CRIMINOLOGY

COURSE CODE: SGB24SO101MD

Multi-Disciplinary Course
For Four Year Undergraduate Programmes
Self Learning Material

SREENARAYANAGURU OPEN UNIVERSITY

SREENARAYANAGURU OPEN UNIVERSITY

The State University for Education, Training and Research in Blended Format, Kerala

Vision

To increase access of potential learners of all categories to higher education, research and training, and ensure equity through delivery of high quality processes and outcomes fostering inclusive educational empowerment for social advancement.

Mission

To be benchmarked as a model for conservation and dissemination of knowledge and skill on blended and virtual mode in education, training and research for normal, continuing, and adult learners.

Pathway

Access and Quality define Equity.

Criminology

Course Code: SGB24SO101MD

Semester - II

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SGOU

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Message from Vice Chancellor

Dear Learner,

It is with great pleasure that I welcome you to the Four Year UG Programme offered by Sreenarayanaguru Open University.

Established in September 2020, our university aims to provide high-quality higher education through open and distance learning. Our guiding principle, 'access and quality define equity', shapes our approach to education. We are committed to maintaining the highest standards in our academic offerings.

Our university proudly bears the name of Sreenarayanaguru, a prominent Renaissance thinker of modern India. His philosophy of social reform and educational empowerment serves as a constant reminder of our dedication to excellence in all our academic pursuits.

The University is dedicated to offering forward-looking, skill-based learning experiences that prepare learners for the evolving demands of the modern world. As part of the FYUG programme, the Multi-disciplinary Course "Criminology" is thoughtfully designed to offer foundational knowledge in understanding crime, criminal behaviour, and the functioning of the criminal justice system. This introductory course explores key concepts in criminology and criminal administration, enabling learners to critically analyse the social and institutional responses to crime. By exploring related disciplines, you gain a more comprehensive education, preparing you for diverse career opportunities and fostering well-rounded intellectual growth throughout your academic journey.

Our teaching methodology combines three key elements: Self Learning Material, Classroom Counselling, and Virtual modes. This blended approach aims to provide a rich and engaging learning experience, overcoming the limitations often associated with distance education. We are confident that this programme will enhance your understanding of statistical methods in business contexts, preparing you for various career paths and further academic pursuits.

Our learner support services are always available to address any concerns you may have during your time with us. We encourage you to reach out with any questions or feedback regarding the programme.

We wish you success in your academic journey with Sreenarayanaguru Open University.

Best regards,

Dr. Jagathy Raj V.P.
Vice Chancellor

01-05-2025

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Crime and Perspectives

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UNIT 1

Crime and Criminology

Learning Outcomes

Upon the completion of the unit, the learner will be able to:

- comprehend the concept of crime and criminology
- discuss the multi factor approach to criminal behavior
- articulate the social intervention used to reform and correct deviant behavior

Prerequisites

In a small town, a shop is broken into at night and several items are stolen. The next day, the community feels shaken and begins to question their safety. People start to ask why the crime happened and how it could have been prevented. Criminology seeks to answer these questions by studying the causes of crime and its effects on society.

Man, by nature, is inclined toward conflict, making the idea of a society completely free from crime unrealistic. In reality, no society exists without facing issues related to crime. Crime is intrinsically linked to the concept of social order. Actions deemed unlawful by the prevailing laws of a specific time and place are classified as crimes, while those permitted under the law are considered lawful. Individuals who engage in criminal behavior face punishment according to the legal framework of the land. Since the beginning of civilization, crime has remained a persistent challenge.

This unit introduces the discipline of criminology and explores how crime impacts society at large. It covers the basic concepts in criminology, the term crime, deviance, delinquency and scope of criminology. It further deals with clarity required the nature and extent of crime and focuses on the importance

of criminological knowledge. This unit also traces out the historical background and theoretical explanations of crime and delinquent behavior and introduces the student to the different theories of criminology and explores how an individual becomes deviant. It covers the major biological, psychological, social and economic theories of Criminology.

Keywords

Violation, Unlawful, Deviant, Behavior, Reform

Discussion

1.1.1 Crime

Crime is a constant phenomenon found in society, and it varies in degree. An argument broke out over delay in being served food at a restaurant and the customer assaulted the restaurant manager, a drug addict while intoxicated murdered his grandmother, a school girl was abducted and molested by pedophile, Seizure of counterfeit currency, Online scam, cheating all of these account for crime. Thus, a crime occurs when the actions of a person intent to harm or do not conform to the norm.

A precise definition of 'crime' is by no means an easy task. Generally speaking, almost all societies have certain norms, beliefs, customs and traditions, which are implicitly accepted by their members as conducive to their well-being and healthy all-round development. Infringement of these cherished norms and customs is condemned as anti-social behavior. Thus, many writers have defined crime as an anti-social, immoral or sinful behavior. However, in the legal sense, crime is any act or omission forbidden by law for which punishment is given. Paul Tappan has defined crime as, "an intentional act or omission in violation of criminal law, committed without any defense or justification and penalized by the law as felony or misdemeanor". Stephen has defined crime as an act, "which is both forbidden by law and revolting to the normal sentiments of the society".

According to Blackstone, "a crime is an act committed or omitted, in violation of a public law either forbidding or commanding it". Rejecting this juridical concept of crime, the well-known Italian criminologist Raffaele Garofalo preferred a sociological definition of crime and stated that crime is an act, that which offends the basic sentiments of 'pity' and 'probity'. Yet another view about crime is to treat it as an anti-social behavior, which is injurious to society. Supporting this contention Sutherland characterizes it "as a symptom of social disorganization". The tendency of modern sociological penologists is therefore, to treat crime as a social phenomenon, which receives disapprobation of the society. In the words of Donald Taft, "Crime is a social injury and an expression to subjective opinion varying in time and place".

It is significant to note that though the legal definition of crime has been criticized because of its relativity and variable content, yet, it is perhaps the most acceptable definition compared with other definitions, because of its elaborate and specific nature and element of certainty. It also provides for the machinery and procedure to determine the violations and to identify the offenders.

1.1.2 Criminology

Criminology is an interdisciplinary field in the behavioral sciences, drawing especially on the research of sociologists and psychologist, as well as on the writings in law. In 1885, Italian law professor Raffaele Garofalo coined the term "criminology" (in Italian, criminologia). The French anthropologist Paul Topinard used it for the first time in French (criminologie) around the same time.

Dr. Kenny opines that criminology is a branch of criminal science, which deals with crime causation, analysis and prevention of crime. It is therefore, a sociolegal study, which seeks to discover the causes of criminality and suggests remedies to reduce crimes. Criminology suggests that an act to become a crime must conform to two cardinal principles of criminal liability, namely:

i. *Nullum crimen sine lege,*
ii. *Nullum poena sine lege.*

Criminology may be defined as "the scientific study of the nature, extend, causes and control of criminal behavior in both the individual and in society". Criminology comes from the Latin '*crimen*', "accusation"; and Greek λογία, -logia. In the words of Colman and Norris, "criminology is the analysis of nature of crime and the mode by which the crime can be controlled." According to Sutherland, criminology is a science that deal with delinquency and crime as social phenomena – the impact of crime upon the society and the influence of society over a person's character.

According to the first principle, no one is held criminally liable unless he has done an act, which is expressly forbidden under the existing criminal law of the land and has a reprehensible state of mind to do it. The second principle suggests that no one can be punished for an act unless it is made punishable under the law.

It must be reiterated that criminology is one of the branches of criminal science, which is concerned with social study of crimes and criminal behavior. It aims at discovering the causes of criminality and effective measures to combat crimes. It also deals with the custody, treatment, prevention and control of crimes, which is termed as penology. The criminal policies postulated by these twin sister branches (criminology and penology) are implemented through the agency of criminal law. Thus, for the sake of convenient study the entire subject may be classified under the following heads.

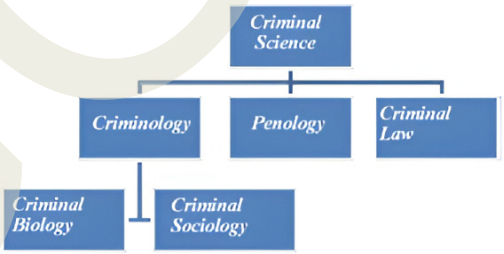

Fig.1.1.1 Classification of Criminal Science

Penology

This includes study of custody, treatment, prevention and control of crime.

Theoretical criminology can be:

1. Criminal Biology: Investigates into various causes of criminality.
2. Criminal Sociology: Enquires into effect of surroundings and environment on criminals.
3. Criminal psychology: It seeks to co-relate criminality to emotional aspect of human nature.
4. Criminal Anthropology: It seeks to understand the personality of

the offenders in physical terms. There is a relationship between physical features of the offender and criminality.

5. Criminal psycho-neuropathology: The factors like inferiority complex, frustration, depression, anxiety and other mental conflicts may leads to criminality.

Criminology is 'a systematic study of criminals' the study of crimes, the nature of crimes, the causes of crimes, and the defection and prevention of crimes. As Sutherland, a leading American criminologist, puts it 'criminology is a body of knowledge regarding crime as a social phenomenon, which includes within its ambit, law making and law breaking.

1.1.3 Criminal Justice

The rule of law, democracy, development, and human rights are deeply dependent on the degree of success that governments achieve in the realm of criminal justice. The objectives of the criminal justice system include the prevention and control of crime, the maintenance of public order, the protection of the rights of victims as well as the punishment and rehabilitation of those adjudged guilty of committing crimes. It also includes within its ambit, the protection of life and property from crime and criminality. These objectives are considered a fundamental obligation of the state under the Constitution of India. The principal formal agencies of criminal justice are the police, judiciary, and corrections. While police and prison administration are state subjects under the Constitution of India, the judiciary operates under a unified structure with the Supreme Court at the federal level and High Courts at the state level, administering justice across the country. Although police and prisons are state responsibilities, the organization, administration, and functioning of all criminal justice agencies adhere to federal laws, such as the Indian Penal Code, the Criminal Procedure Code, the Indian Evidence Act, the Police Act, and the Prison Act.

> In 2023, the Indian government introduced significant reforms to its criminal justice system by replacing colonial era laws with new legislation. The Indian Penal Code (IPC) of 1860 has been replaced by the *Bharatiya Nyaya Sanhita* (BNS). Similarly, the Code of Criminal Procedure (CrPC) of 1973 has been substituted with the Indian Evidence Act of 1872 has been replaced by the Bharatiya Sakshya Adhiniyam. These changes aim to modernize India's legal framework, emphasizing justice and efficiency. Key provisions include time bound court rulings, expeditious police investigations for offenses against women and children, the introduction of the death penalty for severe crimes like gang rape of minors and mob lynching, and the abolition of sedition laws, replaced by clauses targeting acts that threaten India's sovereignty. Additionally, the reforms permit trials in absentia for grave offenses, mandate the recording of police procedures, recognize digital records as admissible evidence, and introduce community service for minor offenses.

The criminal justice system in India can be broadly classified into four subsystems each contributing to the overarching goals of justice, order, and social well-being.

Fig. 1.1.2 Criminal Justice System of India

1. The Legislative subsystem: Makes the Law of the land
2. The Investigative subsystem: Investigates into offences and brings the accused person to the court of law for final verdict.
3. The Adjudicatory subsystem: Enquires in to the accusation, examines the witnesses and pronounces the judgment.
4. The Correctional subsystem: Lodges the persons remanded, under trial and the persons who are sentenced to imprisonment for a prescribed period. The object of the system is the treatment of offenders.

1.1.4 Differences between Sin, Crime, Vice & Wrong

In criminology, the concepts of sin, crime, vice, and wrong represent distinct aspects of deviant behavior. A person tells a lie to their parents, breaking a moral rule taught by their religion. While this act is considered a sin in many faiths, it is not a crime under the law. However, if the same person lies under oath in court, it becomes a legal offense called perjury. Criminology focuses on actions that break legal rules, not necessarily moral or religious ones.Sin is a moral or religious concept, referring to actions that violate divine or spiritual laws. Rooted in theology and morality, it is defined by religious doctrines rather than legal frameworks. From the criminological view, sin is not necessarily a crime unless codified in secular law.

Crime is an act or omission that violates a law established by a governing authority and is punishable by the legal system. It is a legal construct and is defined through codified statutes. In criminology, crime is central to criminology, crime is studied to understand its causes, consequences, prevention, and socialresponse.

Vice refers to immoral or unethical behavior, often involving indulgence in personal pleasures, such as gambling, substance abuse, or prostitution. While considered deviant, vices are not always criminal. Some vices are criminalized (e.g., drug use), while others are socially tolerated or regulated (e.g., alcohol consumption). In criminology vices are studied in terms of their regulation, moral entrepreneurship, and the social control mechanisms that determine which vices are criminalized.A man drinks alcohol regularly and sometimes visits gambling halls on weekends. While some people view his behavior as immoral or harmful, drinking and gambling are legal in his country, though regulated by laws. However, if he starts using illegal drugs, that behavior becomes both a vice and a crime. Criminology examines why some vices are merely frowned upon, while others are punished by law.

Wrong refers to actions that are socially, morally, or legally unacceptable but may not always be codified as crimes. Broader than crime, wrong includes ethical breaches, violations of social norms, and legal infractions. From a criminologist's viewpoint, they examine wrongs in the context of normative frameworks, social reaction, and how certain wrongs evolve into crimes through processes like legislation or moral panic.

A student copies homework from a friend without permission. This act is dishonest and considered morally and socially wrong, but it is not a crime under the law. However, if the same student later forges official documents, that action becomes a legal offense. Criminologists study how some wrongs, through changing social values and laws, come to be defined and treated as crimes.

1.1.4.1 Criminological Insights on Sin, Vice and Wrong

Sin, vice, and wrong can influence the definition and scope of crime, as legal codes often reflect underlying societal, moral, and religious values. Criminology emphasizes the socially constructed nature of these terms. For instance, behaviors considered crimes in one culture or era (e.g., witchcraft) may not be in another. Over time, societies reclassify sins, vices, and wrongs as crimes or decriminalize them based on evolving values, technological advances, or political shifts. Criminology examines how these concepts are used to enforce social control, maintain power dynamics, and marginalize certain groups or behaviors.

By studying these terms, criminologists gain insight into how societies define, regulate, and punish deviant behaviors, shedding light on broader societal dynamics. When understanding these concepts, one should keep in mind that crime is an act or omission which is prohibited by criminal law.

> The word 'crime' is derived from the Latin word 'Krimos' that means to accuse. It covers those acts which are against social order and deserve disapprobation and condemnation by society. Each state defines a specific set of prohibited actions, known as crimes, and enforces penalties for committing them, such as fines, imprisonment, or other forms of punishment. In certain exceptional situations, not taking action can also be considered a crime, such as neglecting to assist someone in danger or failing to report child abuse.

The concept of sin and crime is interrelated but radically different in their scope, consequence, variable content and environment. The concept of sin emanates from religion and can be understood from the perspective of a higher being and expectation, whereas crime is a legal proposition in organized and rules-based societies by humans. Sin results in the violation of rules of religion or morality, while crime involves a breach of the law. A sinner is punished by God, but a criminal is punished by the state. There may or may not be a direct injury or harm in case of a sin, but a crime necessarily involves some kind of direct injury. The remedy for a sin is to forgive or make apologies where as a person who commits a crime is subjected to a term of sentence by the court of law.

1.1.5 Meaning: Deviance and Delinquency

Deviance refers to actions or behavior that deviate from socialnorms. In criminology, it means behavior that violates social norms, values or expectations. The term describes actions that significantly differ from traditional, customary of widely accepted standards. Deviance may be of two types: Formal deviance and informal deviance. Formal deviance consists of actions or behavior that violates established laws. eg; housebreaking. Informal deviance means actions or behavior that violate the social code of conduct.eg: gossiping.

A person breaks into a house — this is formal deviance because it breaks the law. Another person constantly gossips and spreads rumors — this is informal deviance because it goes against social expectations but isn't illegal. Criminology looks at both types to understand how society reacts to different kinds of rule-breaking.

Fig.1.1.3 Deviance

Characteristics:

1. Deviance does not need to be an absolute crime, it can be a form of deviation and change in terms of beliefs, norms, values and traits.
2. Deviance changes from society to society. It is depends on social stigma. For example, public display of affection. It is considered as a stigma in a few societies, whereas in some societies it is widely accepted.
3. Deviance is also associated with the time and period during which it exists.

Delinquency is generally seen as the antisocial and illegal actions of youth, including bullying, cutting class, vandalism, substance use, selling drugs, and shoplifting. Delinquent acts are not, by definition, violent, whereas youth violence refers to violent acts committed by youth against others. The factors that account for delinquency are poverty, unemployment, family issues, peer group influence, lack of opportunities and the like.

Fig. 1.1.4 Juvenile Delinquency

Juvenile delinquency refers to criminal activities carried out by minors that would be considered as crime if committed by an adult. Juvenile delinquency can involve both violent and nonviolent crimes. Less serious crimes committed by those under the age of 18 are usually classified as status offenses. However, if crime is more serious, such as murder or rape, the crime will be considered as juvenile delinquency. In some extreme cases, the minor may be tried as an adult.

> Juveniles are increasingly being found to be involved in serious crimes like murder and rape. The National Crime Records Bureau indicates a consistent increase in the number of crimes committed by Juveniles. According to a survey in 2022, a total of 30,555 crimes were committed by minors in India while some states have higher rate of such crimes, others, particularly in the North- East, have lower rates.

A number of factors such as socio-economic factors, peer group pressure, family issues lead young people to commit crimes. Socio-economic factor such as poverty, lack of educational opportunities, and family instability can contribute to delinquent behavior. Due to peer group pressure young people may engage in criminal activities to gain acceptance or status within their peer group. Familial issues like coming from a broken family or lack of parental supervision, conflict with family, and substance abuse can also play a role. Besides, there are other factors that are at work such as issues in changing patterns of life style, biological factors, mental health factors, etc.

1.1.6 Historical Development of Criminology

The history of primitive societies and the early medieval era shows that human thought during this time was heavily influenced by religious mysticism, with myths and superstitions governing all aspects of human relationships. Consequently, little attention was given to the motives, environment, or psychology of offenders in understanding the causation of crime. In the absence of any guiding principles for criminal justice administration, punishments were

often haphazard, arbitrary, and irrational. This situation persisted until the end of the seventeenth century. With the evolution of modern society and shift in human thinking, certain social reformers began analyzing the causes of crime, paying particular attention to the criminal's motive and environment. This marked the emergence of criminology as a distinct branch of knowledge and the development of various schools of criminological thought.

The theoretical dimension of criminology has deep historical roots. Ideas about the causes of crime can be traced back to over two thousand years. For instance, in his work *Politics*, Aristotle (384–322 B.C.) observed that "poverty engenders rebellion and crime." Religious scholars of the time attributed crime to factors such as human needs, deadly sins, or the corrupting influence of Satan. These explanations were based on religious authority and were not subject to systematic observation or analysis.

In the 18th century, Enlightenment thinkers like Beccaria and Bentham believed people were rational and chose to commit crimes, leading to the Classical School of Criminology. They argued that laws should deter crime by making punishment outweigh the benefits of criminal acts.

By the 19th century, critics of the Classical School introduced the Positivist School, which used science to study crime. Thinkers like Lombroso suggested that biological and environmental factors influence criminal behavior, marking a shift from moral choice to scientific explanation.

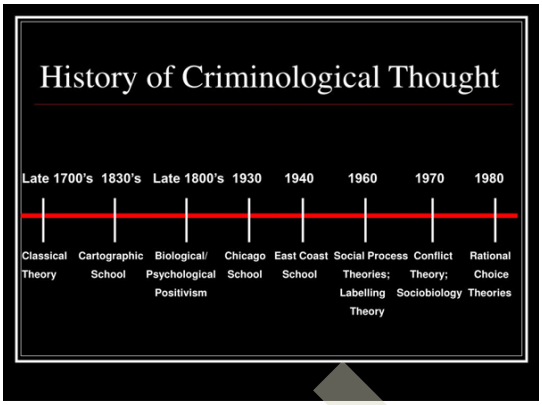

Fig. 1.1.5 Development of Criminology

In the United States, early criminologists focused on improving police training and standardizing curricula. The Society for the Advancement of Criminology, established in 1946 and later renamed the American Society of Criminology, expanded its focus to include scientific crime detection, law enforcement administration, and crime prevention.

Modern criminology has evolved significantly, moving away from supernatural explanations of crime toward observable, natural theories. These theories can be categorized into three perspectives:

1. **Criminal Behavior as Freely Chosen**: This perspective views individuals as rational beings who weigh the costs and benefits of their actions. Society deters crime by increasing its costs and reducing its rewards.

2. **Criminal Behavior as Caused:** This perspective challenges the notion of free will, suggesting that external forces, rather than individual choices, influence criminal behavior.

3. **Behavior of Criminal Law:** Radical criminology focuses on how laws are written and enforced, asserting that legal systems disproportionately impact marginalized groups. It highlights the leniency often afforded to white-collar crimes while the poor face stricter scrutiny.

Criminology's evolution reflects a shift from unscientific, spiritual explanations to scientific, evidence-based theories. Whether crime is seen as a product of individual choice, environmental factors, or systemic legal structures, addressing its root causes remains essential for effective prevention and justice.

1.1.6.1 Nature of Criminology

Criminology is a dynamic and multi-disciplinary science. It involves scientific study of crimes, criminal behavior and the criminal justice system. The science of criminology is rooted in Anthropology, Biology, Sociology, Psychology, Economics, Psychiatry and Political Science. It also includes within its scope the Police Sciences such as Criminal law, Public Administration, Victimology, Ethics and Penology. Criminology seeks to unravel the roots of crime, its causes, consequences and impact on society. The main focus of Criminology is the examination of criminal behavior. It tries to understand the motivation, pattern and characteristics of criminals. This involves various factors including psychological, sociological and even biological factors like genetics.

Criminology is the scientific study of crime, criminals and penal institutions. According to Law Lexicon 'Criminology is the study of crime, its nature, causes, detection and prevention. Whereas to Coleman and Norris, Criminology involves analysis of the nature of crimes, perpetrators, causes, formulation of criminal laws, law enforcement and control of human behavior.

The nature of criminology involves two main branches criminal biology and criminal sociology. Criminal biology examines the mental and physical constitution of criminals. Criminal sociology investigates the impact of environment as a cause of criminality. Criminology, penology and criminal laws are interconnected fields. Penology focuses on custody treatment prevention and control of crimes. Criminal law implements policies based on criminal principles. Criminology aims to reform offenders. It is based on the belief that no one is born criminal and reformation of the criminal is the ultimate goal of punishment.

1.1.6.2 Scope of Criminology

Criminology is a multidisciplinary field that examines the origin and development of criminal laws, exploring how they evolve under different circumstances and the types of punishment used to prevent crime. A central focus is crime prevention and intervention, involving strategies to deter criminal activity and address potential offenders. It also delves into the causes of crime, studying why individuals engage in criminal behavior while others do not, and the psychological and social factors involved. The consequences of crime are also examined, particularly their impact on victims, communities, and society at large. Criminology emphasizes rehabilitation, advocates for the establishment of centers that aid in reintegrating offenders as responsible members of society. It further investigates the methods criminals use, offering insights into criminal tactics and behavior. The field is vital in detecting and investigating crimes, aiding law enforcement in understanding the reasons behind criminal acts. It also explores various techniques for arresting and managing habitual offenders. Lastly, criminology encompasses the study of the criminal justice system, including law enforcement, courts, and correctional institutions, aiming to analyze and improve the practices and processes within this framework.

Recap

- The scientific study of the nature, extend, causes and control of criminal behavior in both the individual and in society
- A crime is an act committed or omitted, in violation of a public law either forbidding or commanding it
- Criminology is an interdisciplinary field in the behavioral sciences, drawing especially on the research of sociologists and psychologists, as well as on writings in law
- Criminology is a multidisciplinary field that examines the origin and development of criminal laws
- Criminology seeks to unravel the roots of crimes, its causes, consequences and impact on society
- Delinquency is generally seen as the antisocial and illegal action of youth, including bullying, cutting class, vandalism, substance use, selling drugs, and shoplifting
- Criminology emphasizes rehabilitation, advocates for the establishment of centers that aid in reintegrating offenders as responsible members of society

Objective Questions

1. What is referred to as the scientific study of the nature, extend, causes and control of criminal behavior in both the individual and in society ?
2. Who coined the term “criminology”?
3. Which principle of criminology states that no one can be punished for an act unless it is made punishable under the law?
4. What is the primary objective of the correctional subsystem in the criminal justice system?
5. Which concept is primarily associated with violating moral or religious rules?
6. What does the term Juvenile delinquency refer to ?

7. What is the Latin maxim that reflects the principle of mensrea in criminal law?
8. Which term refers to immoral or unethical behavior, often involving indulgence in personal pleasures, such as gambling, substance abuse, or prostitution?
9. Which terms refers to as consisting of actions or behavior that violates established laws?
10. Who used crime data to identify factors that predisposed individuals to criminal behavior?
11. In which parts of the constitution is juvenile justice stated?
12. The Children's Act came to effect in which year?
13. The Juvenile Justice Act came into effect in which year?
14. What is the term used for action which refers to behavior that deviate from socialnorms?

Answers

1. Criminology
2. Raffaele Garofalo
3. Nullumpoena sine lege
4. Rehabilitation and treatment of offenders
5. Sin
6. Legal offenses committed by minors.
7. Actus non facitreum nisi mens sit rea
8. Vice
9. Formal deviance
10. Lambert Adolphe and Andre Michel Gurrey
11. Fundamental rights and Directive principles of state policy
12. 1960
13. 2006
14. Deviance

Assignments

1. Compare and contrast the legal and sociological definitions of crime with reference to the views of Paul Tappan, Blackstone, Raffaele Garofalo, Sutherland, and Donald Taft. In your opinion, which definition is more appropriate in understanding crime in modern society, and why?
2. Define criminology and explain its interdisciplinary nature. Discuss the key theoretical branches of criminology and their contributions to understanding criminal behavior. How do the principles of 'nullum crimen sine lege' and 'nullum poena sine lege' underpin the legal framework of criminology?
3. Critically examine the interdependence of rule of law, democracy, development, and human rights on an effective criminal justice system. Discuss the structure and objectives of the Indian criminal justice system in this context, with reference to the recent reforms introduced through the Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhiniyam.
4. Differentiate between the concepts of sin, crime, vice, and wrong from a criminological perspective. How do these concepts influence the legal and social construction of deviance? Discuss with examples how certain behaviors have transitioned between these categories over time.
5. Define deviance and differentiate between formal and informal deviance with suitable examples. Discuss the characteristics and causes of deviant behavior. How does juvenile delinquency fit within the broader concept of deviance, and what social factors contribute to its rise in contemporary India?
6. Trace the historical evolution of criminological thought from religious mysticism to modern scientific theories. How did the Classical, Positivist, and Sociological schools contribute to the development of criminology as a discipline?

Suggested Readings

1. Black, P. (2014). Conflict theories of crime. In J. M. Miller (Ed.), the *Encyclopedia of Criminology and Criminal Justice* (pp. 1–5). Blackwell Publishing.

