

The Birth of the Indian Prison System...

From Feudal Decay...

FORT WILLIAM
JUDICIAL DEPARTMENT

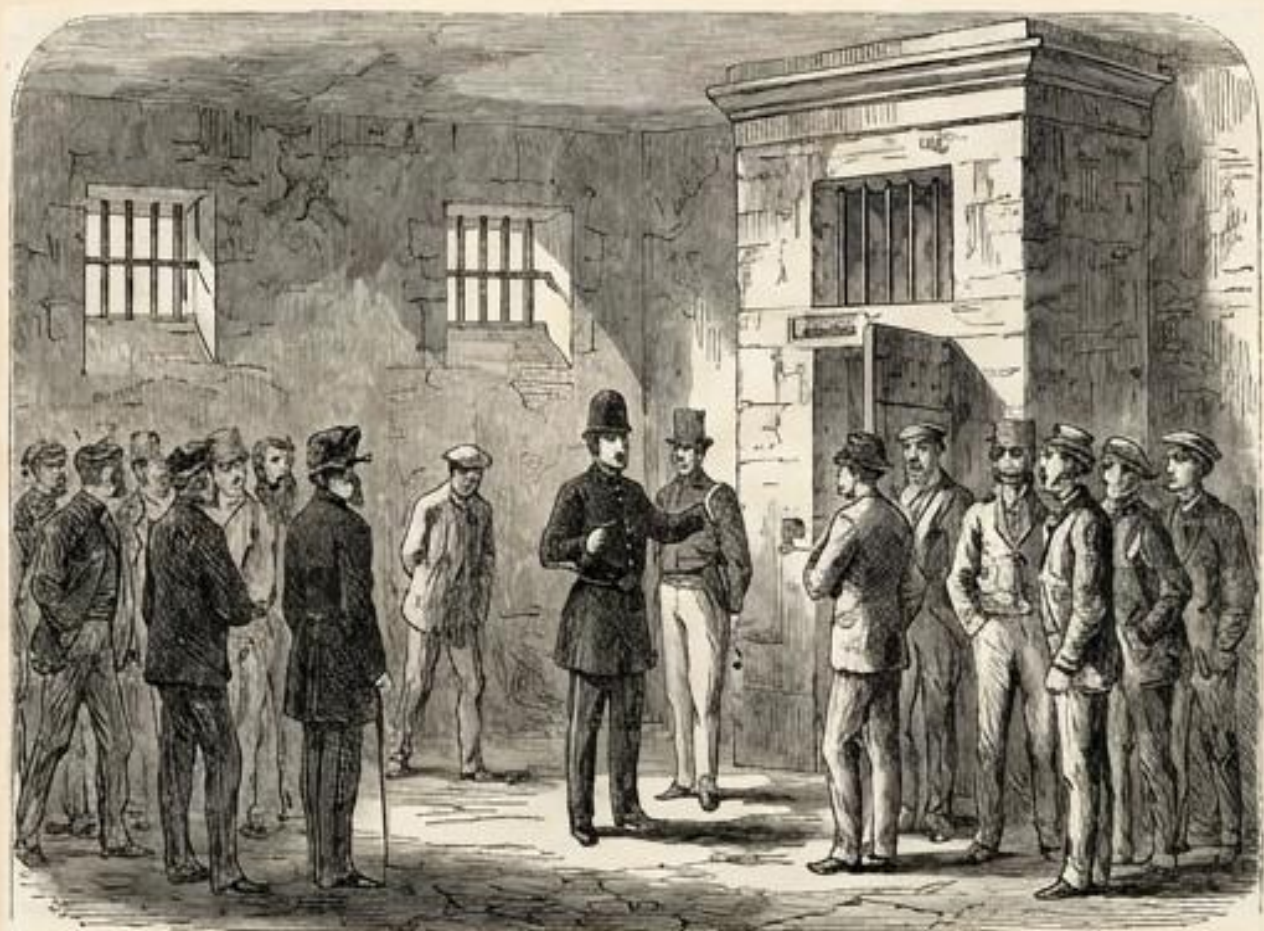
CRIMINOLOGICAL INSIGHTS

Dr. Mridul Srivastava
Ph.D., FISC, D.Litt.

Assistant Registrar and Faculty in Criminology
Dr. Ram Manohar Lohiya National Law University, Lucknow

Mobile: 9453015679

Email: srivastavamridullko@gmail.com



“The prison trstnes, the
spook’er of the unitory, and
the sconern scommits on
the tear and wmt they are.”
- Oscar Wilde

DECLASSIFIED
LEDGER

The Birth of India's Modern Prison System (1790–1833)

CONTEXT: On 3rd December 1790, the modern Indian prison system was effectively born as Lord Cornwallis transferred management from the Nawab of Bengal to European hands. This era marked a shift from haphazard local detention to a three-tier judicial structure, formal codification of rules, and the standardisation of punishments like hard labour and transportation.

