bharatiya Vidya Bhavan, Bombay, p. 546.
- [6] Francis Bernier, Travels in the Mughal Empire, 1656-68, Edited by Archibald Constable, Volume I, p. 263.
- [7] Manucci, Vol. II, pp. 461-62.
- [8] Thevenot, III Vol., p. 35.
- [9] Manucci, Vol. I, p.292.
- [10] Sangar, opt. cit., p. 17.
- [11] Ralph Fitch (1583-91) Early Travels in India Containing the Accounts of Ralph Fitch, Edited by Foster, p. 183; Taverniar, p. 73; Manserrate, Vol. II, p. 160.
- [12] John Bapitse Tavernier, Travels in India, Edited by V. Ball, Vol. I, pp. 356-57.
- [13] Sangar, S.P. (1967), opt. cit., p. 21; Bernier, Vol. II, p. 253.
- [14] Badar Ara (2004) Cultural History of India: As Depicted in Foreign Accounts, Khuda Baksh Oriental Public Library, Patna, pp. 1-6; Kazi Yasmin Papamiya, "Islam & English in India: A History at John Ovington's Voyage to Surat 1689 AD", in pp. 91-94, Vision Research Review Journal, Volume II, Issue II, Dec. 2011, May 2012, Jyoti Pub., Latur M.S.
- [15] Harihar Das (1959) The Norris Embassy to Aurangzib, 1699-1702, Fivma K.L. Mukhopadhyay, Calcutta, p. 478.
- [16] Nicolao Manucci, Storia do Mogor, Edited by William Irvine, , IV, P. 264.
- [17] A Voyage to Surat, in the year 1689, John Ovington, Edited by H.G. Rawlinson, Oxford University Press, London, 1929, pp. 138-9; Monsterrate, p. 209; Indian Travels of Thevenot, p. 27.
- [18] Manucci, Vol. I, pp.149.
- [19] Thevenot, p. 136; Manucci, Vol. I, p. 233.
- [20] Early travels in India, p. 23; Monserrate, p. 13.
- [21] Roe, Thomas, Embassy, p. 480.
- [22] Taverniar, Vol. I, p. 325.
- [23] Manucci, Vol. I, p. 307.
- [24] Styra Prakash Sangar, opt. cit., p. 47; Monserrate, Commentary, Translated by J.S. Hoyland and annotated by Bannerji, p. 13.
- [25] Fryer John, A New Account of East India and Persia, Edited by William Croke, Vol I, p. 301.
- [26] Manucci, Vol. II, p. 467.
- [27] Manucci, Vol. I, p. 204; Tavernier, Vol. I, p. 47; Thevenot, Voyage to Europe, Asia and Africa, Edited by S.N. Sen, Vol. III, p. 35; Ovington, p. 139.
- [28] Manucci, Vol. II, P. 246; Vol. I, pp. 68-69.