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UNIT 2

Conceptual Approaches to Crime

Learning Outcomes

Upon the completion of this unit, the learner will be able to:

- comprehend the different approaches in crime
- examine the sociological linkage to crime
- discuss approaches related to crime

Prerequisites

The conceptual approach to crime refers to the different frameworks and perspectives used to understand the phenomenon of crime. These approaches attempt to define what constitutes criminal behavior, explain why it occurs, and identify effective ways to respond to it. Criminologists draw from a wide range of disciplines, including law, psychology, sociology, biology, and economics, to develop these theoretical models. Each approach focuses on different facets of criminality, and together, they provide a comprehensive view of the causes and consequences of crime. In this unit we will delve more into the different conceptual approaches to crime.

Keywords

Violation, Law, Criminal, Legal, Judicial

Discussion

A man steals a car — legally, this is a crime because it breaks the law and is punishable by the state. A psychologist might look at his behavior and ask if he has learned this from past experiences or struggles with impulse control. A sociologist, on the other hand, may examine if he comes from a poor neighborhood with limited opportunities. Another person wears strange clothes and talks loudly in public — this isn't a crime, but people may still see it as deviant. While both actions break rules, only one breaks the law. These different views help us understand not just what crime is, but why people commit it and how society responds.

1.2.1 Legal Approach to Crime

The criminal law of a place can be defined as the body of special rules regulating human conduct promulgated by the State and uniformly applicable to all classes to which it refers and is enforced by punishment. It should, however, be noted that law is simply a means to an end and should not be treated as an end in itself. Its ultimate objective is to secure the maximum good of the community. In order to be effective, criminal law must have four important elements politicality, specificity, uniformity and penal sanctions.

Fig. 1.2.1 Criminal Law Legal Approach

1. **Politicality:** It implies that only the violation of rules made by the State are regarded as crime.
2. **Specificity:** Specificity of criminal law means that it strictly defines the act to be treated as crime. In other words, the provisions of criminal law should be stated in specific terms.
3. **Uniformity:** Uniformity of criminal law suggests its uniform application throughout the country without any discrimination, thus imparting even-handed justice to all alike. The purpose is to eliminate judicial discretion in the administration of criminal law. It must, however, be noted that recent legislations are providing scope for more and more judicial discretion through judicial equity to attain the offender's reformation which is the ultimate goal of criminal justice.
4. **Penal sanctions:** It is through penal sanctions imposed under criminal law that the members of society are deterred from committing crime. No law can possibly be effective without adequate penal sanctions.

For an act to constitute a crime, it must meet the following criteria:

1. **Act (Actus Reus)** – There should be an act or omission to constitute a crime. Intention or mens rea alone shall not constitute a crime unless it is followed by some external act.
2. **Mens rea or Guilty mind** – Mens rea is one of the essential ingredients of a crime. A crime requires criminal intent.

3. **Prohibited under the law** – The act should be prohibited by the existing law.

4. **Punishment** – The act should also be punishable by the state.

Fundamental principles of criminal law are founded on rules of equity, justice and fair play. These rules provide adequate guidelines for the formulation of a rational penal policy and at the same time ensure even handed dispensation of justice to litigants. Therefore, for an act to be considered a crime, it must be committed with criminal intent, legally known as mens rea, a principle captured by the Latin maxim "Actus non facit reum nisi mens sit rea" -meaning an act does not make one guilty unless there is a guilty mind.

Mens rea involves performing an act voluntarily with the knowledge that it is fraudulent, dishonest, or harmful. However, an act done under a bona fide belief, even if technically criminal, may serve as a valid defense. For example, malice a forethought is essential for murder, intent to steal for theft, and awareness that goods are stolen for the crime of handling stolen property. Another foundational principle of criminal law is reflected in the maxim "ignorantia facti excusat, ignorantia juris non excusat" , meaning a mistake of fact can be a valid defense, while a mistake of law is not excusable.

Mistake of Fact as a Defense: A man left his gun unloaded before leaving home. During his absence, another individual used the gun for shooting practice and reloaded it without the owner's knowledge. When the man returned, believing the gun was still unloaded, he pulled the trigger, accidentally shooting and killing his wife. In this case, the court determined that he was not liable for murder, as his actions were based on a genuine mistake of fact he had no knowledge that the gun was loaded.

Fig 1.2.2 Legal Approach to Crime

Strict Liability in Criminal Law: In another case, an accused person took an unmarried girl under the age of 16 from her father's custody without consent. The accused claimed he genuinely believed she was over 18 due to her physical appearance. However, the court rejected this defense, as the act of taking the minor was unlawful regardless of his belief. Similarly, if a person trespasses on someone else's land, mistakenly thinking it is their own, they are still held liable under criminal law. This demonstrates that criminal liability can be imposed even in the absence of malicious intent when the law imposes a strict duty.

These scenarios highlight the nuanced approach of criminal law in distinguishing between acceptable mistakes of fact and instances where strict liability applies, reinforcing the principles of fairness and accountability.

Two fundamental principles of criminal law are the prohibition of ex post facto legislation and the presumption of innocence. The former means that no one can be punished for an act that was not defined as a crime at the time it was committed; laws cannot be applied retroactively to penalize past behavior. The latter holds that every individual is presumed innocent until proven guilty according to due legal process. This principle ensures that the accused is given

a fair opportunity to defend themselves and that guilt must be established through lawful evidence and procedure. There are certain rights and protections afforded to the accused person not only during the trial, but also before and after the trial. These rights include right to be produced before the Magistrate, right to bail, release on bond, right to counsel and legal aid etc. Safeguards extended to an accused in course of trial are protection against incrimination and double jeopardy.

1.2.2 Behavioral Approach to Crime

The behavioral approach to crime suggests that all behaviors, including criminal and violent ones, are learned through interaction with the environment. Criminal tendencies are not inherited but result from experiences and social influences. This approach emphasizes that undesirable behaviors can be unlearned and replaced with socially acceptable ones through proper interventions, making it a significant tool in addressing and reforming criminal behavior.

Fig 1.2.3 Acts of Violence

Key Tenets of the Behavioral Approach

1. Learning of Behavior

Behaviors are not innate but are acquired through observation and experience. Criminal behavior often develops when individuals are exposed to environments that reward deviant actions or when negative behaviors are normalized. For instance, children who grow up in households or communities that justify or celebrate violence are likely to adopt similar patterns of behavior.

2. Modeling and Imitation

As described by Bandura, individuals learn behaviors by observing others, particularly authority figures, peers, or role models. This process, known as "modeling," plays a significant role in shaping behavior.

Example: A child who observes a parent resolving disputes through aggression may imitate such behavior, believing it to be an effective means of achieving desired outcomes.

3. Reinforcement

Behaviors are sustained through reinforcement. Positive reinforcement occurs when a behavior results in a reward (e.g., gaining money through theft). Negative reinforcement occurs when a behavior helps avoid punishment (e.g., using aggression to escape threats). Repeated reinforcement solidifies these behaviors, making them harder to change without intervention.

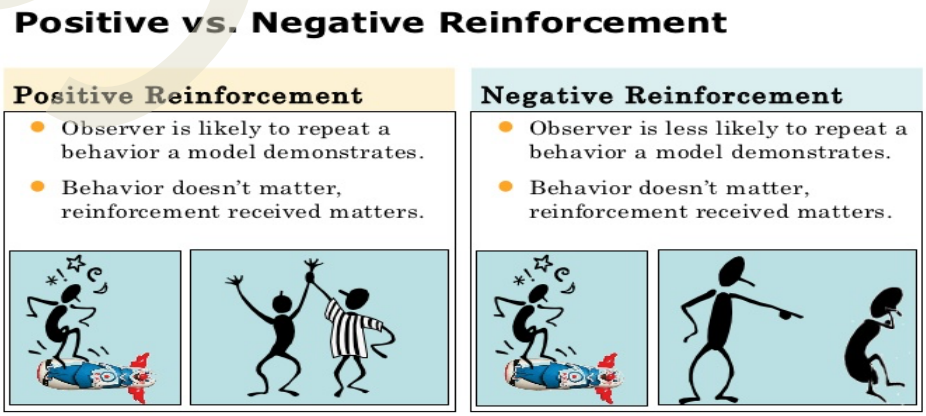

Fig 1.2.4 Reinforcement – Unlearning Negative Behavior

4. Socialization and Environment

Criminal tendencies often emerge during childhood due to socialization within dysfunctional environments or communities. Factors such as exposure to violence, lack of positive role models, or normalization of deviance condition individuals to accept criminality as a way of life. For example, a young person growing up in a neighborhood where theft is a survival tactic may perceive stealing as normal and acceptable.

5. Unlearning and Relearning

One of the core principles of the behavioral approach is that learned behaviors can be modified. Through interventions like therapy, behavioral modification techniques, and positive reinforcement, individuals can unlearn criminal tendencies and adopt constructive behaviors. Programs focusing on anger management, conflict resolution, and social skills development often utilize these principles to help offenders reform.

The behavioral approach to crime highlights the significant role of environmental and social influences in shaping behavior. It asserts that criminality is learned rather than inherited and can be modified through targeted interventions. By addressing the root causes of learned behaviors such as exposure to violence, reinforcement of deviance, and lack of positive role models society can effectively reform individuals and reduce criminal tendencies. This perspective underscores the importance of creating nurturing environments and implementing rehabilitation programs to encourage socially acceptable behaviors.

Examples of Learned Criminal Behavior

Violence as a Learned Behavior

A child who witnesses a parent using violence to resolve conflicts and being praised for it may learn that aggression is an effective means to gain control or solve problems. This behavior may later manifest as criminal acts in adulthood.

Crime as a Norm

In communities where criminal acts, such as theft or fraud, are common and celebrated, individuals may internalize these behaviors as acceptable. For example, a young person may begin stealing, believing it to be a socially acceptable way to achieve financial stability.

1.2.3 Sociological Approach to Crime

The theories adopt an objective perspective to explain criminal behavior, focusing on common factors that affect many criminals. In which, individuals knowingly break the law, even aware of the legal consequences. This phenomenon is particularly noticeable during periods of political unrest. For instance, during India's freedom struggle, leaders like Mahatma Gandhi deliberately violated laws imposed by the British and faced imprisonment. Similarly, actions such as hunger strikes, protests, and self-immolations are clear examples of intentional lawbreaking by individuals regarded as responsible members of society. Sociological theories of criminal behavior can be categorized into three main types:

a. Structural Explanations

b. Sub-cultural Explanations

c. Multiple Factor Approach

1.2.3.1 Structural Explanations

Two young people dream of becoming successful. One comes from a wealthy family, attends a top school, and gets support to reach their goals. The other grows up in a poor neighborhood with limited access to education and jobs. With fewer opportunities, they feel pressured to take illegal shortcuts to succeed. This shows how unequal access to resources can lead some toward crime.

Arguments for this suggest that criminality results from structural flaws in society, such as inequality within families or communities. Structural defects refer to the breakdown of normal social conditions, highlighting fundamental inequalities in society. These inequalities manifest in the unequal access to opportunities needed to achieve societal goals. While everyone may aspire to wealth, success, education, and material possessions, not all have the same opportunities. For example, individuals from affluent families

Fig.1.2.5 Subcultural Theories of Crime

may have better access to quality education. Similarly, those with certain advantages, like good looks, may achieve their goals through legitimate means, while others, with fewer opportunities, may resort to illegal methods to achieve the same objectives.

Robert K. Merton's theory of Social Structure and Anomie offers a sociological explanation for criminal behavior by linking it to broader social and economic conditions rather than individual pathology. Drawing from Emile Durkheim's concept of anomie a state of normlessness that arises during periods of social or economic instability-Merton argues that crime results when society promotes material success as a goal but fails to provide equal means for all individuals to achieve it. This disparity creates strain, leading individuals to adapt in different ways.

1.2.3.2 Sub-Cultural Explanations

The subcultural approach to crime, a branch of the sociological perspective, emphasizes the existence of differing norms and values among various groups within society. A subculture is a smaller community within the larger, dominant culture, defined by its own distinct beliefs, values, and behavioral norms. These subcultures often arise when individuals, particularly those marginalized or isolated from mainstream society-such as racial minorities, prisoners, or residents of impoverished areas-form cohesive groups for mutual support. While subcultures coexist with the broader society, they often develop alternative lifestyles and value systems. According to American sociologist Albert Cohen, deviant behavior is frequently nurtured and normalized within these subcultures. For instance, criminal subcultures create and reinforce norms that contradict those of mainstream society, making deviant or criminal behavior appear acceptable within the group. Subcultures may also view mainstream society as unjust or corrupt, further justifying their deviance. Contributing factors include weak social norms, urban anonymity, and exposure to conflicting behavioral standards, all of which facilitate the emergence and persistence of behaviors such as juvenile delinquency, drug abuse, and other crimes.

Strain and cultural deviance theories offer foundational explanations for criminal behavior through structural and cultural lenses, respectively. Strain theorists argue that individuals from lower socioeconomic backgrounds often face frustration due to their inability to access legitimate means to achieve socially accepted goals, leading some to engage in criminal behavior. In contrast, cultural deviance theorists contend that individuals commit crimes by internalizing the values and norms of the groups they belong to-even when these values conflict with those of mainstream society. By conforming to the expectations of their subculture, individuals may inadvertently violate dominant legal norms. Building on these ideas, subcultural theory, as described by Nietzel, emphasizes that criminal behavior emerges from norm conflicts between different cultural or class groups. Subcultures, such as gangs, often promote and reinforce values that oppose those of mainstream society, making deviant behavior seem acceptable or even necessary within the group. For some individuals, especially youth, subcultures like gangs can become the primary source of identity and moral guidance, sometimes in direct conflict with familial or social teachings.

Walter Miller's Theory of Focal Concerns

This theme of cultural conflict is made salient in Walter Miller's Theory of Focal Concerns, which attributes the criminal activities of lower-class adolescent gangs to their attempt to achieve the ends that are valued in their culture through the behaviors that appear to them to be the most feasible means of obtaining those ends. Thus, adherence to the traditions of the lower class

is essential. Miller labels them as trouble, toughness, smartness, excitement, fate and autonomy. For example, lower-class boys pick fights to show their toughness, and they steal to demonstrate their shrewdness and daring.

1.2.3.3 Multiple Factor Approach

Despite numerous attempts by criminologists to develop a singular theoretical explanation for criminal behavior, no single hypothesis has been fully satisfactory. As a result, sociologists have adopted the "multiple-factor approach" to explain the causes of crime. Proponents of this view argue that crime is the result of a combination of various factors that cannot be explained through general propositions. This approach is supported by the work of renowned American criminologist William Healy, who emphasized the idea of multiple causation. Healy argued that it is not just one or two factors that lead to delinquency, but rather a combination of factors possibly eight or ten that collectively influence an individual to engage in criminal behavior. However, he acknowledged that not all factors have equal weight; some may have a stronger influence than others. Despite its merits, this theory has faced criticism, particularly from Albert Cohen, who contended that it fails to provide a single, clear explanation for crime causation. Cohen also argued that it is misguided to believe that crime only arises from poor or undesirable environments. The primary flaw in the multiple factor approach, according to Cohen, is the confusion between "factors" and the "causes" of crime. In summary, sociologists view crime as a product of environmental deviations and varied social conditions. The inter-relation between criminality and some of these conditions may be discussed under the following heads:

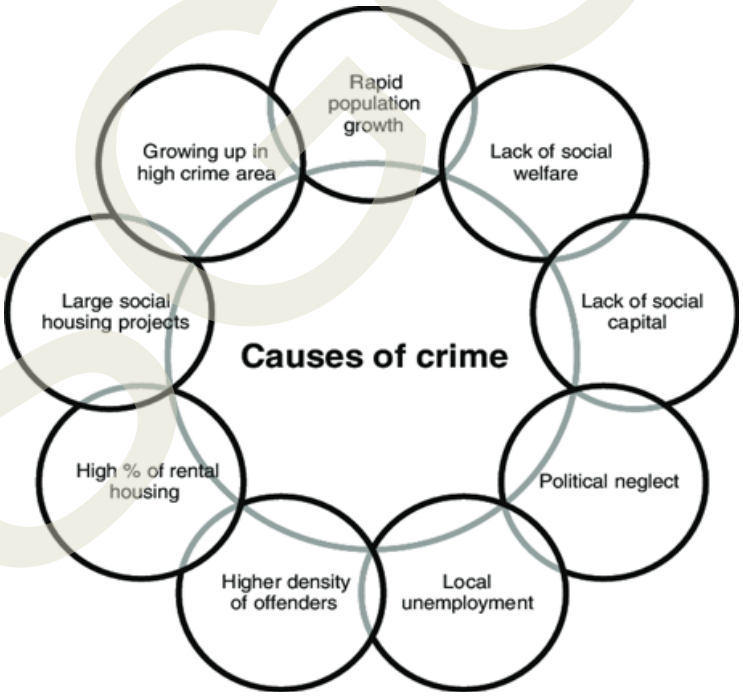

Fig.1.2.6 Causes of Crime

1. **Mobility:** The rapid urbanization and industrialization have facilitated migration, which increases anonymity, reduces the risk of detection, and may foster social disorganization. This lack of social control can result in deviant behavior, as individuals are away from familiar environments and support systems.
2. **Culture Conflicts:** As societies undergo modernization, cultural conflicts arise, especially between old and new values or local and foreign values. Sutherland's Differential Social Disorganization theory explains how criminal behavior is learned and transmitted through generations, particularly in disorganized communities with instability, poverty, and social diversity.
3. **Family Background:** The family is a crucial institution in shaping behavior. Criminal tendencies can emerge from broken homes, neglect, abuse, or a lack of parental control. Sutherland's observations about delinquents reveal that poor family conditions, such as physical punishment or absent parents, increase the likelihood of criminal behavior, but other positive influences can mitigate this.
4. **Political Ideology:** Political ideologies shape laws and social norms. Laws that evolve to reflect the prevailing political climate can redefine criminal behavior, for example, through the legalization or decriminalization of previously unlawful acts. Political interference in government operations can also create an environment conducive to crime.
5. **Religion and Crime:** Religious teachings often play a role in deterring criminal behavior. However, the decline of religious influence in modern societies has led to a rise in deviant acts. Paradoxically, religious conflict and ideological wars can contribute to crime, as seen in historical and ongoing religious wars.
6. **Economic Conditions:** Economic factors, such as poverty, unemployment, and inequality, are strongly linked to crime rates. While poverty alone does not directly cause crime, it often contributes to social disorganization, which fosters criminal behavior. Unemployment, especially among youth, is a significant factor in property crimes.
7. **Ecology of Crime:** The study of how geographical and environmental factors influence crime, known as the ecology of crime, reveals that crime rates vary across regions. Specific types of crime are more common in certain locations due to ecological factors like topography, population density, or proximity to borders. Social disorganization in certain areas, such as slums or isolated regions, can increase criminal activity.
8. **Influence of Media:** The importance of mass media in influencing human mind has been repeatedly emphasized by some experts. Experience has shown that television and films have the maximum impact on the viewers due to combined audio-visual impact. Most of serials or films shown on television or cinema halls depict scenes of violence which adversely affect the viewers, particularly the young boys and girls who often tend to imitate the same in their real-life situations. The rising incidence of juvenile delinquency is essentially the result of evil effect of violence and vulgarism

and undesirable sex exposures depicted in movies or television. Likewise, pornographic literature also has an unwholesome influence on the impressionable minds of the youth which generates criminality among them. William Healy's multifactor approach recognizes the complexity of criminal behavior, emphasizing the interconnectedness of various factors in shaping an individual's propensity towards criminal conduct.

1.2.4 Deviance Approach to Crime

The deviance approach to crime focuses on behaviors that violate social norms or laws, considering how individuals or groups come to be labeled as deviant by society. It is a broad concept that includes any behavior, belief, or condition that violates social norms. This approach is rooted in the sociological theory of deviance, which seeks to understand how and why certain acts or behaviors are classified as criminal or deviant.

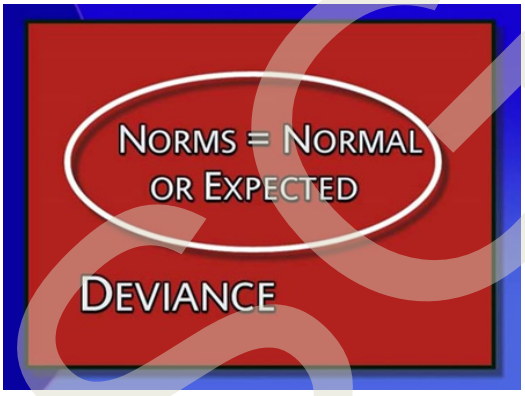

Fig 1.2.7 Deviance

Social norms serve as guidelines for acceptable conduct, and deviance refers to actions that break these norms though not all deviance is criminal, all crimes are legally deviant. One key perspective is labeling theory, introduced by Howard Becker, which argues that deviance is not inherent in any act but is the result of society's reaction. When individuals are labeled as deviant, they may internalize this identity and continue such behavior, known as secondary deviance, while primary deviance refers to initial, often minor, rule-breaking acts. Émile Durkheim, a functionalist, viewed deviance as a normal part of society that helps define moral boundaries, though excessive deviance can result in anomie a breakdown of social norms leading to disorder. Cultural and subcultural theories, from scholars like Albert Cohen and Richard Cloward, suggest that deviance often arises in marginalized communities where alternative value systems develop due to unequal access to legitimate opportunities. Similarly, Robert Merton's strain theory explains that when social goals like economic success cannot be achieved through accepted means, individuals may resort to deviance. Conflict theory, rooted in the ideas of Karl Marx, sees deviance as a reflection of class conflict, where laws serve the interests of the powerful, and deviance can be a form of resistance. Finally, the concept of moral panics highlights how media and public discourse can exaggerate the threat of certain behaviors or groups, leading to heightened fear, stigma, and often, reactionary legal or policy changes. Collectively, these perspectives underscore that deviance and crime are deeply shaped by social, cultural, and structural forces.

In sum, the deviance approach to crime emphasizes the social context of criminal behavior, focusing on how actions are defined as criminal, how people are labeled, and the consequences of such labels. It suggests that crime is not just about breaking the law but about the social processes that define and react to deviance.

Recap

- A crime is an act committed or omitted, in violation of a public law either forbidding or commanding it
- The body of special rules regulating human conducts promulgated by State and uniformly applicable to all classes to which it refers and is enforced by punishment
- Two fundamental principles of criminal law are the prohibition of ex post facto legislation and the presumption of innocence
- The deviance approach to crime focuses on behaviors that violate socialnorms or laws, considering how individuals or groups come to be labeled as deviant by society
- The behavioral approach to crime suggests that all behaviors, including criminal and violent ones, are learned through interaction with the environment
- The behavioral approach to crime highlights the significant role of environmental and social influences in shaping behavior
- Sociological theories of criminal behavior can be categorized into three main types: Structural Explanations, Sub-cultural Explanations, Multiple Factor Approach
- Structural explanation suggests that criminality results from structural flaws in society, such as inequality within families or communities
- The subcultural approach to crime, a branch of the sociological perspective, emphasizes the existence of differing norms and values among various groups within society
- Proponents of the multi factor approach argue that crime is the result of a combination of various factors that cannot be explained through general propositions
- The deviance approach to crime focuses on behaviors that violate socialnorms or laws, considering how individuals or groups come to be labeled as deviant by society
- Crime and delinquency approach to crime involves various theoretical approaches to understanding crime and delinquency, each providing a different lens through which to examine the causes and consequences of criminal behavior

Objective Questions

1. Who proposed the theory of social structure and anomie?
2. The choice people make even when they realize that the means to achieve their goals are limited is termed as?
3. The state which occurs when social norms no longer regulate behavior is referred to as?
4. Who stated that subcultural theory is based on the conflict of norms between different groups?
5. Who stated that deviant behavior is often supported and reinforced within subcultures?
6. Which theory states that criminal behavior results from the frustration experienced by individuals in lower socioeconomic classes who are unable to access legitimate means to achieve their goals?
7. Who promoted and supported the idea of multiple causation?
8. According to Bandura's theory, what is the term for learning behavior by observing others?

Answers

1. Robert K Merton
2. Conformity
3. Anomie
4. Nietzel
5. Albert Cohen
6. Strain Theory
7. William Healy
8. Modelling

Assignments

1. Critically examine the essential elements and principles of criminal law. How do doctrines such as mens rea, actus reus, strict liability, and the presumption of innocence contribute to ensuring justice and fairness in the criminal justice system?

2. Discuss the behavioral approach to crime, highlighting how criminal behavior is learned and reinforced. Evaluate the effectiveness of behavioral interventions in preventing and reforming deviant behavior.

3. Critically examine the sociological theories of criminal behavior, with reference to structural, subcultural, and multiple-factor approaches. How do these theories help explain both individual and collective acts of criminality in different social contexts?

4. Discuss the sociological approach to deviance in understanding crime. How do theories such as labeling, strain, subcultural, and conflict perspectives explain the process by which individuals or groups come to be defined and treated as deviant in society?

5. Examine the various theoretical approaches to understanding crime and delinquency, including Classical, Biological, Psychological, Sociological, Labeling, Conflict, Cultural and Subcultural, and Feminist Criminology. Discuss how each approach explains the causes of criminal behavior and their limitations in addressing the complexities of crime.

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UNIT 3

Perspectives on Crime Causation

Learning Outcomes

Upon the completion of the unit, the learner will be able to:

- examine the different factors that influence criminal behavior
- critically corelate the criminal behavior with theoretical explanation
- describe the biological, sociological and economic theoretical structuring of crime

Prerequisites

Understanding why individuals commit crimes is a central concern in criminology, and various theoretical perspectives offer different explanations. Three major approaches; classical, psychological, and sociological; provide distinct lenses through which crime causation is studied. The classical approach, rooted in Enlightenment thought, emphasizes rational choice and free will, arguing that individuals commit crimes after weighing the potential benefits against the risks of punishment. In contrast, the psychological approach focuses on individual mental processes and behavioral patterns, suggesting that crime may result from personality disorders, cognitive dysfunctions, or emotional disturbances. The sociological approach shifts the focus to social structures, cultural norms, and group dynamics, viewing crime as a product of environmental influences such as poverty, inequality, and socialization. Together, these perspectives contribute to a more comprehensive understanding of criminal behavior by highlighting the interplay between individual decision-making, psychological traits, and social contexts. We will explore each in detail in this unit.

Keywords

Rational choice, Free will, Deterrence, Personality disorders, Cognitive dysfunction, Behavioral patterns, Social structure, Cultural norms, Criminal behavior

Discussion

Cesare Beccaria, an Italian scholar, is considered the founder of modern criminology, with his influential work On Crimes and Punishments (1764), which introduced the first scientific approach to studying crime. Beccaria's key contribution was his rational analysis of criminal behavior and the justice system, advocating for clear laws, consistent enforcement, and proportional punishment over arbitrary and cruel practices. This work laid the foundation for the development of criminological theories.

> The concept of "school of criminology", defined by Edwin Sutherland, refers to a system of thought integrating theories about crime causation and corresponding policies for crime control. Each school addresses three key aspects: (1) explanation of crime causation, with each theory offering its own perspective on the causes of crime; (2) recommendations for punishment and prevention, based on the school's theoretical framework; and (3) reflection of socialattitudes, with each school reflecting the prevailing social views on crime at the time of its emergence.