1791–1833 – Reform, Labour, and Exile

1790 – Establishing the New Order



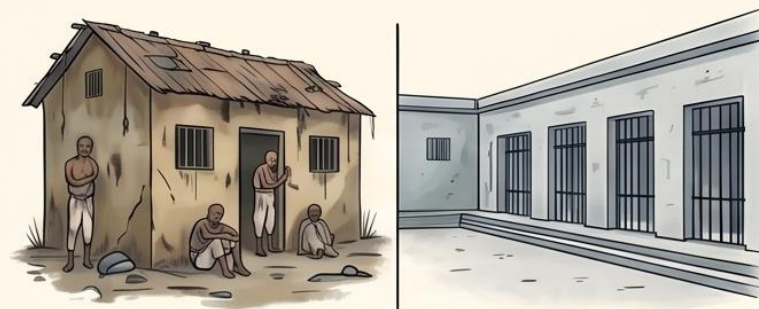
Transfer to European Control

Management of gaols shifted from Indian hands to British Magistrates in each district.



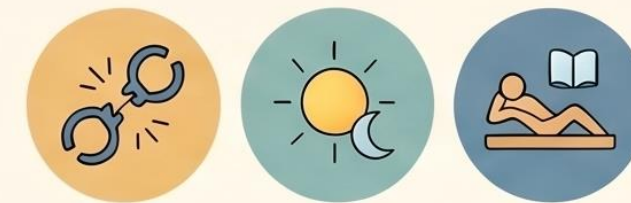
The Three-Tier Judicial Structure

Administrative hierarchy established: Sadar Nizamat Adawiat, Courts of Circuit, and District-level Magistrates.



The "Picture of the Field"

Initial conditions were wretched; jails were damp, overcrowded mud-wall buildings lacking air and sanitation.



Humanising the Regulations

Mutilation was abolished, religious holidays provided, and a weekly day of rest introduced.



Convict Labour as Discipline

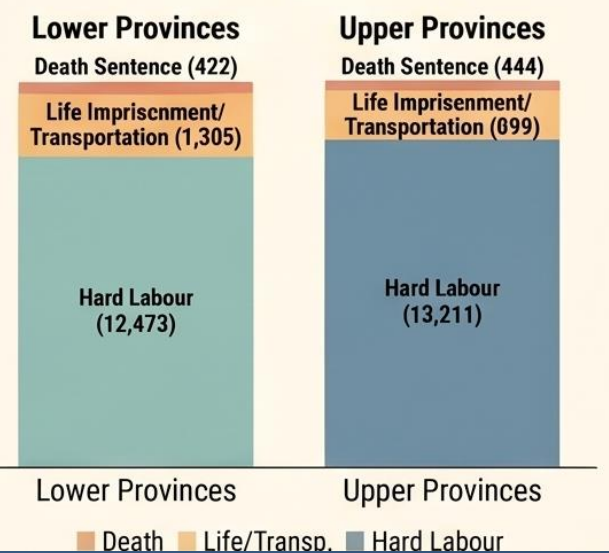
Prisoners were increasingly used for public road repairs, mining, and road-gang construction.



Punishment by Transportation

Life-sentence convicts were exiled to penal settlements in Singapore, Mauritius, and Bencoolen.

SENTENCES IN LOWER & UPPER PROVINCES (1816–1827)



The Somnolent Era (Pre-1790)

The Hastings Neglect



- Warren Hastings refused to touch criminal justice, leaving it to the Nawab of Bengal.
- Driven by immediate revenue (“collecting the golden egg”).
- Halved the Nawab’s criminal justice grant to 56 lacs, leading to lawlessness.