Over time, numerous theories have evolved to explain crime, ranging from ideas involving evil spirits, sin, and heredity, to explanations based on economic conditions and mental health. Modern criminology has moved away from simplistic, single-cause explanations and now adopts a more eclectic approach, considering multiple factors that contribute to crime.

1.3.1 Classical School of Criminology

The Classical School of criminology emerged in the 18th century as a reaction against the barbaric and arbitrary system of law and punishment that prevailed in Europe before the French Revolution of 1789. At that time, there was no formal criminal justice system; crimes were often vaguely defined, and punishments were harsh and inconsistent. Offenses could be against the state, church, or crown, with judges wielding wide discretionary power, even convicting individuals for acts not legally defined as crimes. Monarchs could imprison people for trivial or personal reasons, such as disobedience to a parent.

Thinkers like Cesare Beccaria and Jeremy Bentham responded to this injustice by promoting a system based on rationality, legality, and deterrence. They viewed crime as a free willed, rational choice, where individuals weigh the benefits and consequences of their actions. Therefore, they argued that punishment should be proportionate, certain, and swift, aimed at deterring crime rather than enacting cruelty. The Classical School emphasized the act rather than the actor, advocating for equality before the law.

1.3.1.1 Cesare Beccaria

The name most definitely associated with the classical school is that of the Italian

mathematician and economist Cesare Beccaria, (1738-1794). Beccaria presented to the world a coherent, comprehensive design for an enlightened criminal justice system that was to serve the people rather than the monarchy. He was called as the "The father of Classical Criminology". In 1764, Beccaria published "Dei Deliti e Delle Pene" (On Crimes and Punishments) arguing for the need to reform the criminal justice system by referring not to the harm caused to the victim, but to the harm caused to society.

Fig 1.3.1 Cesare Beccaria

Cesare Beccaria was a protest writer who sought to restate the conditions under which acts should be called crimes, as well as to reformulate the appropriate punishments. He sought to reform the system of punishments. The major contribution of Cesare Beccaria has been discussed in detail in the ensuing paragraphs.

1. Crime is the product of the free will;
2. Greed or personal needs causes crime;
3. Crime can be controlled by sanctions (punishment).

According to Beccaria crime is not caused by bad person; but by bad laws. Hence punishment should be imposed by law. Punishment must be prompt, effective and proportionate. Forced confessions and death sentence shall be abolished. According to him prevention is better than cure. He strongly advocated the following:

1. Only legislators should create laws
2. Judges should impose punishment only in accordance with the law
3. Judges should not interpret the laws
4. Punishment should be used based on the pleasure/pain principle
5. Punishment should be based on the act and not on the actor
6. The punishment should be determined by the crime
7. Punishment should be prompt and effective
8. All people should be treated equally
9. Capital punishment should be abolished

1.3.1.2 Jeremy Bentham

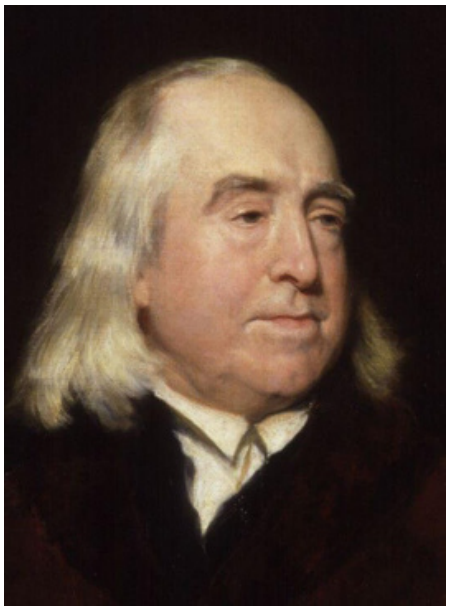

Fig 1.3.2 Jeremy Bentham

Jeremy Bentham (1748-1832) devoted his life to developing a scientific approach

to the making and breaking of laws. He was a British Philosopher. He is known as Utilitarian Hedonist. He advocated "the greatest happiness of the greatest number." His work was governed by utilitarian principles. Utilitarianism assumes that all our actions are calculated in accordance with their likelihood of bringing happiness (pleasure) or unhappiness (pain).

He argues that by punishing the offenders who are lesser in number, law renders happiness to the society which is greater in number Punishment should be severe so that criminal refrains by comparing the pleasure derived from the crime, and that derived from the painful punishments. He was against death sentence.

The classical theory influenced many European countries. These countries amended their criminal laws and abolished cruel and brutal punishments. They adopted the doctrine of proportionality (punishment should be proportionate to the offence committed). A criticism is that the school concentrated only on the 'act' but not on the 'actor'. The school ignored important factors that cause crimes (such as economic status, family status, etc.)

The theory then concentrates on biological factors. The main exponents of this school were three eminent Italian criminologists, namely Ceasare Lombroso, Raffaele Garofalo and Enrico Ferri. It was for this reason that this school is also called the Italian School of Criminology.

1.3.2 Positivist School of Criminology

The Positivist School arose in the 19th century, led by thinkers like Cesare Lombroso, and shifted attention to the individual criminal. Influenced by the rise of science, it argued that crime is determined by biological, psychological, or social factors, not free will. The Positivist approach seeks to understand the root causes of criminal behavior through scientific methods and promotes rehabilitation rather than punishment. It sees criminals as different from non-criminals due to identifiable traits or conditions.

1.3.2.1 Cesare Lombroso

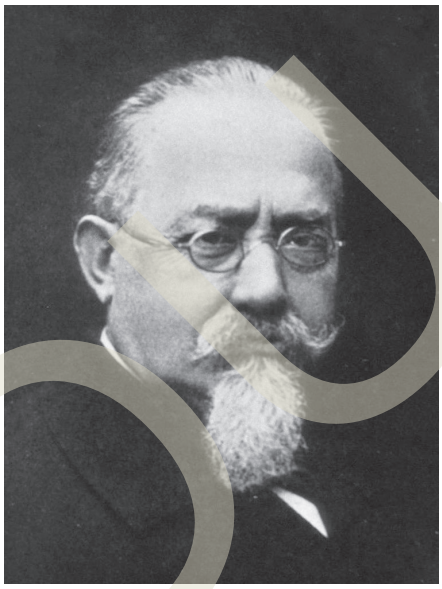

Fig 1.3.1 Cesare Lombroso

The first attempt to understand the personality of offenders in physical terms was made by Lombroso. He is regarded as the "Originator of modern criminology" or "father of modern criminology". He was the first to employ scientific methods in explaining criminal behavior and shifted the emphasis from crime to the criminal.

After an intensive study of physical characteristics of his patients (control group) and later on of criminals (experimental group), he had a scientific approach in his research. He used measurements like head, arms, etc. He used statistical methods to conduct his studies on his patients and criminals.

In his work, *The Criminal man* Lombroso stated that criminals are a lower form of life. Criminals can be distinguished from non-criminals by physical features. He argued that criminals frequently have huge jaws

and strong canine teeth, similar to that of carnivores who tear raw meat. Therefore, he is regarded as the Father of Criminal Anthropology and the Father of Criminology.

Through his biological and anthropological researches on criminals Lombroso classified criminals into 4 categories, viz,

1. **The Atavists or Hereditary Criminals:** Lombroso also termed them as born- criminals. In his opinion born criminals were of a distinct type who could not refrain from indulging in criminality and environment had no relevance whatsoever to the crimes committed by the Atavists. He therefore considered these criminals as incorrigible, i.e., beyond reformation.

2. **Insane criminals:** The second category of offenders are mentally unsound persons. Persons who commit crime due to mental imbalance.

3. **Criminoloids:** The third category of criminals according to him was those of criminoloids who were of a physical criminal type and had a tendency to commit crime to compensate for their sense of inferiority and to meet survival needs.

4. **Women Criminals:** For them he proposed a punishment diminishing the vanity of women.

Goring, an English criminologist, who was one of the contemporaries of Lombroso, also carried out researches on the psychology of criminals. After a series of comparisons between the criminals and non-criminals he concluded that there was nothing like "physical criminal type" as suggested by Lombroso.

1.3.2.2 Enrico Ferri

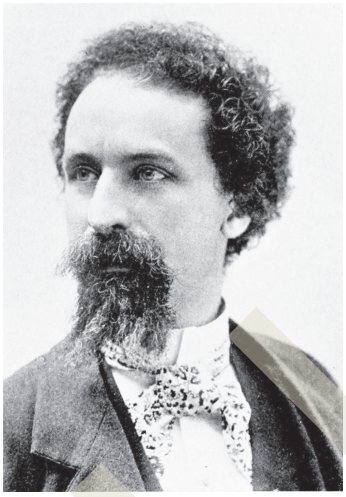

Fig 1.3.4 Enrico Ferri

Another chief exponent of the positive school of criminology was Enrico Ferri. He was an MP of Italian parliament, lawyer and an editor of a newspaper. He challenged Lombrosian view of criminality. He proved that mere biological reasons were not enough to account for criminality. He firmly believed that other factors such as emotional reactions, social infirmities, or geographical conditions also play a vital role in determining criminal tendencies in men. He did not blame the criminals because he believed often completed to commit they are crimes due to, economic, social and political pressures. Hence he is called "The Father of Criminal Sociology".

The major contribution of Ferri to the field of criminology is his "Law of Criminal Saturation" He said, "In a given social environment, with definite individuals and physical conditions, a fixed number of crimes (no more, no less) can be committed." This theory presupposes that crime is the synthetic product of three main factors.

1. Physical or Geographical
2. Anthropological and
3. Psychological or Social

Ferri, emphasized that a criminal should be treated as a product of the conditions which have influenced played in his life. Therefore, the basic purpose of crime prevention programmes should be to remove the conditions that lead to crime.

Ferri, worked out a five fold classification of criminals namely,

1. **Born Criminals:** Born criminals are persons born with certain characteristics, which predispose them to commit crime.
2. **Occasional Criminals:** Those who commit minor insignificant crimes, not because of their personality, but due to circumstances factors.
3. **Passionate Criminals:** They commit offences due to an explosive emotional state of mind.
4. **Insane Criminals:** A person committing crime due to serious mental illness.
5. **Habitual Criminals:** Persons who commit crime due to the ineffectiveness of society's preventive on repressive measures.

1.3.2.3 Raffaele Garofalo

Fig 1.3.5 Raffaelo Garofalo

Raffaelo Garofalo was one of the three main exponents of Positive School of Criminology. He propounded that the root cause of criminal behavior can be traced to psychological features of criminals, rather than physical ones. He said that criminals committed crimes due to "psychic anomaly" a lack of proper development of altruistic sensibility. He emphasized that a lack of pity leades to crime against the person, while a lack of probity leads to crimes against property. As to the classification of criminals, he rejected Ferri's classification and placed offenders into four main categories, namely:

1. Typical Criminals or Murderers whom he called 'endemic criminals'. Those who murder for sheer joy and possess no moral sense.
2. Violent Criminals, influenced by environmental influences such as prejudices of honour, politics and religion. Those who kill for purely egoistic satisfaction.
3. Criminals Lacking in the sentiments of Probity – Criminals who lack in honesty. Who involve in economic offences such as bank fraud, cheating, and money laundering etc.
4. Lascivious or Lustful Criminals who commit crimes against sexual monality and chastity.

Table 1.3.1 Differences between positive and classical school of criminology

Classical School	Positive School
This school defined crime in legal terms.	It rejected legal definition of crime and preferred sociological definition.
It placed reliance on the free will theory as an explanation of crime.	It explained crimein terms of biological determinism.
It believed in deterrent and uniform punishment for each offence and equal punishment for all criminals committing the same offence.	It advocated treatment of criminals rather than of punishment, and held that criminals be punished not according to the gravity of the crime, but according to the circumstances associated with it.
It focuses greater attention on the crime namely, the act rather than the criminal.	It laid greater emphasis on the personality of the offender rather than his criminal act.
The main exponents of classical school were Beccaria and Bentham.	The main exponents were Lombroso, Ferri, and Garofalo.
It was the product of the 18th century. Itattempted to reform the criminal justice system in order to protect criminals against the arbitrary discretion of judges.	It was a 19th century doctrine which emphasized the scientific method of study and shifted emphasis from crime to the criminal and from retribution to corrective treatment.

1.3.3 Psychological School of Criminology

The psychological school of thought examines how individual traits, personality disorders, and mental health issues can influence human behavior and their likelihood of engaging in criminal activities. The exponents of the school argue that crime is the result from psychological factors, such as personality disorders, cognitive process, and emotional disturbances and the like.

Of the several psychological explanations the following are important ones:

1. Criminal Thinking Patterns
2. Personality Defects
3. Psychoanalytic Explanations

1.3.3.1 Criminal Thinking Patterns

Psychiatrists argue that criminals possess a distinct way of thinking, characterized by unique cognitive patterns that, while internally logical and consistent, deviate from socially the norms of responsible thought. Criminals perceive themselves and the world differently from the general population.

Yochelson and Samenow, psychiatrists from St. Elizabeth's Hospital in Washington, D.C., dismiss environmental factors like broken homes or unemployment as causes of criminal behavior. Instead, they asserted that criminality arises from a series of choices individuals begin making early in life. They liken crime to alcoholism, suggesting that "once a criminal, always a criminal."

According to their perspective, the criminals they studied were in full control of their actions and were not "sick." They described these individuals as skilled manipulators who deflect responsibility for their behavior onto others. In their view, criminals refuse to abide by social norms, are habitual liars unable to distinguish truth from falsehood, and use language as a tool for manipulation, rather than conveying reality.

1.3.3.2 Personality Defects

The causes of crime are often attributed by laypersons to defects in an individual's personality. In its most extreme form, this explanation leads to theories suggesting that criminals possess an inherently antisocial nature. This idea, rooted in the concept of psychopathy, has a long-standing history. Psychopathy is generally associated with individuals who engage in frequent and repetitive criminal activities. Modern perspectives emphasize the unsocialized personality traits and lack of conscience that cause such individuals to frequently clash with social norms.

Psychopaths are characterized by an inability to learn from their experiences or feel guilt. They demonstrate no loyalty to people, groups, or social values. As Nietzel explains, psychopaths are grossly selfish, callous, and irresponsible. They often blame others for their actions or provide convincing rationalizations for their behavior. This combination of traits fosters arrogance, which can ultimately lead to their capture.

According to Goleman, approximately 80% of psychopaths are men. While their personality traits make them relatively easy to identify, they are exceptionally difficult to rehabilitate. Fortunately, psychopaths make up a small proportion of offenders. However, they are responsible for a disproportionately high number of violent crimes, and their actions often draw significant public attention.

For decades, researchers have explored potential physical or physiological distinctions in psychopathic personalities. A study conducted in 1987 revealed that psychopaths exhibit an unusual brain organization pattern, particularly involving irregular development in the neurological center responsible for language.

1.3.3.3 Psychoanalytic Explanations

Psycho-analysis is the special branch of psychiatry based on the theories of Sigmund Freud (1856-1939). According to this school of thought, the primary cause or explanation of criminal behaviour is found in the unconscious. According to Freud, human experience mental conflict because of desires and energies that are repressed into the unconscious. These urges, ideas, desires and instincts are basic, but they are repressed because of morality of the society. However, they try to show these natural drives in some indirect way to avoid the reactions of others. For Freud, aggressive behaviour is deeply rooted in childhood experiences. During socialization process ,most of us try to control our basic instincts. But an improperly developed child does not develop the ability to control impulses and shows it outwards (delinquent) or inwards (neurotic). Freud thought personality consists of three elements, the Id, ego and super ego,

Id : It is the pleasure principle. It is the reservoir of urges, desires, drives and instincts. It seeks immediate gratification and strives for pleasure.

Ego : This is the reality principle and is often in conflict with id. This tries to strike a balance between id and super ego.

Super Ego : This is the moral principle, also known as a conscience. It is developed by the society's moral pressure.

Ego is constantly trying to achieve an

acceptable balance between id and super ego. Id and super ego are unconscious, while ego is the conscious part of the personality. When there is a harmony in id, ego and super ego normal behaviour results. When they do not work in harmony, it results in abnormality, deviance or crime. A healthy balance is achieved through proper socialization. Freud discovered unconscious by using hypnosis. He discovered that a free and open talk by the patients' catharsis would reveal certain clues to the patient's behavior. This method of free talk is called by him as psychoanalysis.

1.3.4 Sociological - Marxian, Structural Functional and Symbolic Interactionism

Sociologists analyze social phenomena through different lenses, focusing on a range of topics from individual behaviors to broader social patterns. The three primary sociological perspectives, Marxian, Structural-Functional, and Symbolic Interactionism each offer distinct ways of understanding crime and deviance in society.

At the micro level, theories like Symbolic Interactionism explore into the specific interactions between individuals or small groups. This perspective examines how social norms, labels, and personal meanings contribute to criminal behavior. For instance, it explores how criminal labels, once applied, influence individuals' identities and behaviors in small social groups.

At the macro level, the Marxian and Structural-Functional perspectives focus on large social structures and their influence on crime. Marxian criminology emphasizes the role of capitalism and class struggle in shaping criminal behavior, often pointing to economic inequality and power dynamics as root causes of crime. Structural-Functionalism, on the other hand, looks at the ways social institutions and systems contribute to maintaining social order, with crime being seen as a necessary part of society that serves functions, like reinforcing norms or instigating social change.

Whether analyzing individual acts of deviance or systemic inequalities, criminologists use these sociological theories to examine both the personal and structural factors that influence crime and how society responds to it. Each perspective uniquely conceptualizes society, social forces, and human behavior see Table 1.3.2.

Table 1.3.2. Theoretical perspective on Individual Behaviour

Sociological Perspective	Level of Analysis	Focus
1. Symbolic Interactionism	Micro	Use of symbols; Face - to - face interactions
2. Functionalism	Macro	Relationship between the parts of society; how aspects of society are functional (adaptive)
3. Conflict Theory	Macro	Competition for scarce resources; how the elite control the poor and weak

1.3.4.1 Marxian Perspective

Karl Marx, a renowned philosopher and economist, argued that economic structures play a central role in shaping society, including patterns of criminal behavior. According to Marx, social inequalities and class divisions inherent in capitalist systems create conditions that foster crime. He contended that the economic structure, characterized by unequal distribution of wealth, exploitation, and alienation, contributes to criminal behavior as individuals seek alternative means to address economic disparities.

Marx believed the social phenomena including crime was governed by a universal principle, namely the economic principle. The law is made by the capitalist society for its benefit. The capitalist gives false picture and implement their own will they mold the social habits to suit their selfish interest of private gain. Marxist criminology looks behind power for the ultimate explanation of criminality. The school believes that the crime is the byproduct of the economic system and that is the result of poverty. According to Marx, capitalism believed in survival of the fittest'. Over a period of time money get concentrated in fewer hands making the masses poor and the capitalist richer. The problem is much further complicated by increased mechanization of production. This leads to unemployment and under employment. He says that poverty, unemployment and under unemployment leads to crime. He also says that when the masses become unproductive and unemployed, they become demoralized. Thus, they become the subject of all forms of crimes including drinking, prostitution, gambling, theft etc.

Since private ownership of means of production is the origin of social inequality and criminality, private ownership must be abolished. Therefore, he advocated for a classless society. In this connection, Willem Bonger suggests that to reduce criminality the best solution is a reduce the gap between the have and the have nots.

1.3.4.2 Structural Functional Theory of Crime

Structural functionalism is a macrolevel theory that views society as a complex system whose parts work together to promote stability and social equilibrium. The theory aims to explain certain phenomena in society. The Structuralists examine human behavior not to acknowledge individual factors like Biology or Psychology. Instead, they see society as a system of interdependent structures which shape human behavior. The structural functionalism also consider that society is made up of necessary interdependent parts which bring about social order and consensus within the society. The theory holds the view that crime is not a product of individual maladjustments, but as a social phenomenon. It arises from the inherent structure of society.

The functionalist view is based on the sociological theory of functions. They view that the crime is the result of the structure of the society. It also claims that deviance serve a beneficial function to the society as a whole. The functionalist criminology combines the study of crimes and criminals with the theory of functionalism. It analyzes crime through a positive lens.

Fig 1.3.6 Durkheim's Perspective on Crime

The functionalists argue that crime and deviance, while seemingly disruptive, can also serve a positive function. They emphasis the role of social structures such as institutions, norms and values, in shaping criminal behavior. They say that crime is often a result of dysfunctions within these structures, such as inequality, poverty and lack of opportunities.

Functionalist Theories

Émile Durkheim, a foundational figure in functionalist thought, emphasized the role of shared values and social solidarity in maintaining social order. He argued that a limited amount of crime is inevitable and even beneficial, as it exists in all societies, including the most advanced ones. According to Durkheim, crime serves important social functions by contributing to social integration, regulation, and change.

Building on this, Robert K. Merton expanded functionalist theory through his concepts of manifest and latent functions—the intended and unintended outcomes of social actions. In criminology, this means crime not only disrupts society but also unintentionally strengthens it in key ways.

Functionalist theorists argue that crime performs several essential social functions, including:

1. **Clarifying Moral Boundaries** – Deviant behavior helps define the limits of acceptable conduct by reinforcing norms and values.
2. **Promoting Social Cohesion** – The collective reaction to crime, such as law enforcement and punishment, strengthens community bonds and a shared moral framework.
3. **Providing a Safety Valve** – Crime can serve as an outlet for social frustration and tension, preventing more serious upheavals or unrest.
4. **Encouraging Social Control** – The presence of crime prompts the development of mechanisms like law enforcement and surveillance, which contribute to maintaining social order and a sense of security.

Functionalists view crime not just as a threat to society, but as a functional phenomenon that helps reinforce norms, adapt to change, and maintain cohesion—though they also acknowledge the need to manage its disruptive potential.

Functionalism views society as a complex system of interconnected institutions—such as family, education, and the legal system—that work together to maintain social stability and meet the needs of individuals. Within this framework, crime and deviance are not simply social problems but are studied as functional components that can contribute to the overall equilibrium of society.

Herbert Spencer introduced the biological analogy, likening society to a living organism, where each institution functions like an organ, maintaining social health. In this view, crime is seen as a symptom of dysfunction, reflecting imbalances in particular social structures. Institutions such as law enforcement and the courts are seen as mechanisms to correct these imbalances and restore order.

Émile Durkheim further developed this perspective by arguing that crime is both normal and necessary. According to him, crime:

- Defines social boundaries, reinforcing what is considered acceptable behavior.
- Promotes social cohesion, as collective responses to deviance unify society.
- Drives social change, by challenging outdated norms and prompting legal or moral reform.

Robert K. Merton expanded functionalism by distinguishing between:

- Manifest functions (intended outcomes), such as deterring crime and maintaining public order.
- Latent functions (unintended effects), such as strengthening community solidarity or exposing social inequalities that demand reform.

Functionalists recognize that the criminal justice system is not without its dysfunctions, including systemic bias, unequal access to justice, over-policing, and ineffective rehabilitation, which can contribute to recidivism and community distrust. However, the functionalist perspective in criminology has faced significant criticism. Critics argue that it places too much emphasis on social stability, overlooking how crime can stem from structural inequalities. It is also seen as neglecting individual agency, focusing too heavily on social functions while downplaying personal choice and resistance. Moreover, functionalism is often criticized for its inability to adapt to rapid social change and for failing to address power dynamics, particularly the ways in which dominant groups may shape laws and institutions to preserve their own interests.

Functionalism sees crime as an inevitable but functional aspect of society, helping maintain order and catalyze change, though its explanatory power is limited by its assumptions about consensus, stability, and institutional harmony.

1.3.4.3 Symbolic Interactionism

The symbolic interactionist perspective in sociology provides a distinct approach to examining crime and deviance. Originating from the work of George Herbert Mead and later refined by scholars like Erving Goffman and Howard Becker, this framework centers on the significance of symbols and social interactions in influencing individual behavior and social norms. By focusing on the subjective meanings assigned to actions, labels, and roles, symbolic interactionism offers profound insights into how crime and deviance are perceived and understood within society.

From the symbolic interactionist perspective, crime and deviance are not

intrinsic qualities of individuals or actions but are socially constructed through interactions and the meanings attributed to certain behaviors. Central to this view is the labeling theory, which asserts that individuals are labeled as deviant or criminal when society assigns these labels to them. This labeling process significantly shapes an individual's self-concept and their future interactions with society. When individuals are labeled as criminals, they often face stigmatization, which can lead to social exclusion and increased chances of reoffending. For example, a person who is labeled as a criminal may find it difficult to secure employment, housing, or social acceptance, leading to a cycle where they internalize the criminal label and continue engaging in deviant behavior. This can result in a self-fulfilling prophecy, where the label itself encourages further criminal behavior.

Symbolic interactionists also emphasize that deviance is not universal but is a social construct that varies across different cultures, time periods, and social contexts. Individuals engage in deviant behavior based on their interpretations of and responses to social expectations and reactions. The theory of differential association suggests that deviant behavior is learned through interactions with others who engage in similar activities. For instance, a person might be drawn into criminal behavior if they are part of a peer group that encourages and reinforces such actions. Additionally, symbolic interactionists explore the role of social control, which encompasses the mechanisms society uses to regulate behavior and maintain order. These mechanisms include formal institutions like the criminal justice system as well as informal sanctions like peer pressure and social norms. The desire for social acceptance or the fear of negative social reactions may compel individuals to conform to social norms and avoid deviance.

The symbolic interactionist view on crime and deviance provides valuable insights into how social interactions and the meanings individuals attach to their experiences shape behavior. By concentrating on the subjective experiences and interpretations of individuals, this perspective underscores the significance of the social context in which deviant behavior occurs. However, symbolic interactionism has faced criticism for its narrow focus on micro-level interactions and its disregard for broader structural factors that contribute to crime and deviance. Critics argue that this approach overlooks the influence of social inequalities, economic conditions, and institutional forces that shape criminal behavior patterns. Despite these criticisms, the symbolic interactionist perspective offers a nuanced understanding of crime and deviance, emphasizing the role of symbols, social interactions, and subjective meanings. By exploring how individuals interpret and react to social expectations and labels, this perspective illuminates the social construction of deviant behavior. While it has limitations, symbolic interactionism provides valuable insights into the complexities of crime and deviance, promoting a more comprehensive understanding of these phenomena within society.