The Intervention (1790)

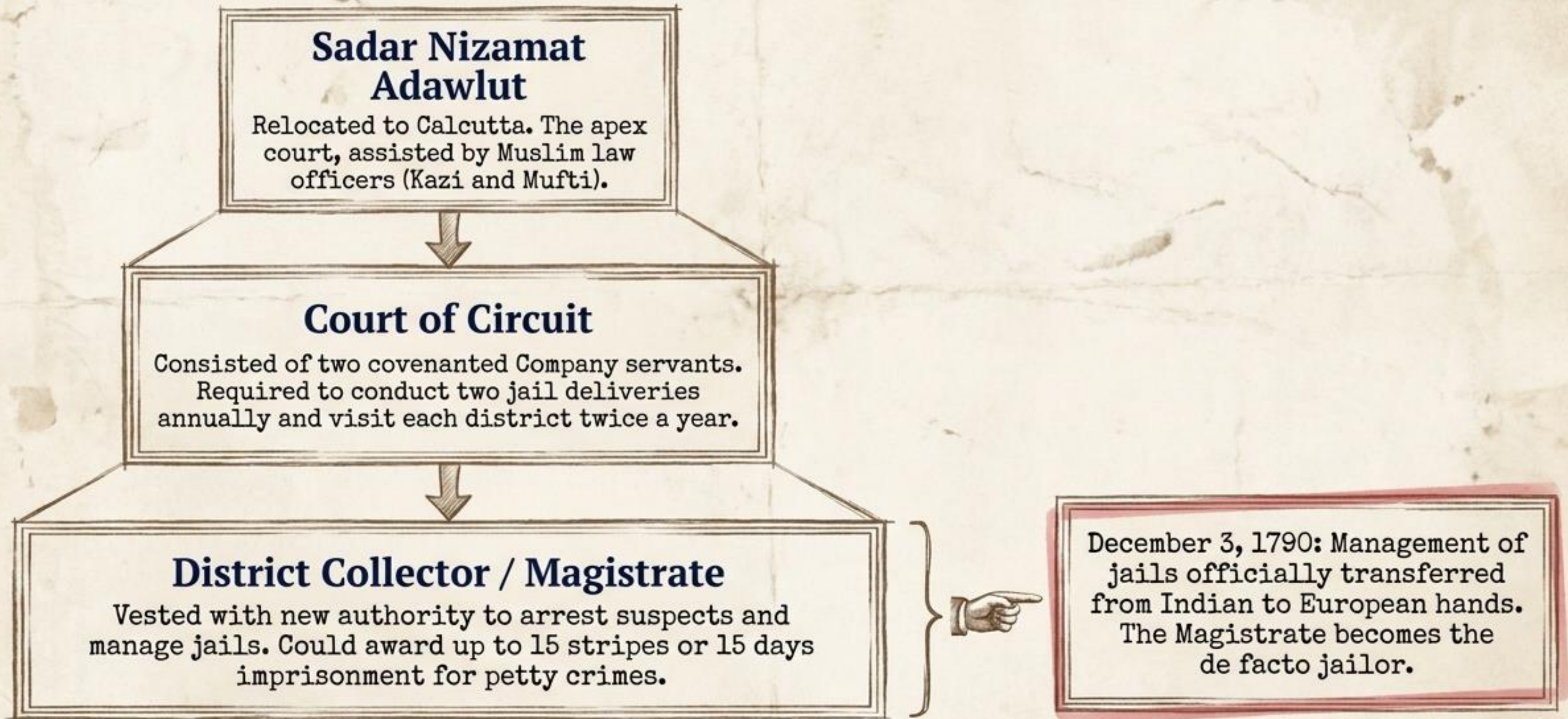
The Cornwallis Realisation

3 DECEMBER 1790

- Lord Cornwallis assumes total control of the system.
- Reviewing 105 pages of horrifying magistrate reports, he finds notorious offenders escape while the innocent suffer.
- Concludes the Nawab’s system is beyond repair.

“Humanity cried for a remedy.” — Lord Cornwallis

The 1790 Blueprint: A 3-Tier Justice System



Regulation IX (1793): The First Prison Code

Sec XX

Magistrate is to visit the gaol at least once in every month, and redress all well-founded complaints of ill-treatment which may be preferred to him by the prisoners against the gaoler, or any officers having charge of them. He is to be particularly attentive to the health and cleanliness of the prisoners...

Sec XXV

The magistrates are to pay all persons who may be released from gaol, after an imprisonment of six months or upwards, in actual need of such assistance, a sum sufficient to maintain them for one month, but it is in no case to exceed five rupees.

Sec XXI

Separate apartments in gaol are to be allotted for the following descriptions of prisoners:

- Prisoners under sentence of death;
 - Prisoners sentenced to confinement...
- to separate the male from the female prisoners...
separate the male from the female prisoners...
accused of heinous crimes from such as have been convicted of or charged with crimes of less magnitude...

FAILED IN PRACTICE
Requisite accommodation never constructed.

Jail Administration: Who Ran the System?

District Magistrate (European, Part-time)

Heavily burdened with revenue and civil duties; visits jail only weekly.



Darogha (Jailor) & Moharer (Clerks)

Low-paid native officials wielding actual daily control.



The Burkundazes (Guards)



The Price of Custody (Midnapore District)

Mirda (Store keeper)	Rs. 25/month
Tabeeb (Doctor)	Rs. 20/month
Burkundauz (Guard)	Rs. 4/month
Tazeena bardar (Flogger)	Rs. 4/month
Gorekan (Grave digger)	Rs. 4/month

Key Insight: Because guards were paid a mere 4 rupees a month, reliance on 'well-selected convicts' as guards was introduced, breeding rampant corruption and abuse.

Anatomy of an Early Colonial Jail

1. **Thatched Roofs:** Open to damage during heavy rains and gales; constantly required costly repairs.

2. **Mud Walls:** Prone to collapsing. The Murshedabad jail was completely swept away when the river rose.

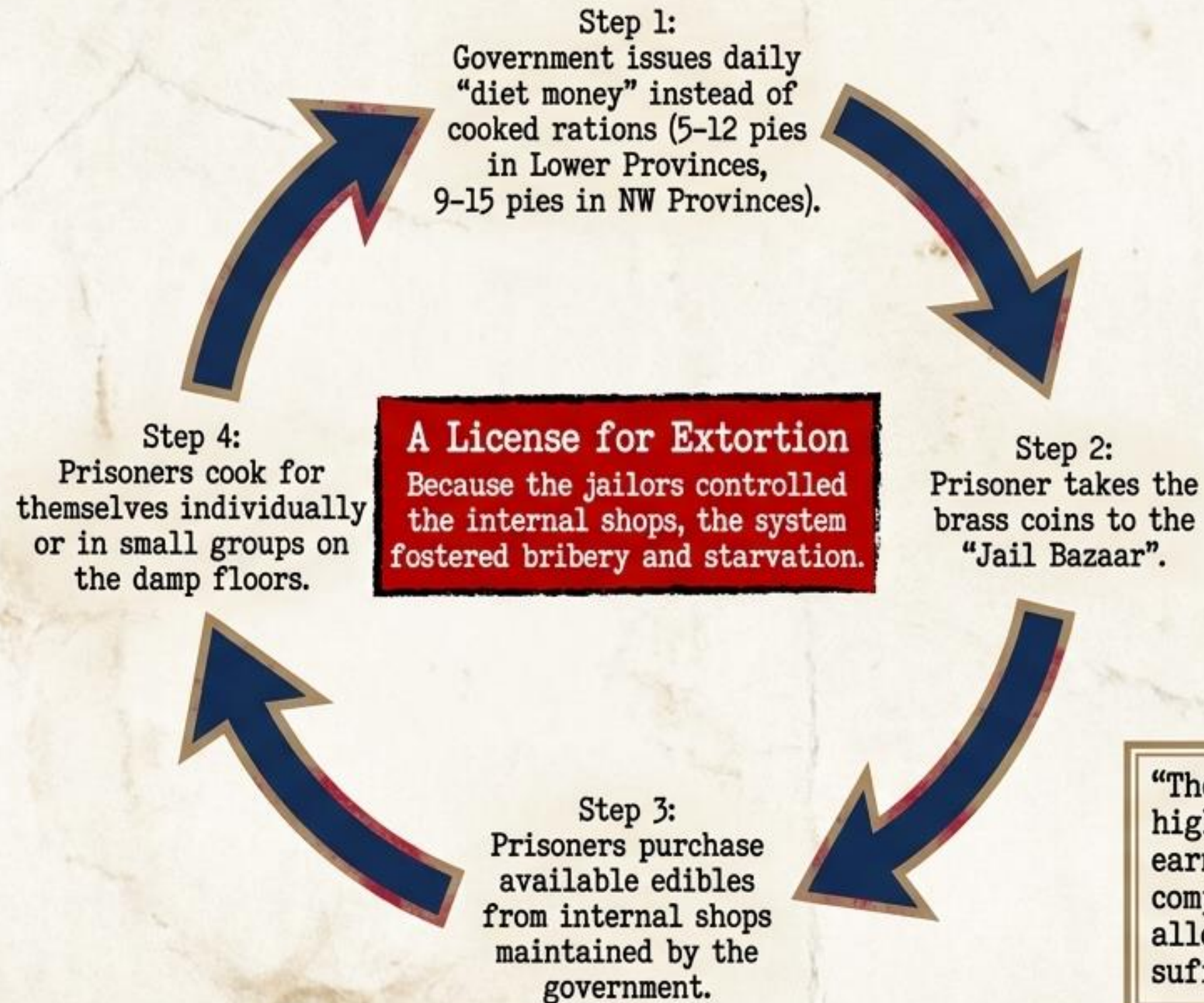
4. **Open Association:** 179 prisoners confined in a single 72x48 foot room (approx 25 inches per person). No segregation; under-trials mixed with murderers.