Recap

- The Classical School focuses on rational choice and legal reform, the Positivist School emphasizes determinism, scientific analysis, and individualized treatment
- The Classical School of criminology emerged in the 18th century as a reaction against the barbaric and arbitrary system of law and punishment that prevailed in Europe
- Cesare Beccaria, was called as the "Father of Classical Criminology"
- Jeremy Bentham devoted his life for developing a scientific approach to the making and breaking of laws
- The Positivist School arose in the 19th century, led by thinkers like Cesare Lombroso, and shifted attention to the individual criminal.
- The positivist school was influenced by the rise of science, it argued that crime is determined by biological, psychological, or social factors, not free will
- The psychological school of thought examines show individual traits, personality disorders, and mental health issues can influence human behavior and their likelihood of engaging in criminal activities
- Psychiatrists argue that criminals possess a distinct way of thinking, characterized by unique cognitive patterns that, while internally logical and consistent, deviate from the norms of responsible thought
- Sociologists analyze social phenomena through different lenses, focusing on a range of topics from individual behaviors to broader social patterns
- The three primary sociological perspectives Marxian, Structural-Functional, and Symbolic Interactionism offer distinct ways of understanding crime and deviance in society
- At the micro level, theories like Symbolic Interactionism delve into the specific interactions between individuals or small groups
- Symbolic interactionism examines how social norms, labels, and personal meanings contribute to criminal behavior
- At the macro level, the Marxian and Structural-Functional perspectives focus on large social structures and their influence on crime
- Marx believed the social phenomena including crime was governed by a universal principle, namely the economic principle

- Functionalists recognize that the criminal justice system is not without its dysfunctions, including systemic bias, unequal access to justice, over-policing, and ineffective rehabilitation, which can contribute to recidivism and community distrust

Objective Questions

1. Who authored *On Crimes and Punishments?*
2. Which type of crime is more likely to be associated with individuals of lower intelligence?
3. How does Marxist criminology interpret acts of rebellion like riots or protests?
4. Which school of criminology views crime as a result of free will and rational choice?
5. How does Structural-functional theory view crime ?
6. What does Symbolic interactionism in criminology focus on ?
7. What does the legal approach to crime focus on?

Answers

1. Cesare Beccaria
2. Street crimes
3. As resistance against capitalist oppression
4. Classical School
5. A necessary aspect of society that helps maintain social order by clarifying norms
6. How individuals learn criminal behaviour through interactions
7. Acts that violate established laws and are punishable by the state

Assignments

1. Analyze the key principles of the Classical School of criminology, focusing on the contributions of Cesare Beccaria and Jeremy Bentham. How did their ideas challenge the existing criminal justice system of the 18th century, and what impact did their theories have on modern legal practices.
2. Critically evaluate the Positivist School of Criminology, focusing on the contributions of Cesare Lombroso, Enrico Ferri, and Raffaele Garofalo. How did their theories shift the focus of criminology from the act of crime to the criminal as an individual.
3. Compare the psychological theories of criminal behavior with the sociological perspectives of Marxian criminology, Structural Functionalism, and Symbolic Interactionism. How do these theories explain crime, and what are their implications for prevention and rehabilitation.

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Types of Crime

SGOU

Typology of Crimes

Learning Outcomes

Upon completion of this unit, the learner will be able to:

- describe various types of crime
- examine the types of crimes against vulnerable groups
- evaluate the implications of changing crime patterns for society and law enforcement

Prerequisite

Crime covers a wide range of offences, each with unique features and elements. Despite their differences, all crimes share standard components, such as criminal intent (*mens rea*) and harm, which can vary depending on the crime. Experts have created classification systems to make crimes more straightforward to understand, teach, and study from legal and criminological perspectives. For instance, the ancient Romans distinguished crimes as either offenses against the gods or against other human beings. In the eighteenth century, some English lawyers listed crimes alphabetically. In the early nineteenth century, the French developed a typology of three categories: crimes (felonies), Less serious crimes (misdemeanours), Minor offences (violations)

The more serious crimes were grouped according to the harm they caused, such as harm to life, physical integrity, honour, and property. These categorisations, known as typologies, offer a structured way to study and reference different types of criminal activities. Now, let us examine the various categories of crime in more detail.

Keywords

Crime, Domestic violence, Sexual abuse, Exploitation

Discussion

2.1.1 Crimes Against the Human Body

A man is attacked during a street robbery and suffers serious injuries — this is a non-fatal offence against the human body. In another case, a woman is threatened and forced into an unwanted act, which falls under sexual offences. A fatal offence would include cases like murder, where the victim loses their life. Crimes like slapping or pushing without serious injury are considered non-sexual, non-fatal offences. These acts not only harm individuals but also create fear and insecurity in society. According to the Bharatiya Nyaya Sanhitatha, 2023, such crimes can involve harm to any person, including individuals or groups, male or female. Criminology studies these offences to understand their causes and prevent their occurrence.

Chapter VI of the BNS (2023), encompassing Sections 100 to 111, addresses offences that impact the human body. This chapter comprehensively safeguards various aspects of human life, including the right to life, personal liberty, security of the individual, freedom of movement, and the protection of a person's physical integrity from interference. It aims to prevent others from intentionally violating these fundamental rights. The key sections under this chapter can be broadly classified into the following categories:

1. Offences affecting the Human body
2. Offences of causing hurt
3. Offences of Wrongful Restraint and Wrongful Confinement
4. Offences of Kidnapping and Abduction
5. Offences of Rape

1. Offences Affecting the Human Body

The term homicide originates from the Latin words *homo* (human) and *cido* (killing). Homicide means the killing of human beings by human beings. Homicide can be classified as either lawful or unlawful. Lawful homicide occurs when the killing is justified under the law, such as in the exercise of the right to private defence or other exceptions outlined in Chapter III of the BNS, which deals with general exceptions.

Unlawful homicide, on the other hand, refers to killings that are not justified or approved by law. Among unlawful homicides, culpable homicide means death through human agency. Criminal intention is the essential element in the offence of culpable homicide. While all unlawful homicides are punishable, lawful homicides are exempt from punishment.

Unlawful or culpable homicide is further categorised into:

1. Culpable homicide
2. Murder

The distinction lies in the circumstances of the act. Murder is considered a specific type of culpable homicide. In simpler terms, " every murder is culpable homicide, but not

every culpable homicide is murder." When the act of culpable homicide is committed under any of the circumstances listed in Section 100 of the BNS, it qualifies as murder and is punishable as such. Otherwise, it is punishable as culpable homicide not amounting to murder.

In order to attract section 100, the following conditions are satisfied. a)There must be a death of a person, b)Another person must have caused the death, c)The act must have been done to cause death or to cause such bodily injury as is likely to cause death, or with the knowledge that such act is likely to cause death.

Murder is the crucial offence affecting the human body. The term murder has been derived from the Germanic word 'mord', which means secret killing. It is an aggravated form of culpable homicide. Section 101 of the BNS outlines the conditions.

If the act by which death is caused is done to cause death or if the act is done to cause such bodily injury which is likely to cause death; or the act is done to cause bodily injury which is sufficient in the ordinary cause of nature to cause death; or the offender knows that the act is so imminently dangerous that it must in all probability cause death.

a. Culpable Homicide Not Amounting to Murder

This refers to situations where a person causes the death of another, but the circumstances do not meet the legal definition of murder. While the act is blameworthy and punishable, it lacks the specific intent or severity required to classify it as murder.

The intention to cause death may not always be present, but the act results in death. The offender's actions are reckless or negligent to the extent of being criminal but not to the degree of murder. Mitigating factors or exceptions (as per Section 300 IPC) apply, such as:

The act was committed without premeditation during a sudden fight or in the heat of passion.

The offender acted under grave and sudden provocation.

b.Culpable Homicide Amounting to Murder

This is a more serious offence where the act of killing fulfils all the criteria outlined in Section 300 IPC, making it murder. The defining factor is the presence of a clear intent or knowledge to cause death or severe harm, along with aggravating circumstances. The offender has a deliberate intention to cause death or bodily injury likely to result in death. The act is premeditated or carried out with extreme recklessness. No exceptions under Section 300 apply.

2. Offences of Causing Hurt (Sections 114-125)

Section 114 defines hurt. It states that whoever causes bodily pain or infirmity to any person is said to cause hurt. Mental pain is not hurt. To constitute hurt, it is necessary to cause it. Whoever causes bodily pain, disease, or infirmity to any person is said to cause hurt.

This definition encompasses the following three elements:

i. Bodily Pain

Bodily pain may be caused by direct physical contact or otherwise. It is not necessary to cause visible injury to the victim.

ii. Disease

The transmission of a disease from one person to another also falls under the definition of hurt. Thus, a person suffering

from a venereal disease may cause hurt to a woman if he has sexual intercourse with her.

iii. Infirmity

Infirmity refers to the physical inability of an organ to perform its normed function, which may be temporary or permanent.

3. Offences of Wrongful Restraint and Wrongful Confinement (Section 126-127)

These offences involve the unlawful restriction of an individual's personal freedom and right to movement, which is punishable under the BNS.

a) Wrongful Restraint

Section 126 of the BNS defines wrongful restraint. It means voluntarily obstructing a man moving from one place to another where he has the right to proceed. To establish wrongful restraint, the following elements must be present: Voluntary obstruction, Prevention of movement, Right to proceed

b) Wrongful Confinement (Section 127)

Section 127 of the BNS defines wrongful confinement as wrongful prevention of a person from proceeding beyond a specific circumscribing limit. This offence involves the complete restriction of personal liberty. A person is unlawfully prevented from leaving defined boundaries and confined against his will. For example, locking someone in a room or tying them to a tree constitutes wrongful confinement.

4. Offences of Kidnapping and Abduction (Section 137-146)

The term "kidnapping" traditionally means stealing a child or, under common law, taking a person from one country to another. Section 137 of the BNS defines two types of kidnapping:

a) Kidnapping from India: (Section 137 (1) a)

Section 137 (1) defines it as taking any person beyond India's borders without his consent or the consent of someone legally authorized to act on his behalf.

b) Kidnapping from Lawful Guardianship (Section 137 (1) b)

A person compels or induces any person to go from any place and such compulsion is by force or by deceitful means

Abduction

Abduction, as Section 138 of the BNS defines, occurs when a person uses force or deceit to persuade someone to leave a particular location. In abduction, the accused must actively encourage the person to go to a place they would not have gone otherwise. The key difference between kidnapping and abduction is that kidnapping can only involve minors or individuals of unsound mind under lawful guardianship. In contrast, abduction can involve any person, regardless of age.

5. Offences of Rape (Section 63)

Rape is the most significant sexual offence by BNS. Literarily rape means forcible seizure. It is the forcible ravishment of a woman. The Offence of rape could be committed only by a male.

An offence of rape can be said to have been committed if the following conditions are fulfilled. (1) A man must have sexual intercourse with a woman; (2) such act must have been committed under any of the following circumstances.

1. Against her will.
2. Without her consent or
3. With her consent, when her consent is under fear of death or hurt, or

4. With the consent given under the belief that the man is her husband or
5. Consent given by a woman of unsound mind, or under intoxication, or
6. A woman gives consent if she is under eighteen years of age or
7. When she is unable to communicate consent

Sexual acts by a man with his wife, if the wife is over fifteen years of age, do not constitute rape. However, medical procedure or intervention shall not constitute the offence of rape.

Sexual intercourse of a man with his wife is not rape if the wife is above 15 years. A boy above 12 years is capable of committing rape.

2.1.2 Crimes Against Property

Crime against property involves unlawful theft or interference with someone's belongings. These offences are typically motivated by financial gain rather than an intent to cause physical harm. They encompass acts that unlawfully damage, steal, or interfere with another person's property rights.

Offences against property are addressed under Chapter XVII (Sections 303 to 334) of the *Bharatiya Nyaya Sanhita* (BNS). These offences are broadly categorised into two types: those related to movable property and those related to immovable property.

A common element across all these offences is dishonesty, though how dishonesty is carried out varies depending on the offence. Below is a discussion of some important property-related offences:

1. Theft

The BNS defines theft under Section 303 as whoever, intending to dishonestly take any movable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft. To constitute the offence of theft, the following essential elements must be satisfied

Dishonest Intention to Take Away Property: The property must be movable. The propertys should be in someone else's possession without the owner's consent: The property must have been removed. It must be done with dishonest intentions.

The intention to move dishonestly must exist when moving the property. It is unnecessary to make the taking permanent. It is also not necessary that the accused should have derived any profit.

2. The Offence of Extortion (Section 308)

Extortion is the dishonest obtaining of property by intentionally putting any person in fear of injury, death, or grievous hurt. To constitute the offence of extortion, the following elements must be fulfilled. The accused must have put any person in fear of injury. Such an act must be intentional. The accused must have induced the person to deliver property or valuable security. Such inducement must have been done in order to commit extortion. The fear of injury can be physical, mental, or reputation-related. The delivery of property or valuables must directly result from the fear induced by the offender. For example, If A threatens B with physical harm unless B hands over a piece of jewellery, and B delivers the jewellery out of fear, A has committed extortion.

3. Robbery (Section 309)

Robbery is an aggravated form of theft or extortion. In all Robberies there is either theft or extortion. Thus, all elements of either theft or extortion must be present in a robbery. In short, robbery is either aggravated theft

or aggravated extortion.

When Theft Becomes Robbery: Theft is when the offender voluntarily causes or attempts to cause death, hurt or wrongful restraint to any person. The act of violence should have been done: to commit theft and attempt to carry away stolen property.

When Extortion Becomes Robbery: Extortion becomes robbery when the offender, while committing extortion, puts a person in fear of instant death, instant injury, or wrongful restraint to the victim or some other persons. The defining characteristic of robbery, whether from theft or extortion, is the imminent fear of violence.

4. Dacoity (Section 310)

Dacoity means robbery committed by five or more persons. It is an aggravated form of robbery. In other words, there is no difference between dacoity and robbery except in the number of offenders. If there are less than five, it is robbery. However, if there are more than five, it is dacoity. Thus, every dacoity involves robbery, but not every robbery is dacoity. There must be five or more persons. They must have committed or attempted to commit robbery. They must have acted co-jointly.

5. Criminal Misappropriation of Property (Section 314 to 315)

Sec. 314 of BNS defines this offence by the name criminal misappropriation of property in the following words: whenever dishonestly misappropriated or converts to his use any movable property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Misappropriation means dishonest appropriation and using another's property to capitalise it for one's use. The offence of criminal misappropriation requires these ingredients: the property must belong to someone else and be moveable, the accused must have misappropriated it, he must have done it dishonestly.

6. Criminal Breach of Trust (Section 316)

A criminal breach of trust is an important offence against moveable and immovable property. A person is liable to be punished for criminal breach of trust if the following conditions are satisfied.

a) A relationship of trust between the two parties

b) One party entrusts either movable or immovable property to the other

c) the party entrusted with the property.

7. Cheating (Section 318)

Cheating is one of the most significant offences against property. Cheating could be committed against moveable and immovable property. Section 318 of BNS says a person is liable to be punished for cheating if the following conditions are satisfied.a) The accused must have deceived another person. b)The accused must have dishonestly or fraudulently influenced the person to either deliver property or agree to allow someone else to retain property c)The accused must have intentionally induced any person so deceived to do or refrain from doing anything. d) The deception must have caused damage or harm to that person in body or mind, reputation or property.

8. Criminal Trespass (Section 329)

The offence of Criminal Trespass is defined under Sec. 329 in the following words: "Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property, or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent

to commit an offence, is said to commit criminal trespass".The elements involved in the offence of Criminal Trespass are:

a) Entry into or upon Property. b)The person having lawfully entered upon such property faithfully remains there. c) He does so with intent to commit an offence or intimidate, insult or annoy such a person.

2.1.3 Crimes Against Vulnerable Groups: Crimes Against Women and Children

Vulnerable groups refer to populations that are disproportionately susceptible to harm, exploitation, or marginalisation. Vulnerable groups, such as children, women, senior citizens, individuals with disabilities, and marginalised communities, are disproportionately affected by crime. These groups often face unique challenges and barriers that increase their risk of victimisation.

2.1.3.1 Factors Contributing to Vulnerability

Social and Economic Inequities: Poverty, lack of education, and unemployment significantly heightened vulnerability. These conditions limit access to essential resources, support, and opportunities, making these groups more prone to exploitation and harm.

Physical and Mental Disabilities: People with disabilities, whether physical or mental, often face heightened risks due to their dependency on others for care or communication. This dependency can make them targets for abuse or neglect.

Age and Developmental Stage: Children, senior citizens, and individuals with developmental disabilities are particularly vulnerable to exploitation and abuse. Their dependence on others, both physically and emotionally, leaves them at greater risk of being taken advantage of.

Gender and Sexual Orientation: Women, LGBTQ+ individuals, and those with non-conforming gender identities are more likely to face violence, harassment, and discrimination. Gender-based violence and social stigmas contribute significantly to their vulnerability, leading to increased victimisation.

2.1.3.2 Types of Crimes Affecting Vulnerable Groups

Physical and Emotional Abuse: Vulnerable individuals are often victims of physical assault or emotional manipulation. Abuse can take many forms, from physical harm to psychological tactics that exploit their vulnerabilities.

Exploitation: Vulnerable groups are at risk of being exploited financially, sexually, or in labour contexts. They may be coerced into situations that benefit others at their expense, often challenging ways to escape.

Neglect: Neglect involves failing to provide essential care, resources, or support, leading to harm. This is particularly prevalent among children, the elderly, and those with disabilities who may rely on caregivers or institutions for basic needs.

Cyber crimes: The rise of digital platforms has exposed vulnerable individuals to cybercrimes such as online harassment, bullying, and exploitation. These crimes often target individuals who may already be isolated or lack the knowledge to protect themselves in online environments.

2.1.3.3 Impact and Consequences of Crimes Against Vulnerable Groups

Physical and Emotional Harm: Victims of crime often experience severe physical and emotional trauma. The scars from abuse, whether physical injuries or long-term

psychological effects, can last for years, affecting their overall well-being.

Social Isolation: Victims may withdraw from social interactions or support systems due to fear, shame, or mistrust. This isolation further exacerbates their vulnerability, leaving them without resources or advocates.

Economic Instability: Victims of crime, particularly those from marginalised backgrounds, often face economic hardship. Financial exploitation, theft, or the costs associated with recovery, can lead to long-term instability and dependency on others for support.

Loss of Trust: Individuals victimised by crime may find it difficult to trust others, including family members, peers, authorities, or support systems. This erosion of trust can profoundly impact their relationships and future interactions.

Human rights for vulnerable groups involve recognising and addressing the social, cultural, and structural barriers hindering their progress in society. The law plays a crucial role in this process. Whether social demand for legal changes is essential or whether the law leads to change is debatable. However, there is a strong interaction between law and society, which serves both as a reflection of social patterns and a means for social transformation. Despite various traditions, one common issue remains: the subordination of women in society. In addition to women, other vulnerable groups include refugees, migrant workers, individuals affected by AIDS, and child labourers. Within these groups, the girl child and child labourers are particularly marginalised, with their rights often being violated. We are now moving forward to delve deeper into the subject of crimes committed against women and children, examining the issue in greater detail and exploring its various aspects.

2.1.4 Crimes Against Women

In many parts of society, women were once kept inside the home and not allowed to take part in public life. They were denied the right to inherit property from either their father or husband. Social issues like dowry, child marriage, and the ban on widow remarriage became widespread. Over time, violence against women has increased, including cases of domestic abuse. Sadly, female foeticide and infanticide still occur in some areas. Bride burning over dowry demands has also become a serious concern.

Figure 2.1.1.
States and FIR Numbers

In many parts of society, women were once kept inside the home and not allowed to take part in public life. They were denied the right to inherit property from either their father or husband. Social issues like dowry, child marriage, and the ban on widow remarriage became widespread. Over time, violence against women has increased, including cases of domestic abuse. Sadly, female foeticide and infanticide still occur in some areas. Bride burning over dowry demands has also become a serious concern.

Crime against women is one of the most frequent human rights violations. It is a threat to women's lives, it puts their physical and psychological health at risk, and it is a threat to the well-being of their children. Crime against women has consequences for society as a whole. The perpetrators can be found in every society, and most are male. There are various ways in which crime against women manifests: sexual, physical, psychological, social and financial. Sexualised violence is one of gender-based violence and is an expression of discrimination.

However, the following are the primary manifestations of crime against women.

1. Domestic Violence

Domestic violence is a worldwide phenomenon. It is also known as 'intimate partner violenc'. It refers to violence committed by people within close social relationships. That is an internationally recognised violation of human rights. The purpose of the violence is to exercise control and power. According to the domestic violence act of 2005, "any act, commission or conduct of the respondent shall constitute domestic violence" It manifests in the form of physical injury, emotional abuse, Sexual assault, honour killing and the like.

Domestic violence against women is endemic in India. It often happens in India as a result of dowry demand. According to the report of the Ministry of Women and Child Development, around 70% of women in India are victims of domestic violence. To prevent domestic violence against women, the Domestic Violence Act 2005 was passed. It is a comprehensive act meant to protect the wife or female living partner from violence at the hand of the husband or male live-in-partner or his relatives

2. Rape

Rape is another major crime against women, and it involves a man engaging in sexual penetration into a women's private parts (vagina, anus, urethra or mouth) without her consent. This is considered a grave crime against women. Indian society and system have failed to end this heinous crime. The number of such crimes increased tremendously. The offences may take the form of rape of a minor girl, rape of women, rape with murder, rape by a public servant, gange rape, marital rape and the like.

In December 2012, in Delhi, a paramedical student of 23 years of age was beaten and gang raped on a bus; later on, she died of injuries caused to her. The incident generated widespread protests and agitations at the national level. The government appointed the Verma Commission to study and suggest recommendations regarding amendments. The commission suggested amendments in Criminal Law to deal with sexual assault cases sternly. Based on these recommendations, the parliament amended the provision. Section 64 of the BNS prescribes punishment. The section provides rigorous imprisonment for a period that is not less than seven years but may extend to life imprisonment.

3. Sexual Harassment

Section 75 of the BNS defines and penalises sexual harassment. Sexual harassment can be defined as unwelcome sexual advances, requests for sexual favours or other verbal and physical harassment of a physical nature.

It also includes sexual abuse, sexual assault, showing pornography to a woman against her will, etc. According to section 75 of the BNS, if any person commits an act of sexual harassment, he shall be punished with rigorous imprisonment for up to three years or with a fine or both.

4. Assault to Outrage Modesty

Outrage for the modesty of women is another serious crime against women. Closely allied with this crime is disrobing a woman, either by compelling her to be naked or attempting to remove her clothing without consent. (Section 76 of BNS). This crime is gender specific. This section ensures a minimum sentence of three years, which can extend to seven years and imposing a fine.

5. Dowry Death

Dowry death incidents are not uncommon in India. Family members like mothers-in-law, sisters-in-law, and husbands may contribute to the marriage breakdown. The practice of dowry often results in the death of women. The number of such deaths has increased in recent years. To address this growing problem, the Dowry Prohibition Act of 1961 was enacted. Its provisions were amended and strengthened in 1984 to make it more effective. The amendment made dowry-related offences cognisable. The penalty for demanding dowry was increased. In addition to these, Family courts were established to tackle the problem

Associated with the above crime is bride burning. It appears to be purely an Indian phenomenon. In most cases, bride burning seems to be associated with dowry demand. Many of such cases go unreported.

6. Acid Attack

Acid attacks are still a common threat to women. Section 124 of the BNS says that whoever voluntarily causes grievous hurt by the use of acid is liable to be punished with imprisonment for a term which shall not be less than ten years, which may extend to imprisonment for life and with a fine.

7. Women Trafficking

Prostitution and women trafficking are another burning issue to be considered in this direction. The concept of women trafficking was started in the 20th century in India and is still in existence. The BNS describes various modes of trafficking for exploitation. Section 98 deals with selling children for prostitution.

8. Cyber Crimes

In the world of information technology, the diseased minds have not left any chance to offend women in the cyber world, either. There are several Cyber Crimes, such as bullying, abuse, pornography, etc., happening each day against women. The Information Technology Act of 2000 prescribes several punishments to face the challenges. This punishment ranges from 3 years to life imprisonment and a fine.

In the context of 75 years since the inauguration of the constitution, so many enactments have been made by the parliament to face the challenges of violence against women, of which a few important ones are given below.

Immoral Traffic(Prevention) Act 1956, Dowry Prohibition Act 1961, Medical Termination of Pregnancy Act 1971. Dowry Prohibition Amendment Act, 1984. The Indecent Representation of Women (Prohibition) Act, 1986, The Commission of *Sati* (prevention) Act 1987, The Domestic Violence Act, 2005.

2.1.5 Crime Against Children

Children are the most neglected section of Indian Society. Even their fundamental human rights are denied to them in one way or another. They have been subjected

to hunger, poverty, malnutrition or even sexual exploitation. They have become a marketable commodity, subject to sale and purchase. They are also victims of drought, famine, disease, sale of organs, etc . They are being economically exploited by putting them in dangerous jobs. The conditions of girl children are more pathetic than those of boy children. Their family members ill-treat them. They are sold out as commodities to supplement family income as soon as they become ten or fifteen years old. Above all comes sexual abuse and exploitation, trafficking, forced labour, abduction and the like.

2.1.5.1 Causes of Crime Against Children

Significant causes of crime against children are:

1. Poverty and Economic Inequality

Poverty remains one of the leading causes of crime against children in India. Families living in poverty may send their children to work to supplement their income. This provides enough room for exploitation like those of child labour and trafficking

2. Lack of Education

In many cases, children are denied even the facilities of education despite education being a fundamental right in India. Without education, children fall prey to child labour, trafficking and other forms of exploitation.

3. Weak Law Enforcement

The law enforcement agencies are not adequate in terms of strength in India. This is why many cases of crime against children go unreported. Strengthening legal frameworks and ensuring accountability is crucial to combat crime against children.

4. Social and Cultural Factors

Deep-rooted social and cultural norms play a significant role in encouraging crime against children. Gender discrimination, the attitudes of society towards child marriage, and the stigma surrounding child abuse contribute to a culture that often disregards the rights and welfare of children.

2.1.5.2 Major Crimes Against Children

The chief instances of crime against children are briefly discussed below

1. Child Labour

India has the most significant number of working children in the world. Millions of children work for long hours at nominal wages and in unhygienic surroundings at the expense of their education, play, health, dignity and freedom. Even fter seven decades of independence, child labour prevails in an inhuman form despite various legislative enactments preventing child labour. It is a matter of common knowledge that extensive exploitation of children for free and cheap labour has been taking place . These young labourers are often subjected to long hours of work, physical abuse and any exposure to harmful substances. There is no reliable data on the exact number of children being exploited at work. According to a report, it is estimated that about 13.6 million working children are there in our country.

2. Child Trafficking

Child trafficking is a grave violation of children's rights. In India, trafficked children are often forced into labour, sexual exploitation or servitude. Trafficking in children is prohibited under the Suppression of Immoral Traffic in Women and Children act, 1956. It was re-strengthened in 1986 through an amendment. Nevertheless, the

act is not implemented in the true spirit.

3. Sexual Abuse and Exploitation

The revolution in Information Technology greatly facilitates the distribution of child sexual abuse materials and access to them.

4. Child Marriage

Despite laws against child marriages, it continues to be a pervasive issue in India, especially in rural areas. Girls as young as 12 or 13 years old are often forced into marriages at the cost of their education and personal growth. Child marriage robs girls of childhood. It also gives rise to early pregnancy and health complications. Moreover, it perpetuates gender inequality and limits women's participation in society,

5. Child Sexual Abuse

It is a matter of common knowledge that a significant number of children in India are subjected to sexual abuse. The stigma of sexual abuse prevents the victim from participating in the public sphere and leads them to a culture of silence. Despite legislative measures like the Protection of Children from sexual offences (POCSO) Act, the incidents of child sexual abuse remain questionably high.