3. **Marshy Ground:** Built on low, unhealthy terrain causing baneful noxious effluvia and swarms of insects.

5. **Nightly Stocks:** Because buildings were so insecure, prisoners were forced into heavy fetters and stocks at night for safety, causing extreme misery.

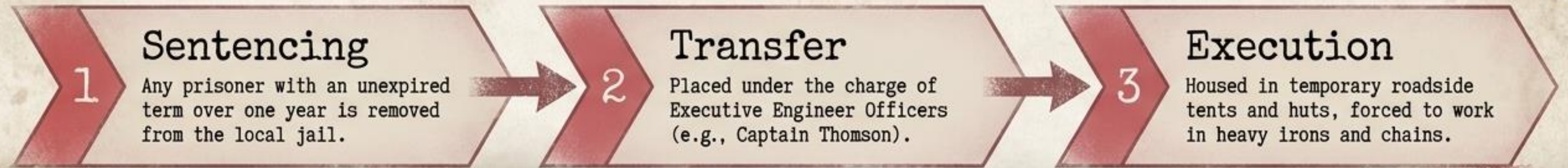


The Reality of Custody: The Subsistence Allowance System



"The original scale was too high, and more than a man could earn by labour... The prisoners complained loudly that their allowances were not sufficient." – Bishop Heber, 1828

Convict Labour: The Road Gangs

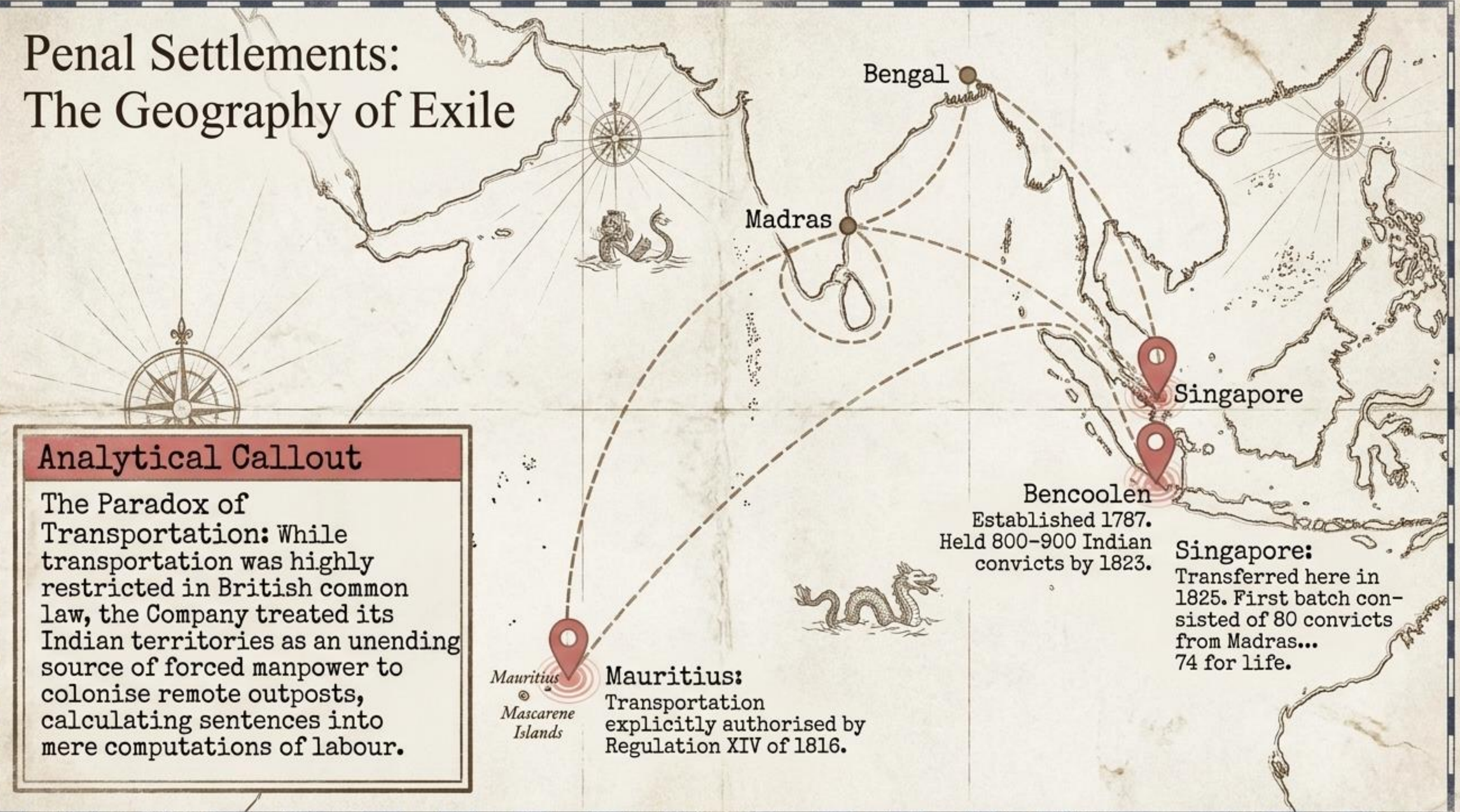


13,000 PRISONERS
The round number of convicts employed at a distance from their gaols on the great-trunk road in 1833.



Diagnostic Note: Outdoor labour cost the state drastically more than indoor confinement: Rs. 32-13-2 per prisoner under a Magistrate vs. Rs. 46-4-6 under an Executive Officer.

Penal Settlements: The Geography of Exile



Analytical Callout

The Paradox of Transportation: While transportation was highly restricted in British common law, the Company treated its Indian territories as an unending source of forced manpower to colonise remote outposts, calculating sentences into mere computations of labour.

Mauritius
Mascarene
Islands

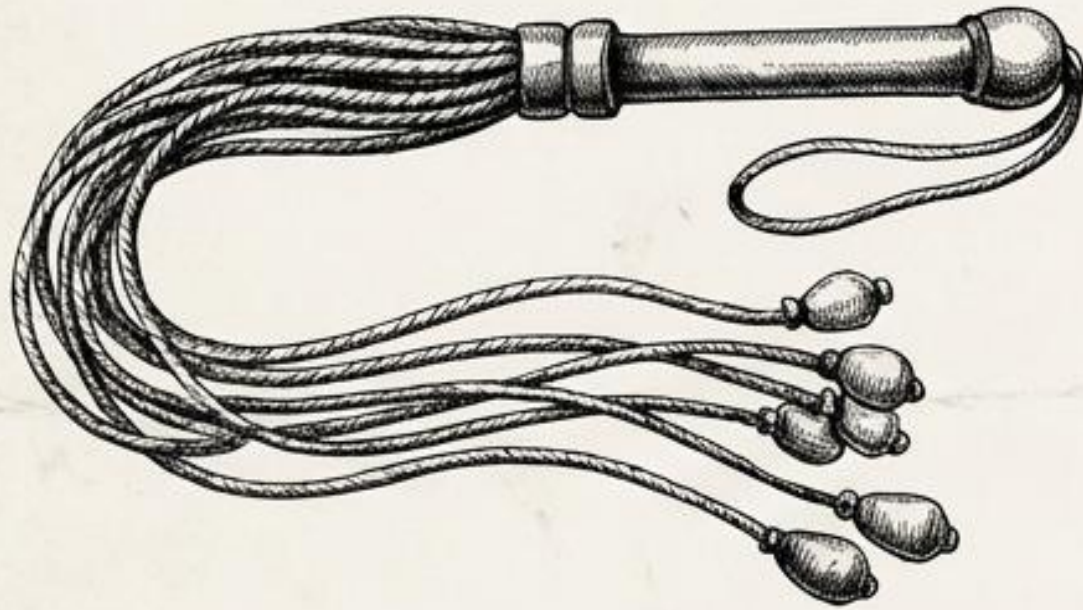
Mauritius:
Transportation explicitly authorised by Regulation XIV of 1816.

Bencoolen
Established 1787.
Held 800-900 Indian convicts by 1823.

Singapore:
Transferred here in 1825. First batch consisted of 80 convicts from Madras... 74 for life.

The Evolution of Corporal Punishment

The Kora
(Pre-1796)



- A long-established Mughal instrument of punishment.
- Proved frequently fatal; officially prohibited in 1796.