6. Child Abandonment

It is another critical issue that requires a solution. Many children are abandoned due to poverty, social stigma or gender discrimination. These children are exposed to various forms of exploitation, including trafficking and forced labour. Many such children do not have access to education or health care, further aggravating their plight. Sector 93 of the BNS seeks to prevent abandonment or desertion of children below 12 years by parents and persons with the custody of the child; this provision is intended to protect infants of tender age who are unable to take care of themselves.

7. Cyberbullying of Children

The rise of technology has led to new forms of violence against children. Many children experience harassment, threats, and humiliation. It has a direct effect on their mental health and self-esteem..Cyberbullying can lead to anxiety, depression, and even suicidal thoughts. Apart from this, various other offences are mentioned under BNS such as abetment of the suicide of a child (Sec. 107 of BNS), Infanticide (Sec 91 of BNS), Procuration of a Child (Sec 96), Selling of Minors for Prostitution (Sec98)., Buying a child for Prostitution (Sec 99).

To arrest crime against children, the parliament has passed many legislations like the Transplantation of Human Organs Act, 1994 (for persons below 18 years of age), Child Labour (Prohibition and Regulation) Act, 1986 (Amended in 2016), Immoral Traffic (Prevention) Act, 1956. Juvenile Justice (Care and Protection of Children) Act, 2015, Protection of Children from Sexual Offences Act, 2012 (POCSO), Prohibition of Child Marriage Act, 2006.

Recap

- Crime typology categorises offences based on their nature and impact.
- Crimes against the human body, such as murder, assault, and kidnapping, directly harm individuals, often resulting in physical injury or loss of life.

- Crimes against property, including theft, burglary, and vandalism, involve unlawful interference with possessions or real estate, leading to financial or material losses.
- Certain crimes target vulnerable groups, such as women and children, through acts like domestic violence, trafficking, and abuse, requiring specific legal and social interventions to protect and support victims.
- Understanding these classifications is crucial for law enforcement, policymakers, and society to implement effective prevention measures and ensure justice.
- Crimes Against the Human Body include murder, assault, and kidnapping, leading to physical harm or loss of life.
- Crimes Against Property encompasses theft, burglary, and vandalism, causing financial or material losses.

Objective Questions

1. Which is considered a crime against the human body?
2. What is the primary difference between wrongful restraint and wrongful confinement?
3. Which vulnerable group is at higher risk of crimes such as trafficking and abuse?
4. Which factor contributes most to vulnerability to crimes?
5. Why is addressing crimes against women particularly important for society?
6. What would be considered a serious offence when it comes to crimes committed against children?
7. What is the primary objective of laws addressing sexual abuse and exploitation?
8. Which crime is categorised under sexual abuse and exploitation?
9. Which legal measure is commonly used to protect children from exploitation?
10. What factors are believed to play a role in the rise of crimes against women?

Answers

1. Kidnapping
2. Wrongful restraint restricts movement in one direction, while wrongful confinement completely prevents movement.
3. Women and children
4. Lack of legal protection
5. It promotes social justice and human rights
6. Forced labour and trafficking
7. To protect victims and punish perpetrators
8. Human trafficking
9. Child Labor Prohibition Act
10. Gender stereotypes and discrimination

Assignments

1. Elaborate the dimensions of Crimes against the Human body
2. Discuss the Offences of Wrongful Restraint and Wrongful Confinement
3. Examine the types of crimes affecting vulnerable groups
4. Trace the factors contributing to vulnerability
5. Describe the importance of crimes against women
6. Explain the major crimes against children
7. Describe the types of sexual abuse and exploitation

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UNIT 2

Types of Crime

Learning Outcomes

Upon the completion of the unit, the learner will be able to:

- the knowledge of legal frameworks, judicial processes, and law enforcement strategies for crime prevention and prosecution
- examine the impact of crimes on victims, rehabilitation efforts and support mechanisms for vulnerable groups
- recognize criminal motives, psychological patterns, and social influences contributing to unlawful activities

Prerequisites

A man tricks people into investing in a fake company this is an economic crime aimed at making money without violence. In another case, someone physically attacks a neighbor during an argument this is a violent crime. A company manager secretly uses inside information to make profits from the stock market that's a white-collar crime. Meanwhile, a large business dumps toxic waste illegally to save costs a corporate crime. Groups that smuggle drugs across borders commit organized crime, while someone stealing personal data online is committing cybercrime. Each of these crimes affects society differently and needs a specific response.

Keywords

Crime typologies, Violent crimes, Economic crimes

2.2.1 Economic and Violent Crimes

Economic crimes are illegal activities motivated by financial gain or professional advantage. It is also known as financial crime. Individuals commit it in organisations to gain financial advantage. These crimes are different from other crimes. They do not directly affect the physical state of a person aggrieved. Economic crimes affect individuals and damage a state's economic foundation.

2.2.1.1 Types of Economic Crimes

Economic crimes in India can be divided into three :

1. Traditional economic crimes like corruption, smuggling
2. Emerging technological and economic crimes
3. Transnational organised crime

Traditional Economic Crimes: These include offences such as corruption, smuggling, tax evasion, and money laundering. Such crimes have long existed and are often deeply rooted in systemic loopholes and administrative inefficiencies

Emerging Technological Economic Crimes: With technological advancements, new economic crimes have emerged, such as credit card fraud, cybercrime, identity theft, phishing, and online financial scams. These crimes exploit digital platforms and are often difficult to trace due to their complex and borderless nature.

Transnational Organized Crimes: These crimes cross national borders and are typically carried out by organised criminal groups. Examples include human trafficking, drug trafficking, illegal arms trade, and international financial fraud. Such crimes pose significant challenges to law enforcement due to jurisdictional issues and require international cooperation for adequate control.

Main types of economic crimes are discussed below:

1. Fraud

This involves using deception to gain an unfair advantage or profit, such as investment fraud, credit card fraud and the like.

2. Tax Evasion

Tax evasion is an illegal activity in which a person or entity deliberately avoids paying an actual tax liability. This may take the form of under-reporting income or claiming deductions.

3. Corruption

Corruption is dishonest or fraudulent conduct by those in power. Bribery, extortion can also lead to economic instability. Generally, it is done to earn money, which is illegitimate and unlawful. The main reason for corruption is greed.

4. Smuggling

Smuggling means illegal import or export of goods, often with financial implications. Smuggling in the broader sense includes drug trafficking, smuggling of migrants and trafficking of persons.

5. Counterfeiting

It includes the production of fake currency, securities and other valuables.

6. Money Laundering

Money laundering involves concealing

the origins of illegally obtained funds to make them appear legitimate.

7. Embezzlement

It is misappropriation of funds or property entrusted to care

8. Insider Trading

This crime involves using non-public information to make financial gains.

9. Environmental Crimes

Illegal activities that harm the environment, potentially with economic motives.

10. Terrorism Financing

Using financial resources to support terrorist activities.

11. Cyber Economic Crimes

Cyber Crime is also known as computer crime. It can be defined as the offence against individuals or groups of individuals or organisations to cause economic harm using computers, the Internet, phones or other technologies. The major cyber economic crimes are:

a. Cyber economic terrorism
b. Cyber economic extortion
c. Cyberwarfare
d. Cyber espionage

2.2.1.2 Characteristics of Economic Crimes

Economic crimes differ significantly from other types of criminal offences. Their distinct features are outlined below:

1. **Financial Motivation:** The primary driving force behind economic crimes is the pursuit of financial gain. This may involve accumulating illegal wealth, evading taxes, or disguising illicit activities. Notably, the perpetrators often belong to society's more socially and economically advanced sections.

2. **Non-Violent Nature:** Unlike many other crimes, economic crimes typically do not involve physical violence. However, the financial losses they cause to individuals and institutions can be extensive and deeply damaging.

3. **Varied Targets:** The targets of economic crimes can range from individual citizens and businesses to financial institutions and even the broader economic system. The ripple effects can undermine public trust and disrupt economic stability.

2.2.1.3 The Causes of Economic Crimes

Economic crimes arise from various factors:

1. **Industrial Revolution:** The shift from agrarian to industrial societies created new opportunities and challenges, leading to new types of economic crimes.

2. **Post-World War II Conditions:** The aftermath of World War II disrupted social norms. It led to changes in the behaviour and the emergence of new criminal practices.

3. **Business Competition:** Competition among businesses can drive unethical behaviour and the commission of offences to gain a competitive edge.

4. **Technological Advancement:** While technology brings progress, it can also contribute to socio-economic offences.

5. **Decline in Morality:** The erosion of moral value can lead to an increase

in deceptive practices and greed for material gain

6. **Laissez-faire Policies:** Policies that promote non-interference can create an environment for socio-economic offences.

Despite various safeguards, economic crimes continue to rise in different forms. These crimes have significantly harmed national development and the well-being of citizens. They have fueled corruption, led to economic instability, and deepened social inequality. Moreover, economic crimes create a sense of injustice and, at their worst, can escalate into financial terrorism and other criminal activities. As a result, public trust in governments and democratic institutions has severely eroded.

In light of this, the government must take decisive and immediate action to combat economic crimes. The sooner these measures are implemented, the greater the chance of restoring economic stability and public confidence.

2.2.2 Violent Crime

Violent crime also referred to as a crime of violence or violent felony, involves the use or threat of harmful force against a victim. This category includes crimes where violence is the primary objective, such as murder, assault, rape, and assassination, as well as crimes where violence is used as a means of coercion or intimidation, such as robbery, extortion, and terrorism. While violent crimes often involve weapons, they can occur without them as well. The severity of these crimes can vary significantly across different jurisdictions, ranging from homicide to harassment.

Perpetrators of violent crimes include murderers, active shooters, robbers, kidnappers, rapists, burglars, muggers, and torturers. Additionally, individuals who engage in piracy or hijack vehicles or aircraft are also considered violent offenders. Violent criminals are often employed by criminal organisations, gangs, and drug cartels, where they serve as enforcers or hitmen. These offenders tend to exhibit traits such as low anger thresholds, poor impulse control, strong territorial instincts, antisocial behaviour, psychological or mental health disorders, and aggressive tendencies, all of which drive their violent actions. To ensure that violent crimes are prosecutable, they are clearly defined in legal systems, which helps in their identification and punishment. Below are the key definitions of violent crimes.

Homicide: The killing of one person by another, regardless of the justification.
Arson: The intentional Act of setting someone else's property on fire.
Rape: Forcibly engaging in sexual intercourse with another person without their consent.
Sexual Assault: Forcibly performing a sexual act on another person without their consent.
Robbery: The act of taking someone else's property through the use or threat or force.
Kidnapping: Forcibly holding or transporting an individual against their will.
Negligence: A disregard for the safety of others, resulting in harm or potential harm.
Assault: Intentionally putting someone in danger or causing them harm.

Determining whether a crime qualifies as violent can sometimes be difficult. Here are examples of scenarios involving violent crimes:

Homicide : A person intentionally takes another person's life, whether in a violent confrontation or through premeditated murder.

Arson : Setting fire to a property to destroy it, cause harm, or commit fraud.

Rape : A person forces sexual intercourse on another individual, disregarding their consent.

Sexual Assault : A person forcibly sexually touches another individual without their consent.

Robbery : A thief uses a weapon to threaten and steal money or property from a victim.

Kidnapping: An individual is forcibly taken from one location to another, often for ransom or other coercive purposes.

Negligence : A driver running a red light and causing a car accident that harms pedestrians.

Assault : A person intentionally punches someone in the face, causing injury.

These examples illustrate the vast array of actions that can be classified as violent crimes, each with varying severity and intent, highlighting the range of consequences for both the victim and the perpetrator.

In India, violent crimes are governed by the Indian Penal Code (IPC) and various special acts. Below are the relevant provisions under the IPC and other legislations that address violent crimes:

2.2.2.1. Indian Penal Code (IPC) Provisions for Violent Crimes

The IPC contains several important provisions to address violent crimes, focusing on protecting individuals from harm to life, body, dignity, and property. Key sections include:

Section 299 - Culpable Homicide: This section deals with situations where an individual causes the death of another person by intentional or negligent acts. Culpable homicide can be further categorised into murder under Section 300 of the IPC.

Section 302 - Murder: This section defines the crime of murder, which involves the intentional killing of another person.

Section 304 - Punishment for Culpable Homicide Not Amounting to Murder: This section provides punishment for culpable homicide that does not meet the criteria for murder.

Section 307 - Attempt to Murder: This section addresses the crime of attempting to commit murder, even if the death does not occur.

Section 323 - Punishment for Voluntarily Causing Hurt: This section defines and punishes individuals who cause harm to another person, such as physical injury or harm.

Section 325 - Punishment for Causing Grievous Hurt: This provision deals with intentionally inflicting serious bodily injury on another person.

Section 326 - Voluntarily Causing Grievous Hurt by Dangerous Weapons or Means: It covers cases where an individual inflicts serious harm using weapons or dangerous substances.

Section 354 - Assault or Criminal Force with Intent to Outrage a Woman's Modesty: This section addresses assaults on women that are intended to violate their modesty.

Section 375 - Rape: This section criminalises the act of forcing sexual intercourse on another person without their consent.

Section 376 - Punishment for Rape: It specifies the punishment for the offence of rape.

Section 377 - Unnatural Offenses (Sodomy): This section criminalises non-consensual sexual acts that are against the order of nature.

Section 394 - Robbery with Hurt: This section addresses the crime of robbery in which the victim is physically harmed.

Section 397 - Robbery, or Dacoity, with Attempt to Cause Death or Grievous Hurt: This section deals with robbery or dacoity where the offender attempts to cause death or serious injury.

Section 420 - Cheating and Dishonestly Inducing Delivery of Property: This section addresses cheating, fraud, and dishonesty offences but can also overlap in cases of violent economic crimes.

Section 366 - Kidnapping, Abduction, or Inducing Woman to Compel Marriage: This section defines and provides punishment for kidnapping or abduction, particularly in cases involving women.

Section 364A - Kidnapping for Ransom: This provision addresses the crime of kidnapping to demand a ransom.

Section 503 - Criminal Intimidation: This section deals with threats of violence that cause fear in the victim.

2.2.2.2 Special Acts Addressing Violent Crimes

The Prevention of Terrorism Act (POTA), 2002, was enacted to combat terrorism involving violent activities. It covers offences related to the threat of violence, terrorist attacks, and activities intended to cause terror.

The Arms Act of 1959 regulates the Possession, manufacture, and sale of firearms and ammunition. It also provides penalties for individuals who commit violent crimes using firearms.

The Prevention of Corruption Act, 1988: Though mainly dealing with corruption, it also encompasses violent criminal activities involving public servants abusing their authority for personal gain.

The Unlawful Activities (Prevention) Act (UAPA), 1967: This Act focuses on combating unlawful activities, including violent terrorism, sedition, and similar offences that threaten national security.

These sections of the IPC and special laws play a critical role in prosecuting violent criminals in India. The provisions ensure that violent crimes, whether they involve bodily harm, property damage, or threats, are addressed within the legal framework.

2.2.3 White-Collar and Corporate Crime

Within the field of criminology, white-collar crime has been defined by Edwin Sutherland as crime committed by a person of respectability and high social status in the course of his occupation" (1939). For example, misrepresentation through fraud and advertising, infringement of patents, etc., usually such criminals are highly influential. They can prevent the enforcement of laws. Such crimes are more harmful to society than ordinary crimes (blue-collar) committed by ordinary persons of lower occupational strata.

Presently, India is under the grip of white-collar criminality. The reasons for white-collar crime are developing countries, fast-developing economy and industrial growth. The Santhanam Committee Report (1964) highlighted that white-collar crimes are committed by persons of respectability, such as businessmen, industrialist contractors, etc.

The term white-collar crime only dates back to 1939. Professor Edwin Hardin Sutherland was the first to coin the term, hypothesising that white-collar criminals

attributed different characteristics and motives than typical street criminals. Prof. Sutherland initially presented his theory in an address to the American Sociological Society, attempting to study two fields: Crime and High Society. He defined his idea as a crime committed by a person of respectability and high social status during his occupation" (Sutherland, 1939).

Misrepresentation through fraudulent advertisements, infringement of patents, copyrights, trademarks, and publications of falsified balance sheets of businesses are a few forms of white-collar. Passing off goods, concealment or defects in commodities for sale, manipulation of the stock exchange, bribing officials to secure desirable contracts, embezzlement, and misuse of trust funds are certain kinds of white-collar crimes.

2.2.3.1 Characteristics of White Collar Criminals

i. White-collar criminal as a person of respectability

ii. A person with high social status

iii. An economically privileged person

iv. A person having a responsible occupation

v. A person who enjoys the confidence of society

vi. A well-versed person in his occupation acquires specialised intelligence during his duties

vii. A person who is highly intelligent and stable

viii. A person who does not think that he is committing a crime which is only business to him

ix. A person has wide contact with agencies of social control on account of their social status and privileged position

x. A person who can even control the press

2.2.3.1 Nature and Characteristics of White Collar Crime

White-collar crimes are non-violent offences committed primarily for financial gain, often involving deceit, breach of trust, or manipulation. In India, the most common forms of white-collar crimes include

1. **Hoarding:** Artificially creating scarcity to inflate prices.
2. **Black Marketing:** Illegally selling goods at higher prices.
3. **Adulteration:** Mixing inferior or harmful substances with food, drugs, or other essential commodities.
4. **Violation of Foreign Exchange and Trade Laws:** Frequent violations of laws such as the Foreign Exchange Management Act (FEMA) and the Foreign Trade (Development and Regulation) Act, 1992, aimed at securing huge illegal profits.
5. **Tax Evasion:** Deliberate avoidance of paying taxes, leading to the generation of black money and economic instability.

White-collar crimes are prevalent across various professions, including

- **Medical Profession:**

  Issuing false medical certificates

  Assisting in illegal abortions

- **Engineering Profession:**

  Engaging in corrupt practices with contractors

  Using substandard materials in construction projects

- **Legal Profession:**

  Public prosecutors engaging in unethical practices

  Influence and manipulation in judicial decision-making

- **Private Educational Institutions:**

  Securing large government grants by submitting fabricated and fraudulent reports about their infrastructure and activities

2.2.3.2 Factors Encouraging White Collar Crime

White-collar Crime is facilitated by various factors. Understanding these factors is crucial for devising effective strategies to combat such crimes.

a. **Limited Impact on Individual Victims:** The damage caused by white-collar crime is often spread across a large population. However, the gravity of individual victim impact is negligible. Consequently, perpetrators are encouraged to continue engaging in white-collar crime.

b. **Media Discretion:** The press shapes public perception of criminal activities. However, white-collar crimes do not receive the same wide publicity as no-collar or blue-collar crimes. This is partly because individuals in key press positions may have connections with white-collar criminals. The lack of sensationalism in media coverage contributes to the perception that these crimes are less severe.

c. **Resourceful Resolution:** White-collar criminals often possess significant resources, allowing them to navigate legal challenges successfully. They can use their financial and social leverage to influence or manipulate commissions and courts.

d. **Political Indifference:** Despite legislative measures aimed at curbing white-collar offences, politicians may not prioritise the enforcement of these laws. Political connections and support from white-collar criminals during elections can lead to a lack of due care in suppressing these offences.

2.2.4 Corporate Crime

Corporate crime is a crime committed by individuals on behalf of a business. It may be fraud, embezzlement, environmental violations, bribery, and insider trading. Unlike traditional forms of crime committed by individuals, corporate crime is often driven by profit, power and competitive advantage:

2.2.4.1 Causes of Corporate Crime:

The factors contributing to corporate crimes are summarised as follows:

1. **Profit Maximisation:** In the world of competition, corporations may engage in illegal activities to increase profit and gain a competitive edge over their rivals. This leads to fraudulent practices. The drive for maximum profit can sometimes override ethical considerations.

2. **Lack of Regulation:** Inadequate regulations create an environment for illegal activities. When regulations are not substantial, corporations may exploit loopholes and engage in unethical practices that harm consumers, employees, or the environment.

3. **Organisational Culture:** Corporate culture is driven by the consideration of profit over ethical consideration.

This leads the employees to engage in fraudulent practices or participate in illegal activities to meet their objectives

4. **Lack of Accountability:** Corporations are not accountable for their actions. This lack of accountability can arise from various factors, including inadequate oversight, lenient legal consequences or lack of public scrutiny. This lack of effective accountability may enable the corporations to continue to engage in illegal behaviour

5. **Complex Structure of the corporation:** The complex structure can make identifying and prosecuting individuals responsible for corporate crimes challenging. In large corporations, the decision-making process may be decentralised. This decentralised decision-making is a challenge in pinpointing responsibility for illegal activities.

6. **Pressure from stakeholders:** The pressure from stakeholders such as shareholders, investors, or even employees can cause the corporation to engage in illegal activities. For example, if shareholders demand high returns on their investments, executives may resort to fraudulent practices. To meet their expectations, the pressure upon the employees to achieve unrealistic targets may lead them to engage in illegal activities to meet their goals.

2.2.4.2 Major Types of Corporate Crimes

Corporate crimes can manifest in various forms. The major types are given below:

1. **Financial Fraud** includes accounting fraud, insider trading, securities fraud, and tax evasion. This may take the form of manipulating financial records or misrepresenting a company's financial health to deceive investors, regulators or other stakeholders.

2. **Environmental Violations:** Corporations may engage in activities that harm the environment. Disposal of hazardous wastes or violation of pollution regulations are examples. These violations can have consequences for ecosystems, communities and public health. Corporations sometimes intentionally conceal their actions, which have adverse environmental impacts.

3. **Product Safety Violations :** Corporations sometimes produce and sell unsafe products, risking the consumer's health and safety. This can include failing to disclose potential product risks, inadequate testing, or using substandard materials. Product Safety violations can lead to injuries and illness.

4. **Bribery and Corruption:** Bribery and corruption can occur in various forms, such as bribing government officials to secure contracts or licenses, bribing employees of other companies to obtain confidential information, or engaging in nepotism and favouritism. These unethical practices undermine fair competition, erode public trust, and distort economic systems.

5. **Anti-trust Violations:** Corporations may engage in anti-competitive practices such as price fixing or monopolistic behaviour to weaken competition and only increase market dominance. Anti-trust violations can harm consumers by limiting choices, increasing prices, and reducing

innovations. "Large corporations carry out these practices to expand their market share.

6. **Health Care Fraud:** Health care fraud involves defrauding insurance companies, government, health care programmes, or patients. This can include submitting false claims, overbilling for services, prescribing unnecessary procedures or treatments or engaging in Kickback Schemes with health care providers. This fraud compromises patient care and undermines the integrity of the health care system.

The consequences of corporate crimes are

1. **Economic Impact:** Corporate crimes can have a significant financial impact on investors, customers, and employees. It can also undermine public trust in the economy. Customers may also suffer financial losses if they purchase faulty products or services from a deceitful corporation. Again, the company's employees may suffer job losses or reduced benefits due to corporate crimes.

2. **Social Impact:** Corporate crimes can harm the community through unsafe products and environmental violations. When a corporation disregards environmental regulations, it can lead to pollution, destruction of natural habitats and adverse effects on the health of nearby residents. Similarly, if a company produces and sells unsite products, it can put consumers at risk of injury or death.

3. **Public Health and Safety:** When corporations engage in illegal activities, public health and safety can be compromised. For instance, the production and distribution of countries for counterfeit drugs can have severe consequences for public health. Besides, when corporations cut corners on safety measures or fail to comply with regulations, it can result in workplace accidents, environmental disasters, the release of hazardous substances into the environment.

4. **Loss of Confidence:** Corporate crimes erode public trust in corporations and institutions; when a corporation is involved in illegal activities, it tarnishes its reputation and the reputation of the industry as a whole. It will affect not only the corporation involved but also other businesses operating in the same sector.

5. **Legal Consequences:** Corporations found guilty of corporate crimes can face legal consequences. Individuals involved may also face criminal charges and imprisonment.

2.2.5 Organised Crimes

Organised crime refers to criminal activities planned and carried out by structured groups. Unlike spontaneous crime, these crimes are motivated by profit rather than revenge. These crimes include drug trafficking, money laundering, arms trafficking, smuggling, cybercrime, organised theft and the production and distribution of counterfeit currency. It is an illegal act which the members of an unlawful association commit with their cooperation and adventure.

Characteristics of Organised Crimes

1. Numerous persons - It is a crime committed by three or more criminals.
2. It is a planned and systematic activity.
3. It is often motivated by profit rather than revenge.

4. It is often carried out by gangs, businesses, and families.
5. It is often characterised by secrecy, coordination and persistence.
6. It is often maintained through the corruption of public officials.
7. It is often maintained through intimidation, threats or force.

Types of Organised Crimes.

1. **Drug Trafficking:** Illicit production, transportation and distribution of narcotics, heroin, and Methamphetamine for financial gain.
2. **Human Trafficking:** The illegal trade of humans, often involving forced labour, sexual exploitation, and other forms of modern-day slavery.
3. **Arms trafficking:** Illicit trade in firearms, ammunition and military-grade weapons, supplying criminals, terrorists and conflict zones
4. **Money Laundering:** concealing the origin of illicit funds through complex transactions, making them appear legitimate.
5. **Cyber Crime:** Criminal activities conducted through computer systems or networks, including hacking, identity theft, and financial fraud
6. **Counterfeiting:** Production and distribution of counterfeit currency, luxury goods, and copyrighted materials, resulting in substantial financial losses for legitimate businesses.

2.2.5.1 Menace of Organised Crime

According to the Global Organised Crime Index, India ranks 61st among 193 countries in 2023. According to an estimate, India's shadow economy accounts for 20% to 25% of GDP, much of which is linked to organised crime. FICCI reports that organised crime activities like smuggling and counterfeiting India's economy, occur around one lakh crore annually.

The financial reach of organised crime is shocking. It is estimated that organised crime generates approximately $900 billion annually. This money is used for further criminal activities. It is also used to undermine political stability and governance in affected countries. The proceeds of these crimes may lead to a parallel economy.

In India organized crime is addressed through various laws. The BNS has provisions that touch upon organised crime. The Sanhita (BNS) clearly defines what constitutes organised crimes. It makes it easier for law enforcement agencies to prosecute the offenders.

Acts

1. Narcotic Drug and Psychotropic Substances Act, 1986 NDPS
2. Foreign Trade (Development and Regulation) Act, 1992
3. Foreign Exchange Management Act (FEMA)
4. Conservation of Foreign Exchange and Prevention of Smuggling Act (COFE POSA)
5. Unlawful Activities (Prevention) Act, 1962 (UAPA)

Agencies

1. Central Bureau of Investigation (CBI)
2. National Investigation Agency (NIA)
3. Enforcement Directorate (E.D)
4. Financial Intelligence Unit (FIU-IND)
5. Border Security Force (BSF)

2.2.6 Cyber Crime

Cyber crime is a criminal activity that involves computers and the Internet, and it involves hacking, identity theft, and financial fraud. Most cyber crime is committed by cyber criminals or hackers who want to make money. However, occasionally, cyber crime aims to damage computers or networks for reasons other than profit. A key element in cybercrime is the perpetrator's knowledge of computers. These crimes are essentially high-tech versions of traditional offences involving illegal, unethical, or unauthorised actions related to the processing and transmission of data.