The Ratan & Regulation
(Post-1796/1825)



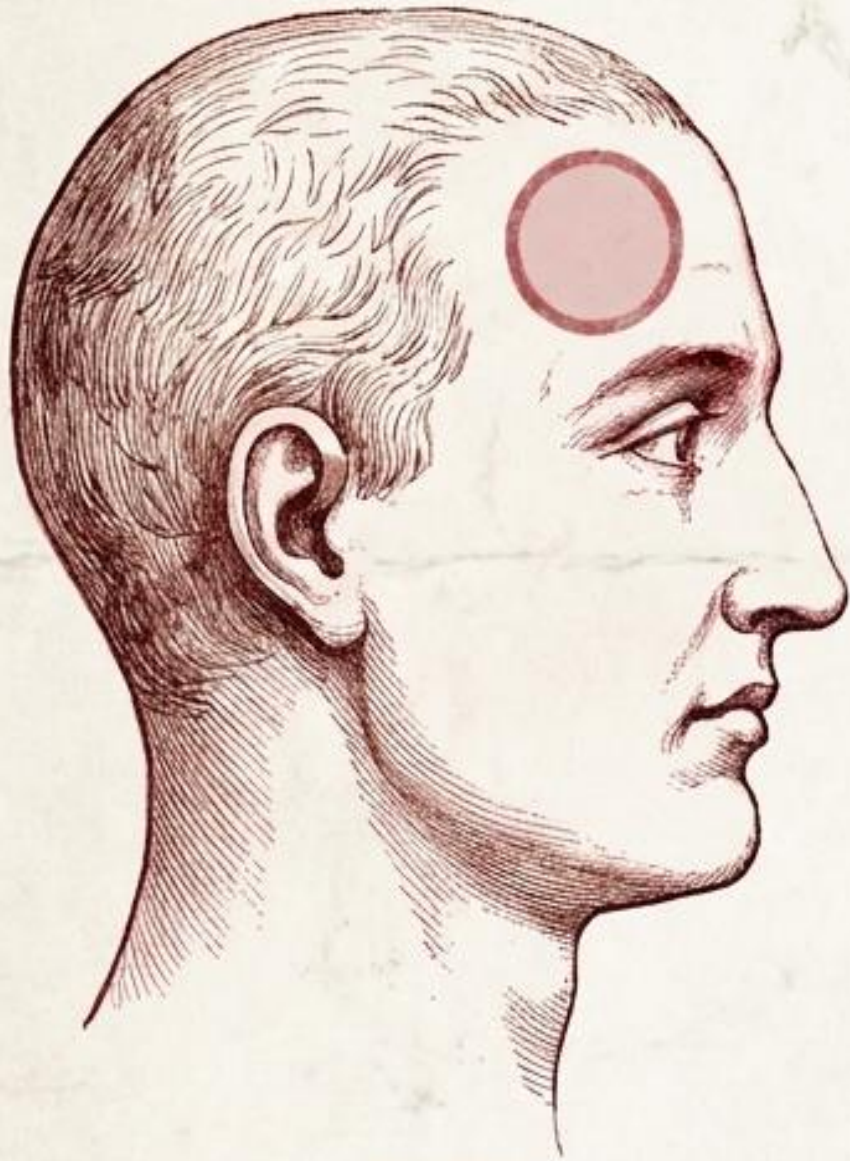
The Ratan replaces the Kora as the sole instrument of corporal punishment (up to 30 stripes).

The 'Civilising' Rules

- ❑ Protective leather jacket covering chest, neck, and loins (blows restricted to the back).
- ❑ Mandatory pre-punishment examination by a station Surgeon.
- ❑ Native doctor required on-site to halt punishment if life-threatening.

Takeaway: Physical torture remained the 'main plank' of prison punishment, but it was carefully bureaucratised to preserve the prisoner's utility as a labourer.