Netcrime, a subcategory of cyber crime, refers explicitly to crimes committed through the Internet. Such crimes have escalated with technological advancements and the widespread use of computers and the Internet in banking, telecommunications, travel, medicine, and education sectors. Notable issues in this area include hacking, copyright infringement, child pornography, and child grooming.

As technology evolves, cybercrime has become a borderless issue. On a global scale, government and non-state actors are increasingly involved in Espionage, financial theft, and other transnational crimes, sometimes categorised as cyber warfare. The international legal system is working to hold perpetrators accountable, with organisations like the International Criminal Court addressing these threats. Privacy concerns arise, particularly when confidential information is lost, leaked, or intercepted legally or illegally.

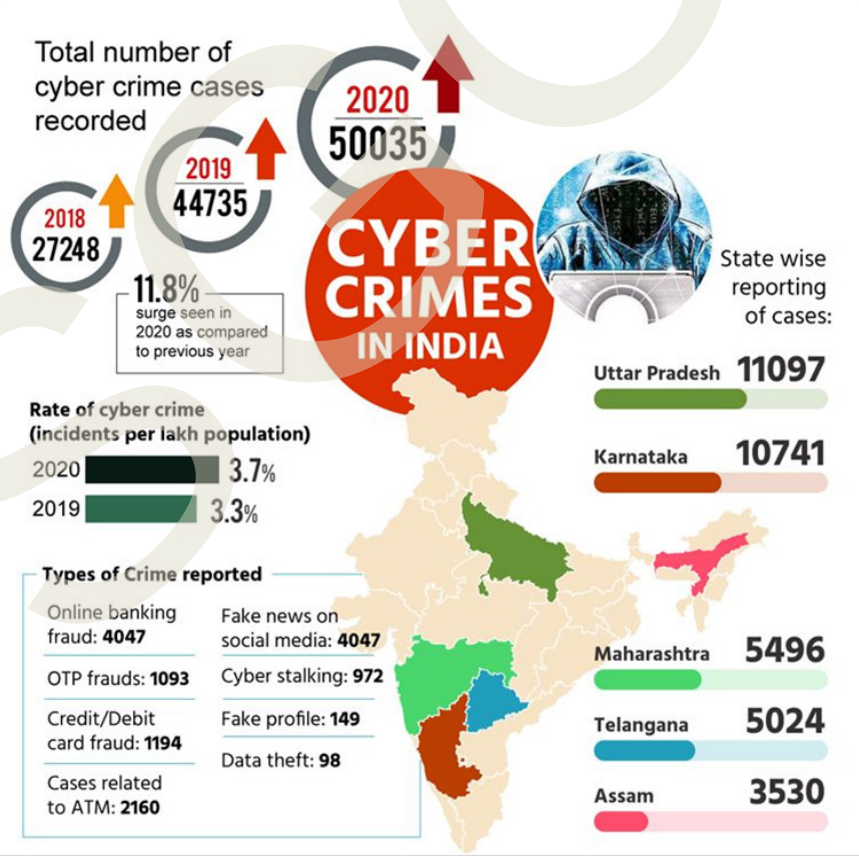

Figure 2.2.1 Total Number of Crime Cases

2.2.6.1 Major Types of Cyber crimes

Cyber crime encompasses a wide range of criminal activities related to the misuse of computers and networks. These crimes can be broadly categorised into three main types:

1) ***Crimes Directly Targeting Computer Networks or Devices***

These crimes involve deliberate attacks on computer systems, networks, and data. Examples include, sabotage of computers, networks, and operating systems, data theft, unauthorised access to sensitive government records, and similar offences. These crimes often target the military, intelligence, business, or research organisations. Specific types of cybercrimes in this category include:

Viruses: These programs replicate themselves and spread across computers without the user's intervention. They can cause harm by deleting files or formatting hard drives and are commonly spread through infected files or email attachments.

Trojan Horses: These seemingly harmless programs secretly access a computer system and send information back to the attacker without the user's knowledge.

Spam: Unsolicited bulk emails, often for commercial purposes, are illegal in many countries. Anti-spam laws have been enacted to curb this problem, although the issue has existed in some form for a long time.

Worms: Self-replicating programs that spread through networks and often render systems unusable by overloading them with copies of themselves. Unlike viruses, worms do not require a host file to propagate.

Logic Bombs: Malicious code embedded in software triggers harmful actions when specific conditions are met. They can lay dormant until a predetermined time or event activates them.

Hacking : Unauthorised access to computer networks by bypassing security measures to access or alter sensitive information.

Malware : Malware or malicious software is any code designed to interfere with a computer's normal functioning or commit a cybercrime

Ransomware Attack : This malicious software exploits computer networks to encrypt victims' files and block access until a ransom is paid

Spoofing: A technique in which an attacker disguises their identity as another user by falsifying their IP address misleading the system or other users.

2) *Crimes where Computers are Incidental to the Crime*

In these cases, criminals use computers to facilitate other illegal activities. The computer is not the direct target but is crucial in enabling crime.

Examples include:

Use of Email for Criminal Communication: Terrorists or organised criminals often use email for secure communication.

Electronic Money Transfers: Criminals use digital platforms to transfer illicit funds.

Illegal Electronic Trading: Involves using computers for illegal transactions, such as trading contraband.

3) *Crimes where Computers are used to Commit the Offense*

In this category, computers are not merely tools but are central to committing the crime. Examples include:

Pornography/Pedophilia: Websites or electronic communications can host offensive, obscene, or illegal content. Child

pornography is a prominent area of concern in this category.

Harassment: Offensive content can be directed at individuals, leading to cyberbullying, cyberstalking, and hate crimes. These occur through emails, chat rooms, or online forums where derogatory comments are made about someone's gender, race, religion, or sexual orientation.

Intellectual Property Theft: This includes illegal duplication and software distribution, a growing problem.

Hardware Theft refers to the physical theft of computer hardware or electronic devices.

Denial of Service Attacks (DoS): These attacks overwhelm a targeted system with excessive traffic, preventing it from fulfilling its intended functions.

Cyberstalking involves sending unwanted or harassing emails, often using illegal access to someone's computer or private information. Victims of cyberstalking may also receive disturbing phone calls or threats.

Cyberterrorism: Terrorist activities using computers, the Internet, mobile phones, etc.

Cyber Warfare: Nations exploit cyberspace to target critical infrastructure, causing disruptions on a strategic level.

Software piracy is the unauthorised reproduction, distribution and use of software.

These crimes showcase how technology facilitates offences, often challenging law enforcement and demanding advanced forensic techniques for resolution.

2.2.6.2 BNS Provisions for Cybercrime

Section 303: Theft and dishonest misappropriation of property (applied to data theft).

Section 336: Forgery for cheating, including identity theft.

Section 351(1): Criminal intimidation through electronic communication.

Section 351(4): Criminal intimidation by anonymous communication.

Section 79: Words, gestures or acts intended to insult the modesty of a woman.

Provisions in the Information Technology (IT) Act, 2000 for Cybercrime

Section 66: Hacking and data theft.

Section 66A: Sending offensive messages through communication services (struck down in 2015 but often referenced).

Section 66C: Identity theft.

Section 66D: Cheating by personation using a computer resource.

Section 67: Publishing or transmitting obscene material online.

Section 67A: Publishing sexually explicit content.

Section 67B: Publishing child pornography.

Section 69: Powers to intercept, monitor, or decrypt information in the interest of national security.

Special Acts for Cybercrime

The Indian Evidence Act 1872 Allows electronic records as evidence in cybercrime cases.

The Companies Act, 2013: Deals with cyber fraud in corporate setups.

The Payment and Settlement Systems Act, 2007: Addresses cybercrimes in online financial transactions.

Recap

- Understanding crime typologies such as violent, economic, white-collar, corporate, organised, and cybercrime aids in targeted prevention and response strategies
- Legal frameworks, including criminal law and judicial processes, establish the foundation for effective enforcement and prosecution
- Criminological and psychological studies offer insights into criminal motives, behaviour patterns, and social influences shaping crime dynamics
- Victimology explores the impact of crimes on individuals and supports protection, rehabilitation, and legal advocacy efforts
- Law enforcement techniques encompass investigation methods, forensic analysis, and crime intelligence to ensure justice and public safety
- Cybersecurity measures and digital forensics are critical in addressing cybercrime, data breaches, and online fraud
- Organised crime challenges require international cooperation, financial tracking, and strategic interventions to dismantle criminal networks.
- Community-based crime prevention initiatives, including social programs and awareness campaigns, help reduce criminal activities and victimisation
- Ethical considerations in law enforcement and policy-making ensure justice, fairness, and accountability in legal proceedings
- Advancements in technology, including AI-driven crime analysis and surveillance systems, enhance crime detection and prevention capabilities

Objective Questions

1. Which crime falls under economic offences?
2. Why is avoiding violent crime crucial for society?
3. What defines economic crime?
4. Which factor leads to white-collar crime?

5. What is a key feature of white-collar crime?
6. Which crime targets computer networks or devices?:
7. Which scenario best illustrates cybercrime?
8. What is a major concern with cybercrime?
9. Which legal measure combats cybercrime?
10. What strategy is effective in reducing economic crimes?

Answers

1. Embezzlement
2. It reduces social instability and ensures public safety
3. It typically occurs in financial or corporate settings
4. Weak corporate governance and lack of ethical oversight
5. Individuals in professional or corporate positions commit to it
6. Cyber hacking
7. Online phishing scams
8. It is difficult to trace and prosecute due to anonymity
9. Cybersecurity regulations and data protection laws
10. Strong financial regulations and corporate oversight

Assignments

1. Discuss the various types of economic crimes and their implications for modern societies.
2. Explain the importance of preventing violent crime and its impact on individual and social well-being.

3. Examine the key characteristics of economic crimes in contemporary society, highlighting their social, economic, and legal consequences.
4. Investigate the factors contributing to the prevalence of white-collar crime, emphasising organisational, social, and technological influences.
5. Explicate the nature and defining features of white-collar crime, discussing its distinctiveness from other forms of criminal activity.
6. Evaluate the role of cybercrimes that directly target computer networks or devices, considering their security, economic, and social ramifications.
7. Discuss the major categories of cybercrime, examining their methods, impacts, and challenges to law enforcement and policy development.

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UNIT

Socio-Economic Profiles

Learning Outcomes

Upon the completion of the unit, the learner will be able to:

- explain how socio-economic changes influence criminal behaviour and emerging crime trends in contemporary India
- evaluate the role of poverty, education, employment, and technological advancements in shaping criminal activity
- assess the consequences of crime on different social groups, especially vulnerable populations, and economic stability

Prerequisites

Understanding the changing socio-economic profile of criminals in contemporary India requires a foundational grasp of several key areas. First, knowledge of economic disparities, unemployment rates, and poverty levels is essential to analyse how financial instability influences criminal behaviour. Additionally, awareness of educational accessibility, skill development programs, and employment opportunities helps assess how socio-economic advancements or limitations shape criminal activity. Understanding legal frameworks and law enforcement practices is crucial for evaluating how social policies, judicial reforms, and policing methods adapt to shifting crime trends. Insights into urbanisation, migration, and evolving social structures also play a significant role, as rapid modernisation can lead to new forms of crime, such as cybercrime and financial fraud. Furthermore, familiarity with technological advancements, digital fraud, and organised crime networks provides a comprehensive perspective on contemporary criminal profiles. By integrating these elements, one can better assess how socio-economic changes affect crime patterns and what measures can be implemented to address emerging threats.

Keywords

Crime evolution, Urbanisation, Technological advancements, White-collar crimes, Cyber Crimes

Discussion

2.3.1 Changing the Socio-Economic Profile of Criminals in Contemporary India

The socio-economic profile of a society—comprising its level of industrialization, income distribution, technological development, regulatory environment, and cultural norms—plays a crucial role in both the emergence and nature of socio-economic crimes. For instance, the Industrial Revolution and subsequent economic modernization opened up new arenas for wealth creation, but also new avenues for exploitation. In rapidly growing economies like India, intense business competition, lax enforcement of laws, and widespread corruption are directly linked to the rise in socio-economic crimes. Technological advancement, while improving economic efficiency, has also enabled cybercrimes and financial fraud. At the same time, moral decline and the weakening of collective values have eroded the socialdisapproval traditionally associated with unethical financial conduct. Societies that adopt laissez-faire policies or have ineffective regulatory frameworks often see a surge in these offences due to the lack of accountability mechanisms.

Figure 2.3.1 Changing Profile

2.3.1.1 Socio-Economic Profile of Criminals in Contemporary India

The socio-economic profile of criminals includes key factors such as education, occupation, income, social status, and living conditions, which significantly shape an individual's behaviour and decisions. This profile has grown increasingly diverse in modern India, reflecting the nation's socio-economic landscape. With rapid economic liberalisation, urbanisation, and technological advancements, traditional crime patterns

have shifted, and offences are now observed across various social and economic groups.

While traditional crimes are often driven by socio-economic challenges such as poverty, unemployment, and lack of education, the rise in aspirations, widespread access to technology, and materialistic attitudes have fueled the growth of white-collar crimes, cybercrimes, and organised offences among the educated and wealthier classes. Socio-economic crimes typically involve violations of laws regulating economic and social activities, often using deceptive or illegal means for financial gain. Examples include fraud, tax evasion, money laundering, bribery, embezzlement, insider trading, and corruption.

The socio-economic profile of criminals in contemporary India reflects the complex interplay of poverty, caste, education, and structural inequality. A significant number of individuals involved in crimes such as theft, burglary, and assault come from lower-income backgrounds, often driven by unemployment, economic hardship, and lack of opportunities. For example, NCRB data shows that many arrested for petty thefts and burglaries in urban slums like Dharavi (Mumbai) or Seelampur (Delhi) are young men from low-income, migrant families facing chronic joblessness.

Marginalized communities, including Dalits, Adivasis, and Other Backward Classes (OBCs), are disproportionately represented in criminal statistics, not only because of their socio-economic vulnerability but also due to systemic biases in policing and judicial processes. For instance, a study by the National Dalit Movement for Justice highlighted the overrepresentation of Dalits and Adivasis in Indian prisons, often as undertrials lacking access to legal aid. On the other hand members of upper castes and economically privileged groups are more frequently associated with white-collar crimes such as corruption, financial fraud, and cybercrime.

The high-profile case of Nirav Modi, a billionaire diamond merchant accused of a ₹13,000 crore banking fraud, demonstrates how access to wealth and networks allows such criminals to exploit systemic loopholes and even flee the country. Educational attainment also plays a critical role—those with lower levels of education are more commonly involved in violent and property crimes, whereas those with higher education, particularly in technology and finance, tend to engage in sophisticated cybercrimes, as seen in cases emerging from IT hubs like Bengaluru and Hyderabad, where tech-savvy youth have been arrested for phishing and online financial scams.

Males constitute the majority of offenders, especially among the youth aged 18 to 30, showing how unemployment, social alienation, and peer influence contribute to rising youth criminality. Although female criminality remains relatively low, there is a gradual increase in women's involvement in crimes like child trafficking and financial scams; for instance, recent arrests in West Bengal and Jharkhand have uncovered women-led child trafficking rackets.

Geographically, urban areas witness a greater incidence of organized crime and economic offences, while rural regions continue to face caste-based violence, land-related crimes, and honor killings—such as the 2020 case in Uttar Pradesh's Azamgarh where a Dalit man was killed for marrying a woman from an upper caste. Furthermore, the nexus between crime and politics is evident in the criminalization of politics; according to the Association for Democratic Reforms (ADR), 40% of MPs elected in 2019 had declared criminal cases against them, including serious charges like rape and murder. Overall, the socio-economic profile of criminals in India reveals that

crime is deeply rooted in systemic inequality, social exclusion, and inadequate access to justice, and cannot be understood merely as an individual moral failing.

2.3.1.2 Changing Patterns of Criminality in Socio-Economic Context

Traditional Profile of Criminals: Historically, criminals were associated with poverty, illiteracy, unemployment, and social marginalization. Crimes were typically petty, violent, or survival-based (e.g., theft, assault).

Shift in Socio-Economic Background: Increasing involvement of individuals from middle and upper socio-economic classes. Educated professionals, businesspeople, politicians, and bureaucrats now feature prominently in crime statistics.

Rise of White-Collar and Socio-Economic Crimes: Growth in crimes like corruption, tax evasion, money laundering, cybercrime, insider trading, and corporate fraud.These crimes involve deception and manipulation, not physical violence.

Changing Motives for Crime: Traditional crimes were driven by necessity; modern crimes are often motivated by greed, power, and social competition.The desire to maintain or elevate social status fuels white-collar criminal behavior.

Impact of Globalization and Consumerism: Exposure to global lifestyles and consumption patterns creates aspirations that may lead to unethical or illegal behavior. Material success is increasingly valued over ethical conduct.

Challenges for Law Enforcement: Traditional policing focuses on visible street-level crimes; white-collar crimes require specialized investigation.High-status offenders often exploit their influence to evade legal consequences.

Justice and Social Inequality: There is often a gap in accountability, with affluent offenders escaping punishment more easily than the poor. This deepens public mistrust in the justice system and reinforces class-based disparities.

Need for Systemic Change : Legal, institutional, and educational reforms are necessary to address the evolving nature of crime.Strengthening ethical education, transparency, and regulatory mechanisms are crucial.

Recap

- The socio-economic profile of a society significantly influences the type and prevalence of crimes, especially in rapidly industrializing and modernizing countries like India.
- Economic modernization and globalization have opened up new opportunities for white-collar and socio-economic crimes through business competition and weak regulatory mechanisms
- Technological progress has facilitated the rise of cybercrimes and financial fraud, particularly among the educated and tech-savvy youth

- Moral decline and consumerist values have reduced socialresistance to unethical behavior, encouraging financially motivated crimes
- Contemporary Indian criminals now come from varied socio-economic backgrounds, including the middle and upper classes, not just the poor or marginalized.
- Traditional crimes like theft and assault are still common among economically disadvantaged individuals, often linked to unemployment and lack of education.
- Marginalized groups such as Dalits and Adivasis are overrepresented in criminal statistics due to both vulnerability and systemic bias.
- White-collar crimes, such as corruption and fraud, are frequently associated with economically privileged individuals who exploit legal and institutional loopholes.
- Male youth from low-income backgrounds are the majority of offenders, though female participation in organized crimes like trafficking is gradually rising.
- Addressing socio-economic crimes requires systemic reforms in education, law enforcement, and governance to reduce inequality and enhance accountability.

Objective Questions

1. Which class is increasingly associated with white-collar crimes?
2. What is the primary motive behind traditional crimes?
3. Which Indian organization reported on criminal backgrounds of MPs?
4. What age group is most involved in criminal activities in India?
5. Which theory explains crime due to pressure to achieve economic success?
6. What kind of crime is tax evasion classified as?
7. Which Indian city is home to urban slums like Dharavi with high petty crime rates?
8. What crime involves disguising illegally obtained money as legitimate?
9. What is the term for selling essential goods at inflated prices?
10. What term describes the weakening of socialnorms leading to deviance?

Answers

1. Upper class
2. Survival
3. ADR (Association for Democratic Reforms)
4. 18–30
5. Strain theory
6. Socio-economic
7. Mumbai
8. Money laundering
9. Black marketing
10. Anomie

Assignments

1. Discuss how the socio-economic profile of a society contributes to the emergence and nature of socio-economic crimes in contemporary India.
2. Explain the changing socio-economic background of criminals in India with suitable examples.
3. Examine the role of caste, class, and education in shaping criminal behavior in Indian society.
4. Critically analyze the rise of white-collar crimes and cybercrimes in urban India.
5. Examine the challenges faced by the criminal justice system in addressing socio-economic crimes, and what reforms are needed?

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BLOCK

Criminal Justice System

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UNIT 1

Criminal Justice System: Meaning, Purpose and Social Relevance

Learning Outcomes

Upon the completion of this unit, the learner will be able to:

- define criminal justice system, meaning, relevance and social relevance
- develop an overall view about Indian Police system, and maintenance of law and order, protection of property rights
- familiarize themselves with the need of justice for all, regardless of socio-economic status, through legal aid and inclusive policies

Prerequisites

In daily life, people go to work, children go to school, and businesses operate as usual. Behind these routines, there is a system of rules and decisions that guides what is right or wrong, and how wrongdoers are dealt with. This system is known as the criminal justice system. It plays a key role in protecting rights, maintaining order, and deciding how crimes are addressed in society.

The study of the criminal justice system in India offers learners a foundational understanding of the institutions, processes, and laws that govern crime and its control within the country. At its core, the Indian criminal justice system is a complex mechanism comprising four key pillars: the police, judiciary, correctional institutions, and the legislature. These institutions work together to maintain law and order, ensure justice, and uphold the rights guaranteed by the Constitution of India. A deep dive into these structures allows learners to grasp how criminal laws are formulated, how offenses are investigated, how trials are conducted, and how punishment or rehabilitation is administered. This study also encourages learners to critically examine the system's functioning, its challenges, and the

balance between maintaining public safety and protecting individual freedoms.

In addition to institutional understanding, learners are introduced to the socio-legal context within which the criminal justice system operates. This involves exploring issues such as access to justice, human rights, marginalization, and the impact of social inequalities on the delivery of justice. The course also familiarizes learners with key legislations like the Indian Penal Code (IPC), the Criminal Procedure Code (CrPC), and the Indian Evidence Act, which are central to the system's operation. By analyzing both theoretical concepts and real-world case studies, learners are encouraged to reflect on the effectiveness, fairness, and reform needs of the system. This foundational knowledge equips students not only for further academic inquiry but also for careers in law enforcement, legal practice, policymaking, and social advocacy.

Keywords

Adversarial system, Amendment, Prosecution, Hudud crimes, Inquisitorial system

Discussion

A society without rules, where chaos reigns and disputes are settled through force rather than fairness, the poor are exploited and atrocities of the rich, the powerful are compromised in all walks of the life. this unsettling vision highlights the essential role of the criminal justice system.

The Criminal Justice System (CJS) is the framework through which governments enforce the rule of law, maintain public order, and address criminal behaviour. Its primary aim is to ensure justice by protecting the rights of victims, holding offenders accountable, and safeguarding the property and safety of individuals. Over time, societies have developed various mechanisms for punishment and crime prevention to uphold justice. India's criminal justice system is designed with the primary objective of punishing offenders and preventing future crimes, thereby ensuring a peaceful and orderly society. It is built upon a legal framework governed by three key laws:

1. *The Bharatiya Nyaya Sanhita, 2023 (BNS)* - (Formerly Indian Penal Code, IPC, 1860)

This law serves as the backbone of India's criminal law. It defines various offences, such as theft, murder, assault, and fraud, along with the corresponding punishments. The BNS (Previously known as IPC, 1860) provides clear guidelines for identifying crimes and categorizing them based on their severity and nature. It ensures consistency in defining offences across the country, promoting uniformity in the treatment of criminal acts.

2. *The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)-* (Formerly the Criminal Procedure Code, CrPC, 1973)

This law outlines the detailed procedures to be followed during the investigation, trial, and sentencing of criminal cases. It

specifies the roles and responsibilities of law enforcement agencies, prosecutors, defense counsels, and the judiciary. The CrPC (BNS) ensures that every case is handled systematically, from filing complaints and conducting investigations to the trial and final verdict. It also emphasizes the rights of the accused, witnesses, and victims during the legal process.

3. ***The Bharatiya Sakshya Adhiniyam (BSA)-*** (Formerly the Evidence Act, 1872)

This law regulates how evidence is collected, presented, and evaluated in court. It establishes the rules for admissibility, relevance, and reliability of evidence, ensuring that the judicial process is fair and unbiased. The Evidence Act plays a crucial role in determining the outcome of cases by guiding the court on what evidence can be accepted and how it should be interpreted.

India follows the adversarial system of justice, which is based on the principle that the accused is presumed innocent until proven guilty beyond a reasonable doubt. This system places the burden of proof on the prosecution, requiring them to present convincing evidence to establish the guilt of the accused.

3.1.1. Meaning of Criminal Justice System

The CJS is an organized structure of legal and institutional mechanisms designed to uphold law and order, prevent and control crime, deliver justice, and rehabilitate offenders. It comprises three main components:

1. Law enforcement agencies (police and investigative bodies) responsible for crime prevention, investigation, and apprehension of offenders.
2. The judiciary (courts and judges) tasked with conducting fair trials and ensuring justice.
3. Correctional institutions (prisons, probation services, and rehabilitation centers) focused on punishing, reforming, and reintegrating offenders into society.

These components work together in a cohesive manner, ensuring that laws are enforced, crimes are prosecuted, and justice is served.

1. Purpose of Criminal Justice System

The primary purpose of the CJS is to:

1. Maintain public order and ensure socialsafety.
2. Deter criminal activities through effective law enforcement.
3. Provide fair trials to deliver justice for both victims and offenders.
4. Impose appropriate punishments while promoting the rehabilitation of offenders.

By balancing punitive and reformative measures, the system aims to reduce crime rates and foster social harmony.

2. Social Relevance

The criminal justice system plays a crucial role in maintaining social order and upholding the rule of law. Its social relevance can be summarized as follows:

a. **Protection of Rights**: The system safeguards individuals' rights and freedom while ensuring collective security.

b. **Public Trust:** An efficient and fair justice system enhances confidence in law enforcement and legal institutions.

c. **Victim Support:** By protecting

victims' rights and delivering timely justice, the system fosters social order and reduces the risk of vigilantism.

d. **Rehabilitation:** Addressing the root causes of crime and promoting offender rehabilitation reduces recidivism and supports social reintegration.

The responsibility for crime prevention and control largely lies with the criminal justice system, which involves the processes of arrest, trial, conviction, sentencing, punishment or treatment, and ultimately rehabilitation. The foundational rules are established by the legislature through laws. While each component has a distinct function, they are all interconnected and interdependent.

The police are the first to receive information about a crime and begin the investigation. The prosecution follows, reviewing the police charge sheet. The judiciary takes up the case, assessing the allegations based on legal rules and laws. Finally, correctional agencies, such as prisons and probation services, handle the punishment and rehabilitation of offenders. The functioning of each component directly affects the performance of the others, creating a system where all components rely on each other.

3.1.2 Legislative Process in CJS

The legislative process in the Criminal Justice System (CJS) is crucial for shaping the legal framework that governs crime and its consequences. It involves a series of steps through which laws are created, modified, or repealed to ensure that the justice system remains effective and adaptable to changing socialneeds and challenges. Here is a detailed breakdown of the process:

1. Proposal of Legislation

The proposal of legislation within the criminal justice system (CJS) is the first crucial step in the process of shaping the laws that govern crime, its prevention, and the punishment of offenders. This phase marks the beginning of efforts to address emerging challenges in criminal justice and ensure that the legal framework remains effective and adaptable.

a) Government Initiatives

The government or ruling political parties are typically the primary drivers of new legislative proposals. As the executive branch of the state, the government is attuned to social needs, including emerging criminal trends, evolving public sentiments, judicial rulings, and global shifts in crime patterns. These factors often prompt governments to propose new laws or amend existing ones to reflect changes in society, technology, or criminal behavior. For instance, the rise of cybercrime, terrorism, or organized crime may drive governments to introduce specific laws aimed at combating these issues.

The process often begins with consultations within government agencies, including law enforcement, the judiciary, and ministries concerned with home affairs or justice. The government then drafts proposed laws, which are discussed within legislative chambers and, if necessary, revised through further consultation with stakeholders.

b) Private Members' Bills

In addition to government-driven initiatives, legislators from opposition parties or independent members of parliament can also play a significant role in proposing legislation related to criminal justice. These are known as Private Members' Bills. These bills often reflect the concerns of specific communities or social groups that may not be fully addressed by the ruling government's agenda. For example, private members may introduce bills aimed at reforming police conduct, addressing the needs of marginalized

or under-represented populations, or seeking to amend laws perceived to be unjust.

c) Pressure Groups and Civil Society

Another vital force in the proposal of criminal justice legislation is the influence of pressure groups and civil society organizations. These groups, which include non-governmental organizations (NGOs), victims' advocacy groups, legal experts, and public interest groups, work tirelessly to raise awareness and advocate for specific legislative changes. Often, these organizations are at the forefront of campaigns for justice reforms, such as better protections for victims of domestic violence, reforms to sentencing laws, or improvements to the rehabilitation of offenders.

By working together, they ensure that the laws governing crime and justice are just, equitable, and capable of addressing the complex realities of modern society. Through this process, the legislative framework evolves to maintain public trust, safeguard rights, and ensure the effective administration of justice.

Hussainara Khatoon vs State of Bihar (1979) – Right to Speedy Trial

The case Hussainara Khatoon v. Home Secretary, State of Bihar (1979) was a landmark judgment by the Supreme Court of India that highlighted the denial of fundamental rights to undertrial prisoners in Bihar. Triggered by a news report revealing that many undertrials, including women and children, had been imprisoned for years without trial, lawyer Pushpa Kapila Hingorani filed a PIL on their behalf. The Court found that many had already served more time than the maximum sentence for their alleged crimes and were denied bail due to poverty and an inadequate legal aid system. The Court declared that the right to a speedy trial is an essential part of Article 21 (Right to Life) of the Constitution and emphasized the need for free legal aid under Article 39A.

The judgment condemned the outdated bail system, which disproportionately affected the poor, and urged reforms including bail on personal bonds and systemic changes like increasing the number of judges and courts. The ruling brought attention to the plight of undertrial prisoners and emphasized that justice must be accessible to all, not just the wealthy. It remains a cornerstone in India's prison and human rights jurisprudence.

2. Drafting the Bill

Once a proposal for new legislation in the criminal justice system (CJS) has been accepted, the next critical step is its conversion into a formal draft bill. This stage is vital for refining the proposal and ensuring that it is clear, practical, and legally sound. The drafting of the bill is typically carried out by legal experts and policymakers, often with the help of specialists who have deep knowledge of the criminal justice system. This may include input from law enforcement officers, judges, prison officials, legal academics, and other stakeholders. Their combined expertise ensures that the bill is comprehensive and tackles the problem in a manner that is both effective and feasible.

The goal of this stage is to translate the proposed idea into a set of clear, precise legal provisions. For example, if the bill is intended to introduce new laws on cybercrime, legal experts will ensure that the bill clearly defines what constitutes cybercrime, the penalties involved, and the legal processes for prosecution.

a) Aligning with Legal Standards

A crucial aspect of drafting the bill is ensuring that it aligns with constitutional principles and human rights standards. It must respect the rights of individuals while addressing criminal behavior. The bill should be balanced in a way that it does not infringe upon the freedoms guaranteed by the constitution or any international human rights conventions.

b) Ensuring Practicality and Clarity

During the drafting phase, great attention is paid to the wording and definitions of crimes. This includes providing clear definitions of what constitutes a criminal act, the scope of the law, and how it can be enforced without causing ambiguity. The wording must be specific enough to avoid confusion and ensure the law is implemented consistently.

Particular care is given to the clarity of procedures. For example, if the bill introduces new legal processes, such as electronic surveillance in criminal investigations, the procedures for obtaining warrants, monitoring, and data privacy must be clearly outlined to prevent misuse or violations of rights.

c) Review and Refinement

In many cases, a bill is subject to multiple revisions during the drafting process. Policymakers may consult with various stakeholders, hold public hearings, or run pilot programs to gather feedback. This input helps ensure that the final version of the bill is as effective, fair, and practical as possible.

The draft bill undergoes careful scrutiny, with particular focus on preventing any unintended legal or social consequences. For example, the bill's impact on marginalized communities or on existing legal procedures might be assessed to ensure that it does not inadvertently exacerbate inequalities or undermine existing protections.

3. Introduction and Review in the Legislature

Once the bill has been drafted and finalized, it is formally introduced in one of the houses of the legislature, such as the *Lok Sabha* or *Rajya Sabha* in India. This marks the beginning of the bill's legislative journey. The bill is then debated and reviewed by the members of the legislature. During this stage, legislators thoroughly examine the bill's content to assess its merits, potential drawbacks, and overall feasibility.

a) Debate and Scrutiny

In the debate phase, lawmakers discuss the proposed legislation, highlighting both its positive aspects and areas of concern. This provides an opportunity for different perspectives, as legislators may have varying views based on their political ideologies, regional interests, or expertise in criminal justice issues. They may raise questions, propose amendments, or call for further modifications. The bill's impact on the criminal justice system and the wider society is debated in this stage to ensure that it is practical and just.

b) Role of Legislative Committees

One of the most crucial aspects of this stage is the involvement of legislative committees, which often specialize in specific areas of law. For example, the Home Affairs Committee or the Law and Justice Committee may take the lead in examining bills related to criminal justice, law enforcement, and judicial reforms.

c) Public Consultation

Legislative committees often conduct research and gather public opinions to ensure the bill is well-rounded and considers the needs and concerns of society. Public hearings, consultations, and surveys can offer valuable insights into the real-world impact of the proposed legislation. Input from

stakeholders, such as victim advocacy groups, civil rights organizations, and ordinary citizens, can also highlight issues that may have been overlooked by the legislature or the bill's drafters.

d) Analysis of the Bill's Impact

Through these discussions and investigations, the bill is scrutinized for any unintended consequences or unaddressed gaps. For instance, there might be concerns over the bill's effect on existing laws or its cost implications on the criminal justice system. Committees may evaluate how the bill could affect law enforcement practices, the rights of the accused, or the efficiency of the courts.

The committee's recommendations may lead to modifications in the bill, ensuring that it is comprehensive and in alignment with the broader goals of justice and fairness. The bill is refined and adjusted based on these discussions and consultations.

D.K. Basu vs State of West Bengal (1997) – Guidelines for Arrest

The *D.K. Basu v. State of West Bengal* (1996) case is a landmark judgment that expanded the interpretation of fundamental rights under the Indian Constitution, especially concerning custodial violence and the rights of arrested individuals. The case originated from a letter by D.K. Basu highlighting reports of custodial deaths, which the Supreme Court treated as a PIL. The Court recognized the growing incidents of police torture and deaths in custody as violations of **Article 21**, which guarantees the right to life and personal liberty. It emphasized that custodial violence undermines the rule of law and that even detainees and prisoners are entitled to constitutional protections.

In its judgment, the Court laid down eleven mandatory guidelines to prevent abuse during arrests and detention, including requirements for arrest memos, identification of arresting officers, informing relatives, medical examinations, and the presence of legal counsel during interrogation. These safeguards were to ensure transparency, accountability, and protection of human dignity in police procedures. The case continues to serve as a cornerstone in human rights jurisprudence in India.

4. Debate and Amendments

During the debate on the bill, legislators thoroughly evaluate its provisions, considering various aspects such as its potential social impact, financial feasibility, and overall fairness. They examine whether the bill adequately addresses the needs of the criminal justice system while balancing public safety and individual rights. They also discuss how the law will be implemented and the possible challenges it might face in practice, including its cost and the burden it could place on the criminal justice system.

If concerns arise during these discussions, amendments are proposed to address specific issues. These amendments could range from altering definitions of crimes to expanding or narrowing the scope of punishments. They could also involve modifying trial procedures, enhancing investigative processes, or clarifying how law enforcement agencies should operate under the new law.

5. Voting and Passage

After the debate and amendments, the bill proceeds to the voting stage. In this phase, the members of each legislative house (such

as the Lok Sabha and Rajya Sabha in India) cast their votes to decide whether to approve the bill. If the bill receives a majority of votes in both houses, it moves forward to the next stage of the legislative process.

In a *bicameral system*, like India, both the *lower house* (Lok Sabha) and the *upper house* (Rajya Sabha) must pass the bill for it to be considered. If one house makes any amendments to the bill, it is sent back to the other house for further review and potential modifications. This process allows for additional scrutiny and ensures that both houses have an opportunity to discuss the bill's provisions and any changes that might have been made.

Once the bill passes both legislative houses, it is sent to the executive (typically the President in a country like India) for final approval or assent before becoming law.

6. Presidential or Executive Approval

Once the bill has successfully passed both houses of the legislature, it is sent to the President or head of state for final approval. While the President's role in this stage is often ceremonial, they do have the constitutional right to withhold assent to the bill under certain circumstances. This may happen if the President believes the bill violates the Constitution or does not align with broader national interests. In such cases, the bill is sent back to the legislature for reconsideration, where the members may attempt to resolve the concerns raised by the President.

If the President approves the bill, they sign it into law. At this point, the bill officially becomes an Act of the legislature. The official gazette publishes the Act, which marks its formal enactment. The law becomes enforceable from the date specified in the Act, which could be immediate or set for a later date, depending on the provisions of the law.

7. Implementation and Enforcement

After the bill becomes law, the responsibility for implementation falls to various executive agencies, such as the police, courts, and correctional institutions. These agencies work together to enforce the new laws, ensuring that the criminal justice system operates according to the provisions set out in the legislation. For example, law enforcement agencies are tasked with enforcing criminal laws by conducting investigations, apprehending suspects, and ensuring public safety. Prosecutors will use the law to pursue cases in court, ensuring that offenders are held accountable under the new legal framework. Judges and courts interpret the law and make rulings based on its provisions, ensuring fair trials and justice for those involved.

Kathua Rape Case (2018) – Strengthening Child Protection Laws

The Kathua case involved the brutal abduction, rape, and murder of an 8-year-old Muslim girl in Jammu and Kashmir in 2018, which stirred national outrage due to its communal overtones. The crime was committed by individuals from the Hindu community, including a retired official and police personnel, with the aim of driving the girl's nomadic Bakerwal community out of the area. The case became politically charged, with public rallies held in support of the accused and interference from political figures, prompting the Supreme Court to move the trial to Punjab to ensure fairness.

In 2019, a special court in Pathankot convicted six of the seven accused: three were sentenced to life imprisonment, and three others received five-year terms for destroying

evidence. The seventh was acquitted due to lack of evidence. The judgment is seen as a victory for justice over communal interference and a demonstration of how quick investigation, committed prosecution, and judicial integrity can deliver timely justice, even in highly sensitive and polarized cases.

8. Judicial Interpretation and Challenges

Once a law is enacted, it becomes subject to judicial interpretation. Courts play a critical role in interpreting the law in the context of specific cases that come before them. This interpretation ensures that the law is applied correctly to particular facts and circumstances, which can help clarify any ambiguities or gray areas in the legislation. Judges examine the intent of the law, its language, and how it aligns with constitutional principles and human rights standards.

If individuals, organizations, or even government agencies believe a law violates constitutional rights or conflicts with established principles of justice, they can challenge the law in court. This legal challenge might involve constitutional petitions, public interest litigations, or appeals to higher courts, depending on the legal system.

Judicial review allows courts to examine the constitutionality of a law. If the courts determine that the law is in conflict with the constitution or fundamental rights, they can strike it down, rendering it void. In some cases, courts might not completely invalidate a law but instead suggest modifications or amendments to ensure it aligns with constitutional requirements.

9. Amendments and Repeals

As society evolves and new challenges emerge, criminal laws may require modifications or repeals to remain relevant and effective. Legislators, aware of shifting social dynamics, technological advancements, and emerging threats, may introduce amendments to address contemporary issues that were not previously anticipated when the law was first enacted. For example, the rise of cybercrime, terrorism, human trafficking, and drug-related offenses may necessitate updates to existing laws to better address these evolving threats.

Amendments can include new provisions or specialized legal frameworks that target these specific crimes, ensuring that the justice system can effectively respond. For instance, cybercrime laws may need to be adjusted to account for the increasing sophistication of internet-based crimes, while anti-terrorism legislation may need to evolve to counter new forms of global extremism or domestic radicalization.

The process of modifying or repealing laws is crucial to ensuring that the criminal justice system remains responsive, flexible, and capable of addressing new challenges while upholding fundamental rights and principles of justice. This continual process of legal adaptation helps the system stay aligned with the public's expectations and the changing nature of crime.

10. Continuous Reform

The criminal justice system must remain flexible and adaptive to keep pace with the rapidly changing nature of crime and the evolving perspectives on justice. As society develops, new challenges such as emerging technologies, shifts in social norms, and changes in international law necessitate regular reassessments of existing laws. This ongoing legislative process ensures that the criminal justice system is not static but continuously evolving to address new forms of criminal behaviour, emerging threats, and advances in criminological theory.

Laws are frequently revisited to ensure they are relevant, fair, and effective. Periodic

NIRBHAYA ACT

The Criminal Law (Amendment) Act, 2013, popularly known as the Nirbhaya Act, was passed by the Lok Sabha on 19 March 2013 and the Rajya Sabha on 21 March 2013. This legislation amended the Indian Penal Code (IPC), Code of Criminal Procedure (CrPC), and the Indian Evidence Act to address crimes related to sexual offences more comprehensively. It was initially introduced as an Ordinance by the President of India in response to the mass protests following the 2012 Delhi gang rape case. The Act newly recognized several offences like acid attacks, sexual harassment, voyeurism, and stalking, incorporating them into the IPC. Reforms in the CrPC and the Evidence Act (BNS) also aimed to make the judicial process more sensitive to the victim's experience, especially during the recording of statements.

However, despite its progressive stance, the Act drew criticism for excluding marital rape from the definition of rape (unless the wife is under 15 years). Furthermore, the law became gender-specific, assuming only men can commit sexual offences against women, leaving out cases involving male or transgender victims, or instances where women may be the perpetrators.

reviews of legislation allow lawmakers to identify any gaps in the law, inconsistencies, or areas where unintended consequences may arise. This process fosters a system of justice that is not only responsive to immediate concerns but also forward-thinking, capable of addressing issues that might arise in the future.

3.1.3 International Perspective: American, British, Chinese, French and Islamic CJS

The criminal justice systems (CJS) of different countries vary significantly based on historical, cultural, political, and legal

traditions. The systems of America, British, China, France, and Islamic countries offer diverse approaches to crime, punishment, and justice. Here is an overview of these systems in nuptial:

3.1.3.1 American Criminal Justice System

The United States criminal justice system operates under a common law framework, which means that its laws are shaped by judicial decisions and precedents rather than solely by written statutes. The system is characterized by its federal structure, allowing criminal law to be governed by both state and federal law. This dual system of governance creates complexities in the administration of justice, as different laws and procedures may apply depending on whether the crime falls under state or federal jurisdiction.

a) Adversarial System

The adversarial system forms the backbone of criminal proceedings in the U.S. In this system, the prosecution and the defense are pitted against each other in a legal contest, with each side presenting its case to the judge or jury. The judge acts as a neutral referee, ensuring that the proceedings follow legal procedures and that the parties' rights are respected. The jury, if present, determines guilt or innocence based on the evidence presented.

b) Federal vs. State Law

The U.S. criminal justice system operates within a federal structure, meaning that both state and federal governments have their own sets of criminal laws, courts, and law enforcement agencies. This creates a dual legal system that allows for the prosecution of crimes at both the state and federal levels.

State Courts and Laws*:* Each of the fifty states in the U.S. has its own criminal code, law enforcement agencies, and court system. State courts handle most criminal cases, including murder, theft, assault, and drug offenses that occur within state boundaries. State laws can vary widely, with some states imposing more severe penalties for certain offenses (e.g., the death penalty) while others take a more lenient approach.

Federal Courts and Laws: Federal courts handle criminal cases that involve violations of federal laws or crimes that cross state lines. These can include drug trafficking, terrorism, organized crime, and bank fraud, among others. Federal criminal law is generally uniform across the country, and cases are heard in federal district courts, with appeals handled by federal circuit courts.

Jurisdictional Issues: There are instances where a crime may fall under both state and federal jurisdiction, leading to complex legal proceedings. For example, a person who commits a crime that violates both state and federal law may face charges in both state and federal court. This is known as dual sovereignty.

c) Sentencing and Punishment

The United States has one of the highest incarceration rates in the world, with millions of individuals currently in prison or jail. The U.S. criminal justice system places a strong emphasis on punitive measures, but there has also been a shift towards recognizing the importance of rehabilitation and restorative justice for certain offenders.

Incarceration Rates: The U.S. has long been criticized for its high incarceration rates, with a significant proportion of the population incarcerated for crimes ranging from nonviolent offenses to violent crimes. This phenomenon is partly attributed to tough-on-crime policies implemented in the 1980s and 1990s, which led to longer prison sentences, mandatory minimum sentences, and the widespread use of private prisons.

Life Sentences and Capital Punishment: The U.S. is one of the few countries that still practices the death penalty, although it is only applied in certain states. Life sentences without the possibility of parole are also commonly used, particularly for serious crimes such as murder. The use of capital punishment is a controversial topic, with critics arguing that it is not a deterrent to crime and disproportionately affects minority and low-income individuals.

Rehabilitation: In recent years, there has been a growing recognition of the importance of rehabilitation in the criminal justice system. Various programs within the prison system, such as education and vocational training, aim to reduce recidivism by providing inmates with the skills necessary for reintegration into society. Additionally, alternative sentencing options, such as probation and community service, are increasingly being utilized for nonviolent offenders.

Restorative Justice: There has been a growing movement toward restorative justice, which focuses on repairing harm done to victims and communities rather than solely punishing offenders. Programmes may include victim-offender dialogue, where offenders are given the opportunity to make amends and take responsibility for their actions, as well as community service and restitution.

The American criminal justice system is built upon the principles of due process, fairness, and the adversarial system of justice. While there are ongoing debates and challenges regarding issues like incarceration rates, sentencing policies, and racial disparities, the system remains a critical part of the U.S. governance structure. Over time, reforms have been introduced to balance the need for punitive measures with the necessity of rehabilitation and restorative justice, highlighting the evolving nature of criminal justice in the country.

3.1.3.2. British Criminal Justice System

The United Kingdom's criminal justice system is deeply rooted in common law principles, emphasizing due process, adherence to precedent, and fair trials. While influenced historically by European Union law, particularly before Brexit, the system has evolved to balance its rich legal traditions with modern reforms.

a) Adversarial and Inquisitorial Elements

The UK primarily follows an adversarial legal framework, where the prosecution and defense present their cases before an impartial judge or jury, ensuring fairness and transparency. However, the system incorporates inquisitorial elements during the investigative phase. Police authorities actively gather evidence and question suspects, often collaborating with the Crown Prosecution Service to decide whether a case should proceed to court. This hybrid approach combines thorough investigations with safeguards for individual rights.

b) Sentencing Framework

The UK's sentencing system takes a nuanced approach in which serious crimes often lead to custodial sentences, including life imprisonment, with periodic reviews by parole boards. Alternatives such as community orders, fines, and suspended sentences are used for lesser offenses. The abolition of the death penalty in the 1960s underscored the UK's commitment to human rights and progressive legal reforms, marking a shift towards more humane approaches to justice.

c) Emphasis on Rehabilitation

In recent decades, rehabilitation has become a cornerstone of UK criminal justice policy:

Educational and Vocational Training: Integral to the prison system, these programs provide offenders with skills for reintegration into society.

Counseling and Therapy: Addressing mental health challenges and substance abuse is prioritized to tackle underlying causes of criminal behavior.

Restorative Justice: Initiatives encourage offenders to engage directly with victims, promoting accountability and reconciliation.

Youth Offender Programs: Specialized facilities focus on mentorship, education, and family support, reflecting a commitment to reform and second chances.

The UK's criminal justice system remains dynamic, continuously adapting to social changes and emerging challenges. Its dedication to fairness, transparency, and rehabilitation ensures as a model of modern justice, balancing public safety with principles of human dignity and opportunities for reform.

Malimath Committee

In 2000, the Indian government constituted a committee under the chairmanship of Justice V.S. Malimath, former Chief Justice of Kerala and Karnataka, to propose reforms to the country's outdated criminal justice system. The committee observed that the existing system was skewed in favor of the accused and did not adequately address justice for the victims. One of its major recommendations was to adopt certain aspects of the inquisitorial system followed in countries like Germany and France, where judicial magistrates actively supervise investigations. It also proposed empowering courts to summon any individual as a witness, regardless of whether they were listed. In terms of constitutional reform, the committee sought a modification to Article 20(3) to allow courts to question the accused and draw adverse inferences if they refused to answer.

To ensure victim-centric justice, the panel recommended that victims of serious crimes be allowed to participate in trials and be given compensation. If victims couldn't afford legal representation, the State should provide an advocate of their choice. It also proposed setting up a Victim Compensation Fund with contributions from assets seized during organized crime investigations. On the law enforcement side, the committee advised separating the investigation wing from general law and order duties and advocated for the establishment of a National Security Commission and State Security Commissions. With regard to judicial processes, the committee emphasized the need to improve the judge-population ratio, noting that India's was far lower than international standards. Lastly, the committee called for the formation of a Presidential Commission to periodically review and assess the effectiveness of the criminal justice system in India.

3.1.3.3. Chinese Criminal Justice System

The Chinese legal system follows an inquisitorial model, where judges and prosecutors play an active role in investigations and trials. Judges are involved in evidence gathering, witness questioning, and truth determination, reducing the reliance on adversarial arguments. Defendants face challenges in mounting a defense due to limited legal representation and a judicial focus on confessions, which are often central to convictions.

a) Capital Punishment

China's criminal justice system is known for its extensive use of capital punishment, executing more people annually than any other country. Crimes such as drug trafficking, corruption, and certain economic offenses are punishable by death. Despite recent reforms aimed at narrowing the scope of capital punishment, it remains a prominent tool for deterrence and severe punishment.

b) Political Influence on Justice

The Communist Party's pervasive influence extends to the judiciary, law enforcement, and prosecutorial processes. Political considerations often shape legal outcomes, especially in cases involving dissent, corruption, or national security. This has led to criticisms that the system prioritizes party objectives over impartial justice and the rule of law.

c) Efforts at Legal Reform

China has introduced reforms aimed at modernizing its legal system, including improving judicial transparency, enhancing professionalism among judges, and building public trust. However, these reforms are tempered by the state's overriding focus on political stability and party control, which often overshadows efforts to ensure individual rights and impartiality.

d) Balancing Control and Reform

China's criminal justice system exemplifies the complexities of balancing socialist principles, party authority, and legal modernization. While reforms are underway, the state's focus on collective interests and maintaining control often takes precedence over the advancement of individual freedoms and procedural fairness.

3.1.3.4 French Criminal Justice System

France uses a civil law system, which is based on written statutes rather than judicial precedents. The French CJS is highly centralized and involves a mixture of inquisitorial and adversarial elements. The French criminal justice system operates under an inquisitorial model, where the judge plays a central and active role in uncovering the truth. Unlike adversarial systems, where opposing parties present their cases, the judge in France takes responsibility for investigating the facts of the case. This includes questioning witnesses, defendants, and experts, as well as directing the collection of evidence, ensuring a thorough examination of all relevant details.

a) Judicial Role

Judges in France hold a dual responsibility, acting as investigators and arbiters of justice. During the pre-trial phase, an investigating judge collaborates with police and other authorities to gather evidence, interview parties involved, and build a comprehensive case. Prosecutors, who are part of the judiciary, work in tandem with judges, presenting cases in court while maintaining impartiality. This close collaboration ensures that the proceedings are guided by fairness and thoroughness rather than adversarial conflict.

b) Punishment and Rehabilitation

The French criminal justice system

emphasizes balancing punishment with rehabilitation. Sentencing often includes probation, community service, and other alternatives to imprisonment, particularly for non-violent offenders. The prison system incorporates educational and vocational training programmes designed to prepare inmates for reintegration into society upon release. Specialized institutions and programmes focus on addressing issues such as substance abuse and mental health, reflecting the system's commitment to reducing recidivism.

c) Modern Reforms

France has implemented reforms to enhance judicial efficiency, protect defendants' rights, and ensure transparency in legal proceedings. Measures such as introducing jury trials for serious offenses and expanding access to legal representation highlight the system's ongoing evolution. Despite these advancements, challenges remain in balancing the need for justice with the rights and rehabilitation of offenders, especially in cases involving complex socialand criminal issues.

3.1.3.5 Islamic Criminal Justice System

The Islamic criminal justice system is grounded in Sharia law, which is derived from the Quran and Hadith (sayings and actions of the Prophet Muhammad). This system is practiced in various forms across countries such as Saudi Arabia, Iran, and parts of Pakistan.

a) Sharia Law and *Hudud* Crimes

Sharia law categorizes crimes into distinct groups, with *Hudud* crimes being the most serious. These include offenses such as theft, adultery, false accusations, apostasy, and drinking alcohol. The punishments for *Hudud* crimes are fixed and severe, such as amputation for theft or stoning for adultery. However, the application of these punishments is subject to stringent evidentiary requirements. For example, adultery requires testimony from four credible eyewitnesses to be proven. These high standards of proof often mean *Hudud* punishments are rarely carried out.

b) *Tazir* Crimes and Judicial Discretion

Unlike *Hudud* crimes, *Tazir* crimes are not explicitly mentioned in the Quran or Hadith and are left to the discretion of the judiciary. These crimes encompass a wide range of offenses, from minor infractions to serious acts that disrupt social harmony. Judges have the authority to determine appropriate punishments for *Tazir* crimes, which can include fines, imprisonment, or community service. This flexibility allows the justice system to adapt to the evolving needs of society while maintaining the principles of Islamic law.

c) Emphasis on Restorative *Justice*

Restorative justice is a cornerstone of the Islamic criminal justice system. There is a strong focus on reconciliation, forgiveness, and compensation to restore harmony within the community. Victims or their families often play a significant role in the resolution of criminal cases. They may choose to forgive the offender, accept financial compensation (known as "*Diyya*"), or insist on the prescribed punishment. This approach fosters accountability while providing opportunities for rehabilitation and social reintegration.

d) Contemporary Applications and *Challenges*

While the principles of Islamic criminal justice remain consistent, their implementation varies across jurisdictions. Some countries apply Sharia law strictly, while others adopt a more moderated or hybrid approach. Modern interpretations and reforms often aim to balance traditional values with contemporary human rights standards, creating ongoing debates about the role and scope of Sharia law in a globalized world.