The 'Godna' Process: Institutional Branding



Core Fact

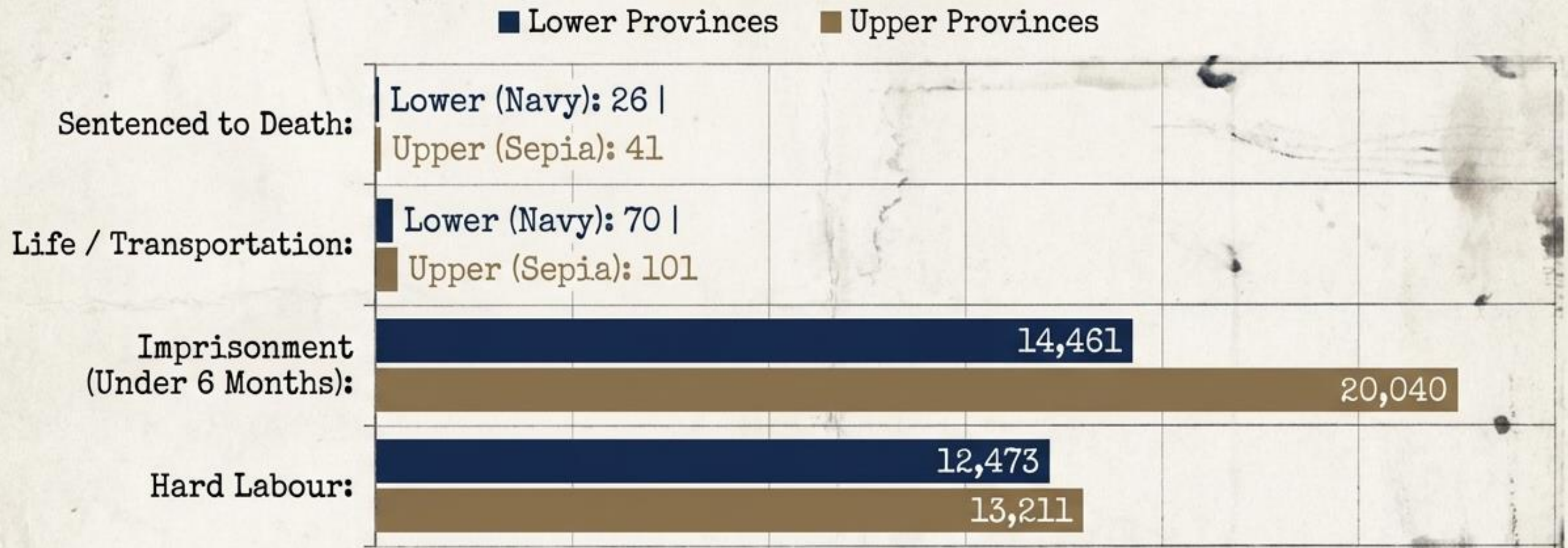
Regulation IV of 1797: Offenders guilty of perjury or forgery had their gross offence 'marked in characters indelible on the offender's forehead'.

The Protocol

1. Performed early in the morning by the Magistrate's order.
2. Precautions taken to ensure the convict does not try to efface it in the day.
3. Magistrate explicitly required to "renew the inscription, if defaced."

Historical Irony: While the British Parliament abolished the branding of offenders in England in 1779, the Company actively inducted it into Indian law 18 years later. It remained in operation for over half a century until 1849.

Data Snapshot: The Scale of Punishment (1826–1827)



Imprisonment was largely being resorted to as punishment. The ever-increasing demand for cheap convict labour for the construction of public roads and buildings drove an explosion in short-term sentencing, dwarfing capital punishment.

Ameliorative Measures & Minor Reforms



Abolition of Mutilation:
Loss of limbs commuted to
14 years of hard labour.



Sunday Rest:
Prisoners granted
one day of rest per week,
exempted from road work.



Religious Intermission:
Allowed strictly for Hindu and
Mahomedan festivals, but only
'as far as may be indispensably
necessary'.



Protection of Females:
Total prohibition of
corporal punishment by
stripes for female prisoners.



After-Care Allowance:
Introduction of an allowance (up to Rs. 5) for
prisoners released after serving more than six
months to prevent immediate destitution.

Synthesis: The State of the System by 1833 (Alipore Gaol)

The 1790–1793 Legislative Goal

- Strict segregation of sexes, crimes, and religious persuasions.
- Durable brick structures ensuring health and morals.
- Disciplined, rigorous daily routines.

The 1833 Reality (Alipore Gaol)

- Twelve wards sharing one massive, completely unpartitioned enclosure. *in partitioned flood enclosure.*
- Prisoners congregate unsegregated from midday until sleep. *Twelve wards*
- Absolute absence of discipline (convicts recently cut off the nose of a native officer without repercussion). *Prisoners congregate from midday until sleep*

The building itself, rather than the gentlemen who have successively had the superintendence of the prisoners, is the cause of this great evil.
The architecture of neglect outpaced the legislation of intent.

The Legacy of the First 40 Years

Between 1790 and 1833, the East India Company successfully centralised criminal justice and established the prison as the primary penal instrument in India.

Makeshift Foundations

What began as a temporary, poorly funded emergency measure solidified into a permanent institution housed in hired mud-wall buildings.

Bureaucratised Brutality

Ancient punishments were not eradicated, but rather optimised, medicalised, and utilised for state infrastructure.

The Labour Engine

The prison ceased to be merely a holding cell and became a vast, interconnected engine of forced imperial labour stretching from the Ganges to Singapore.

The recognised administrative institution of 1833 was built not on rehabilitation, but on exploitation and infrastructural neglect.