Recap

- The BNS (Previously known as IPC, 1860) provides clear guidelines for identifying crimes and categorizing them based on their severity and nature
- The CrPC (BNS) ensures that every case is handled systematically, from filing complaints and conducting investigations to the trial and final verdict
- The Evidence Act (Currently BNS) plays a crucial role in determining the outcome of cases by guiding the court on what evidence can be accepted and how it should be interpreted.
- The police are the first to receive information about a crime and begin the investigation
- Legislative committees often conduct research and gather public opinions to ensure the bill is well-rounded and considers the needs and concerns of society
- In a bicameral system, like India, both the lower house (Lok Sabha) and the upper house (Rajya Sabha) must pass the bill for it to be considered
- Judicial review allows courts to examine the constitutionality of a law
- Laws are frequently revisited to ensure they are relevant, fair, and effective
- The adversarial system forms the backbone of criminal proceedings in the U.S.
- The prosecution represents the state or government and is responsible for proving the defendant's guilt beyond a reasonable doubt
- Each of the 50 states in the U.S. has its own criminal code, law enforcement agencies, and court system
- The United States has one of the highest incarceration rates in the world, with millions of individuals currently in prison or jail
- The UK primarily follows an adversarial legal framework, where the prosecution and defense present their cases before an impartial judge or jury, ensuring fairness and transparency
- The Chinese legal system follows an inquisitorial model, where judges and prosecutors play an active role in investigations and trials

- Judges in Fsrance hold a dual responsibility, acting as investigators and arbiters of justice.
- The Islamic criminal justice system is grounded in Sharia law, which is derived from the Quran and Hadith (sayings and actions of the Prophet Muhammad).
- Sharia law categorizes crimes into distinct groups, with Hudud crimes being the most serious.

Objective Questions

1. What is the primary objective of India's Criminal Justice System (CJS)?
2. What is the system of justice followed in India?
3. Who can propose a Private Member's Bill in the legislative process of the CJS?
4. What happens if both houses of a bicameral legislature cannot agree on a bill?
5. Which body is responsible for giving the final approval to a bill before it becomes law?
6. What role do courts play after a law is enacted?
7. Why might a law be repealed?
8. In the American criminal justice system, who bears the burden of proving the defendant's guilt beyond a reasonable doubt?
9. Which system uses the concept of 'Hudud' crimes with fixed punishments like amputation or stoning?
10. What is a notable feature of the UK criminal justice system in dealing with offenders?

Answers

1. To punish offenders and prevent crimes
2. Adversarial

3. Any member of Parliament other than a minister
4. A joint session may be called to resolve the deadlock
5. President
6. Interpret and review the law
7. It no longer aligns with socialvalues or is ineffective
8. Prosecutor
9. Islamic Criminal Justice System
10. Emphasis on rehabilitation

Assignments

1. Critically examine the roles and responsibilities of the three main components of the Criminal Justice System in India. How do they interact to ensure justice is delivered?
2. Discuss the legislative process involved in framing criminal laws in India. Highlight the roles played by the government, private members, and civil society in this process.
3. Discuss the role of debate and amendment in the legislative process. How do these stages contribute to making a bill fair, practical, and aligned with the principles of justice?
4. Explain the process of judicial interpretation and its impact on the implementation and evolution of criminal laws. How does judicial review uphold constitutional values?
5. Compare and contrast the American and British criminal justice systems in terms of legal framework, trial procedure, and emphasis on rehabilitation. How do their shared roots in common law result in different practices?
6. Examine the use and implications of capital punishment in the American, Chinese, and Islamic criminal justice systems. How does each system justify or critique its use of the death penalty in terms of deterrence, justice, and human rights?

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Police System

Learning Outcomes

Upon completing this unit, the learner will be able to:

- comprehend police system, evolution, historical overview and its major functionalities.
- understand the organizational structure of Indian Police system, policies and its role in the correctional methods.
- identify the objectives of the Police system and examine its effectiveness in maintaining law and order system in India.

Prerequisites

Have you ever thought about what the main task of the police is? Absolutely - it is to maintain law and order. Police officers are recognized as legitimate enforcers of law and order. As investigating officers, security personnel, public servants, defenders of democracy, and sometimes even agents of correction and rehabilitation, the police force plays multiple roles in society. Now, have you considered the structure and organization of the police system? How are police officers recruited and categorized? How is their hierarchy determined? What roles and responsibilities are assigned to them? What are the main purpose and objectives of the Police system?

The police system in India plays a pivotal role in maintaining law and order, preventing crime, and ensuring the safety and security of citizens. Rooted in colonial legacy, the modern Indian police system has evolved significantly to adapt to democratic governance and constitutional mandates. Understanding the structure, functions, and powers of the police is essential for students of law, public administration, and social sciences, as it forms the backbone of the criminal

justice system. This unit will provide a foundational overview of the Indian police system, including its historical development, organizational structure, roles, and contemporary challenges.

To fully grasp the working of the police in India, students should be familiar with basic concepts of governance, law enforcement, and the Constitution of India—particularly the sections relating to fundamental rights, the distribution of powers between the Centre and the States, and the criminal justice process. A prior understanding of institutions like the judiciary, legislature, and executive will also help in contextualizing the police's function within the broader system of democratic checks and balances. Through this unit, students will explore not only the legal powers and responsibilities of the police but also the ethical and social dimensions of policing in a diverse and rapidly changing society.

Keywords

Subadar, Diwan, Community assistence, Investigating officer, Cognisable

Discussion

At a busy intersection, a police officer directs traffic as sirens sound in the distance and people move through their day. Some feel safer seeing the officer, while others remain cautious or uncertain. Police play many roles—they enforce the law, maintain public order, and sometimes become the focus of public debate.

The police system refers to the organizational structure and functioning of law enforcement agencies tasked with maintaining public order, preventing crime, enforcing laws, and providing security. The structure and functions of police systems can vary significantly from country to country. This is shaped by their legal systems, cultural contexts, and political environments. India's police system is a federal structure with distinct role for union and state governments. It is entrusted with the task of law enforcement, crime prevention, and public safety.

3.2.1. Historical Overview of the Police System in India and its Function

Throughout Indian history, two distinct police systems have existed: a rural, village-based system and one controlled by the dominant power of the time. The evolution of India's police system primarily reflects efforts to merge the traditional, fragmented system with a more organized imperial structure for greater efficiency. Historically, the village headman, often aided by a watchman or special helpers (like the "Patel" in western India), was responsible for policing.

For convenience, the history of police in India can be divided into five phases:

1. Police in Ancient India:

- Pre-Aryan phase
- Vedic phase

- Post-Vedic/Pre-Mauryan phase
- Under the Gupta dynasty
- Sangam Age

2. Police under the Mughals

3. Police under the East India Company

4. Police under the British Crown

5. Police post-Independence to the present day

3.2.1.1 Police in Ancient India:

a) Pre-Aryan Phase

Archaeological findings at Mohenjo-Daro suggest the presence of guardhouses or watchmen's quarters, indicating that the urbanized Indus Valley people likely had a policing system.

b) The Vedic Phase

Police origins trace back to the Vedic period, with references in the *Rig Veda* and *Atharva Veda*. *Manu*, the first lawgiver, mentions the use of secret intelligence for crime prevention. The village headman (Gramani) was responsible for policing, supported by collective village efforts. *The Ramayana* describes "Dandayavadha Dharakas," armed with lathis, reminiscent of modern-day constables. Sanskrit dramas also depict police forces in ancient cities.

c) Post-Vedic - Pre-Mauryan Phase

The Mauryan and Gupta periods had well-organized police systems. Kautilya's *Arthashastra* (310 B.C.) provides detailed accounts of investigation techniques, punishment, and espionage. The Mauryan Empire used spies, restricted movement at night, and had city officers like the "Nagaradhyaksha" (City Superintendent) and "Durgapal" (Fort Warden). The village headman, known as "Gramika," played a central role in policing.

d) Under the Guptas:

During the Gupta period, officials like the district officer (Vishayapati) and police commissioner (Nagararikshaka) were responsible for law and order. The village headman (Gramika) continued to maintain law and order in villages. In Southern India, other dynasties like the Satavahanas and Chalukyas also had similar structures.

e) Sangam Age (3 B.C. - 3 A.D.)

The Thirukkural emphasized the importance of protection for person and property, highlighting the police's role in maintaining law and order. The *Silappadikaram* mentions town and village watch systems, with kings disguising themselves to check patrols. Tamil classics describe night patrols actively guarding against thieves. The *Manimekalai* and *Purananuru* also describe patrolmen on watch, ensuring public safety.

3.2.1.2. Police under the Mughals

1. The Mughal Empire was organized into provinces (Subas) and districts (Sarkars). At the provincial level, there were two key officials:

Subadar (or Nazim): Responsible for military and general administration.

***Diwan*:** Responsible for revenue collection and civil justice.

2. For maintaining law and order, districts were divided into thanas, each managed by a Thanadar. The Thanadar's duties included:

a) Guarding roads,

b) Preventing blacksmiths from manufacturing firearms,

c) Intervening with armed gangs to suppress disorder.

Thanadars were under the authority of the Faujdar, who was a military officer and

the chief police officer in rural districts. The Faujdar was supported by Zamindars, who took on the role of the village headman and controlled local policing.

3. In towns, the police function was carried out by an officer known as the Kotwal. The Kotwal's duties included:

a) Keeping watch over streets at night and at public gatherings,

b) Monitoring travelers at rest stops (Sarais),

c) Apprehending thieves and recovering stolen property or compensating for losses,

d) Controlling prostitution, illegal liquor distillation, and intoxicant sales,

e) Maintaining spies and informers to gather intelligence.

4. In villages, the responsibility for crime prevention and detection rested with the Zamindars.

3.2.1.3. Police under the British East India Company (1785–1858)

1. Bengal Police (1765): Lord Clive secured the Diwani of Bengal for the East India Company.
2. Thanadari Police (1788): Lord Cornwallis introduced the Thanadari system, creating police jurisdictions under European officers and removing police powers from Zamindars.
3. District Police (1793): Regulation XXII placed police under Judge-Magistrates.
4. Anti-Dacoity Measures (1808–1829): Superintendents of Police (SPs) were appointed in divisions like Kolkata, Dacca, and Murshidabad for anti-dacoity coordination. The system extended to Patna and Benares but was abolished in 1829, reverting to traditional village policing.
5. Enquiries into Thanadari Police (1815–1838): Investigations by Lord Moira, a British Parliamentary Committee (1832), and the Bird Committee (1838) highlighted corruption and inefficiency due to poor supervision. Control of police shifted from District Judges to Collector-Magistrates.
6. Reforms (1839–1840):Police control was transferred to District Magistrates in 1839. Following the Bird Committee's recommendation, SPs were reappointed in every district by 1840, with District Magistrates overseeing police and lower criminal justice.
7. Sind Police System (1843): After conquering Sind, Sir Charles Napier introduced a new police system based on the Royal Irish Constabulary Model. A separate police organization was created, with an Inspector General (IG) responsible for law and order across Sind and SPs managing districts under the IG's command. The IG operated under the Collector's authority, ensuring discipline through an independent police department.

3.2.1.4. Police under the British Crown

1. 1860 - Establishment of the All-India Police Commission:

The All-India Police Commission was formed in 1860 to address issues in police administration, improve efficiency, and reduce costs. Its recommendations were accepted by the Crown controlled Government. On March 16, 1861, the Indian Police Act was

passed and came into effect on March 22 after receiving the Governor General's assent. The Act introduced a uniform police system across British India, bringing structural changes to the police organization, though it did not alter their operational methods or nature.

2. 1902–03 - Indian Police Commission:

The Indian Police Commission of 1902–03 marked a significant milestone in police reform. It recommended the establishment of a Criminal Investigation Department (CID), the creation of railway police, salary enhancements, and the introduction of an armed reserve force at the district level. This system remained largely unchanged after India gained independence.

3.2.1.5. Police after Independence to Present

The Constitution of India, which came into effect on January 26, 1950, designates police as a state subject under Article 246. While new police organizations have been established at the national level since independence, there has been no significant change in the structure or functioning of the police force.

Key developments include the creation of the CRPF in 1947, the CBI in 1963, and the CISF in 1964, and the BSF in 1965. Among these, only the CBI has investigative functions and public engagement, whereas the others are paramilitary organizations without investigative roles.

In 1979, the National Police Commission (NPC), chaired by Dharamvira, was constituted. It submitted eight reports to Parliament by 1981, recommending reforms in police functioning. However, no government has implemented these recommendations, and the outdated Indian Police Act of 1861 remains in use.

3.2.2. The Police Act of 1861

Following the police mutiny of 1857, a commission was established in 1860 to evaluate the existing police systems in India and propose a comprehensive structure suited to British governance. Based on the commission's recommendations, the Police Act of 1861 was enacted to reorganize the police force and enhance its efficiency in crime prevention and detection. This act introduced a uniform system of policing, which remains in effect in India today. However, it has been amended in a number of times. The latest one was made in 1950.

Supplementary Legislation:

To strengthen the objectives of the 1861 Act, additional Central Acts were introduced:

1. The Police Act (1888): Relaxed restrictions on deploying police officers beyond their designated jurisdictions.
2. The Police (Incitement to Disaffection) Act (1922): Penalized efforts to spread disaffection within the police force.
3. The Police Act (1949): Established a general police district for multiple Union Territories and set up a police force for these regions.
4. The Police Force (Restriction of Rights) Act (1966): Restricted certain constitutional rights for police personnel to ensure discipline and proper discharge of duties.

3.2.2.1. Salient features of The Indian Police Act 1861

The police Act of 1861 is a major law that governs the functioning of police in India. It defines the structure powers, and functions of and duties of police. It also provides their management control and discipline. The

Act also defines the powers and formations the police officer, their appointment and the procedure for their removal. It provides for the establishment of police force in every state and union territory. The Act provides guidelines for the, recruitment, training and deployment of police personnels. The Act also lays down the powers and responsibilities of police in maintaining public order, preventing and detecting crimes and enforcing laws. It has been amended Several times to keep pace with changing of times and requirements.

3.2.2.2. Key Provisions of the Act

The main provisions of the Act are summarized as follows:

1. The state government is responsible for the superintendent of the police.
2. The Inspector General of the police has the power of magistrate with in the general police district.
3. The Inspector General of police's powers are subject to the limitations imposed by the state.
4. Appointment of police officers is subject to the constitution and rules made by the state government.
5. Police officers cannot resign without leave or two months' notice.
6. Police officers cannot engage in other employment.
7. The pay and other conditions of service of subordinate police officers are determined by the State government.
8. The Act Specifics the duties of police officers, including maintaining order preventing and detecting crimes and taking charge of unclaimed property.
9. The Act contains provisions for the regulation of public Assemblies and processions
10. The Inspector General of police can additionally police force in areas where public works, commercial concerns are carried on
11. The Act outlines the authority of District Superintendent of police over village police officers.
12. The Act allows for the appointment of special police officers for specific purposes.

Criticisms

There are several criticisms leveled against the Act. The primary concern is that it has contributed to the politicization of the police, with allegations that officers are increasingly loyal to the ruling class rather than to the law. It also lacks provisions for setting up independent mechanisms to monitor and inspect police performance. Critics argue that the Act is outdated in its definition of police duties, which are considered narrow and limited in scope. Furthermore, it does not mandate the police to operate as a professional, service-oriented organization. Overall, the Act is seen as incompatible with the principles of democratic policing.

3.2.3. Organisational Structure of Indian Police

India's police organization is made up of central and state police forces. The central government recruits the Indian Police Service (IPS) and Pondichery Police Service. State government recruits their own police services. Article 246 of the constitution places the police in the state list.

Fig. 3.2.1 Ranks of Police in India

a) Central Police Organisation (CPOS)

These organizations function under the Home ministry of the Central Government. It focuses on maintaining internal security, combating terrorism and enforcing specific laws. CPO functioning under the central government. It can be divided in to two groups:

Central Armed Police Forces ($CAPF_s$) and the other group consists of organization such as Bureau of Police Research and Development (BPR and D), Central Bureau of Investigation (CBI), Directorate of Coordination of Police Wireless (DCPW), Intelligence Bureau (IB), National Crime Record Bureau (NCRB) and National Institute of Criminology and Forensic Science (NICFS)

Central Armed Police Forces (CAPFs). It consists of Border Security Force (BSF), Central reserve Police Force (CRPF), Indo-Tibetan Border Police (ITBP), Sushastra Seema Bal (SSB) and Assam Rifles.

Central Investigation and Intelligence Agencies: It includes Central Bureau of Investigation (CBI), Intelligence Bureau (IB) and Directorate of Revenue Intelligence.

Specialized Forces: It consists of National Investigation Agency (NIA) and National Security Guard (NSG)

b) State Police Organisation: Hierarchy and Structure

The police organization in Indian state is governed by police act of 1861. The state police organization is governed by the state government. The head of the police force in the state is the Director General of Police (DGP)

1. Director General of Police (DGP). He heads the state police force.
2. Inspector General (IG). He overseas zone comprising several districts.
3. Superintendent of Police (SP). He manages district level operations.
4. Sub Division Police Officer (SDPO): He manages sub division with in districts
5. Station House Officer (SHO). He leads a police station.

Specialised State Units: It includes Anti-Terrorism Squad (ATS), Crime Investigation Department (CID) and Special Task Forces (STF)

District Police: It functions under SP who ensure local law enforcement and crime prevention.

Police Stations: Serves as the basic units of policing.

Beat System: Divides police station areas into smaller sections for patrolling.

Specialized wings: It includes: traffic police, women police units, cyber-crime cells and economic offenses wing (EOW)

3.2.4. Objectives of the Police System

The primary objectives of the police system are summarised below :

- Maintenance of Law and Order: Preventing disturbances, managing public gatherings, and addressing civil unrest to maintain peace and harmony.
- Crime Prevention and Detection: Proactively preventing crimes through patrolling, surveillance, and community engagement while investigating crimes to bring offenders to justice.
- Protection of Life and Property: Safeguarding citizens' lives and properties against criminal activities, natural disasters, and emergencies.
- Enforcement of Laws: Implementing and enforcing laws and regulations as prescribed by the legal framework to ensure social discipline.
- Community Assistance: Building relationship with the community and addressing local issues..
- Traffic Management: Regulating traffic, flaw and ensuring road safety.
- Intelligence gathering: police collect and analyse intelligence to prevent crime and maintain security.
- VIP Security: Providing security for high profile individuals.
- Disaster Management: Assisting in disaster relief and recovery efforts.
- Maintaining Public Trust: Building community relations to gain public cooperation and confidence through transparency, accountability, and ethical conduct.
- Internal Security and Counter-Terrorism: Protecting the nation from internal threats, and combating terrorism.
- Rehabilitation and Reformative Measures: Collaborating with social and correctional institutions for the rehabilitation of offenders and preventing recidivism.
- Protection of Vulnerable Groups: Safeguarding the rights and well-being of vulnerable sections like women, children, and the elderly, and marginalized communities.

3.2.4.1. Maintenance of Law and Order

Maintenance of Law and Order is one of the fundamental objectives of the police system, essential for ensuring socialpeace and stability. The police are entrusted with the responsibility of preventing disturbances, managing conflicts, and responding to situations that threaten public safety. This involves constant vigilance, proactive measures, and swift action to deter criminal activities and prevent public disorder.

To maintain law and order effectively, the police engage in regular patrolling, intelligence gathering, and surveillance to identify and mitigate potential threats. They also manage public gatherings, protests, and events to ensure they remain peaceful and do not escalate into violence. In situations of civil unrest or riots, the police are trained to control crowds, enforce curfews, and restore order using lawful and proportionate methods.

3.2.4.2. Investigation of Crimes

The term "investigation" originates from the Latin word 'investigare', meaning "to trace out" or "to search into," signifying the act of probing or uncovering the truth.

a) Investigation of Cognisable Offences

Section 4 of the Criminal Procedure Code mandates that all offences must be investigated, inquired into, tried, and dealt with as per the Code's provisions. When information about a cognisable offence is received or suspected, the concerned police officer has the authority to initiate an investigation if there are sufficient grounds to proceed. However, for non-cognizable offences, an investigation cannot be conducted without the order of a competent magistrate.

As per the Code, investigations are typically preliminary procedures before the trial of cognizable offences. They generally begin when information regarding a cognizable offence is registered under Section 154. If the officer-in-charge of the police station has reason to suspect the commission of such an offence, they, or a subordinate officer assigned by them, must visit the scene to investigate the facts and circumstances.

b) Objectives of Investigation

The key objectives of an investigation are:

a. To confirm that a criminal offence has been committed.

b. To identify the key elements of the offence, such as the victim, the location, the time, and the motive or purpose of the attack.

c. To detect and apprehend the offender.

d. To gather evidence and present it in a court of law.

c) Powers of the Investigating Officer

An investigating officer is empowered to summon any person who appears to have knowledge of the case and can examine them orally, either personally or through a delegated individual. The officer may also document the statements made during the investigation.

Under Section 165 of the Code, the officer-in-charge of a police station has the authority to conduct searches in any location to seize items deemed crucial for the investigation. Such searches must be carried out personally by the officer.

The investigating officer also has the power to arrest individuals suspected of committing the offence under Section 41 of the Code and can pursue such individuals anywhere within India. Additionally, the officer is required to maintain a daily diary recording the progress of the investigation. If the investigation cannot be completed within 24 hours and the suspect is in custody, the officer must send a copy of the diary entries to the concerned magistrate when requesting further police custody of the suspect.

Upon completing the investigation, the officer must submit a report to the magistrate under Section 173 of the Code. If the officer determines there is insufficient evidence or reasonable grounds, the suspect in custody may be released on bond. Conversely, if sufficient evidence or grounds exist to proceed with a trial, the officer must take the necessary steps under Section 170 of the Code.

4. Steps of Investigation

The process of investigation typically involves the following steps:

1. Visiting the scene of the incident.

2. Establishing the facts and circumstances of the case.

3. Identifying and apprehending the suspected offender.

4. Collecting evidence related to the offence, including examining individuals (including the accused) and recording their statements if deemed necessary and conducting

searches and seizing items critical to the investigation and their presentation at trial.

5. Formulating an opinion based on the gathered material to determine whether there is sufficient ground to present the accused for trial. If so, the officer proceeds with filing a charge sheet under Section 173 of the CrPC.

6. Delegation of Investigation by SHO: The Criminal Procedure Code permits the Station House Officer (SHO) to delegate certain investigation tasks to a subordinate officer. However, under Section 168 of the Cr.P.C., the SHO remains responsible for every step of the investigation. Subordinate officers must report the results of their assigned tasks to the SHO.

7. Final Decision by SHO: The final step of forming an opinion about whether the case should proceed to trial rests solely with the SHO. This responsibility cannot be delegated, although senior officers may supervise or assist in the process under Section 36 of the Cr.P.C.

8. Investigation by Senior Officers: For specific cases, such as those under the Prevention of Corruption Act, investigations must be conducted by a police officer of a rank not below that prescribed by law (e.g., Deputy Superintendent of Police) unless otherwise authorized by a magistrate.

Richard M. Ward states that the primary role of a criminal investigator is to gather information, verify its validity, identify the perpetrator, and provide evidence to support their guilt in court. Simultaneously, investigators must ensure the protection of innocent individuals. Ward categorizes investigative methods into two types:

Internal: Refers to the investigator's logic, expertise, intuition, experience, and knowledge.

External: Includes tools, scientific aids, additional personnel, and other resources employed during the investigation.

Police Reforms - Prakash Singh Judgement

The Prakash Singh vs. Union of India case initiated a landmark police reform movement in India. Filed in 1996 by retired IPS officer Prakash Singh, the petition aimed to free the police force from political interference, especially in matters like transfers and postings. In 2006, the Supreme Court responded with a significant verdict that led to the announcement of a Model Police Act and the implementation of seven key directives, including fixed two-year tenures for DGPs, separation of law and order from investigation functions, creation of Police Establishment Boards and Police Complaints Authorities, and the establishment of a National Security Commission.

3.2.4.3. The Protection of Life

It is a fundamental principle in the context of criminal investigations and legal processes. It plays a crucial role in ensuring that justice is served while respecting the rights and safety of all individuals involved, including victims, suspects, witnesses, and even law enforcement personnel. The duty of the police and investigative authorities is not only to uncover the truth but also to maintain the safety and well-being of those impacted by the investigation.

For victims of crime, the protection of life entails ensuring their immediate safety from further harm, be it physical, emotional, or

psychological. Law enforcement agencies are tasked with securing the scene of the crime, offering support to victims, and ensuring they have access to the necessary medical, legal, and psychological care. This protection also extends to ensuring the integrity of the victim's rights during the investigation process, where privacy and confidentiality are often vital.

Similarly, suspects, who are presumed innocent until proven guilty, must also be protected during the investigative process. This means ensuring their physical well-being during arrest, detention, and interrogation, while also safeguarding their legal rights. The investigation must proceed in a manner that avoids torture, coercion, or any form of abuse, and it should guarantee that the suspect has access to legal representation.

Witnesses also require protection, as their safety may be at risk for providing vital information. In some cases, law enforcement may provide witness protection programs to shield individuals who may be in danger due to their cooperation with the investigation.

3.2.4.4. Protection of Property Rights

This is a cornerstone of justice and law enforcement in any society. These rights ensure that individuals and entities have legal ownership over their property, which is safeguarded by law. The protection of property rights plays a critical role in fostering social and economic stability, encouraging investment, and upholding the rule of law.

In the context of criminal investigations, protecting property rights involves ensuring that the property of both victims and suspects is handled fairly and lawfully during the course of an investigation. This includes:

1. Preservation of Evidence: During an investigation, any property that may serve as evidence in a crime must be carefully handled and preserved. This includes physical property such as stolen goods, documents, or other items found at a crime scene. Investigators must follow strict protocols to prevent tampering, theft, or destruction of evidence. A breach of this can lead to a miscarriage of justice or undermine the legal process.
2. Protection of Victims' Property: Victims of crime are entitled to the protection and return of their property, such as stolen items. Police and investigative authorities are responsible for recovering stolen goods and ensuring that they are returned to their rightful owners as soon as possible. The property of victims should not be damaged or violated in the course of the investigation.
3. Protection of Property of the Accused: While the property of the accused may be seized as part of an investigation (for example, to obtain evidence), the law also ensures that their property rights are respected. The seizure of property must be based on clear legal grounds, typically authorized by a warrant issued by a competent magistrate. The accused should be informed about the reasons for the seizure, and their property should not be unnecessarily damaged or kept beyond what is required for the investigation.
4. Preventing Unlawful Confiscation: The law protects individuals from unjust or arbitrary confiscation of property. The process of investigating crimes must always be carried out within the boundaries of the law, ensuring that no one is deprived of their property without due process.

Any unlawful confiscation of property by law enforcement can lead to claims for restitution, and may even result in the abuse of authority charges against the officers involved.

5. Balancing Investigation Needs and Property Rights: Investigations may require searches of property to uncover evidence, but the rights of the individual property owners must also be protected. The Criminal Procedure Code and other legal frameworks often mandate that searches and seizures must be conducted with a warrant and under specific circumstances. This ensures that the privacy and ownership rights of individuals are not unduly violated in the process of gathering evidence.

6. Property Rights in Legal Proceedings: Property rights are also essential during the legal proceedings following an investigation. For example, in cases involving property disputes, ownership rights must be established and upheld. The court must protect these rights by ruling in accordance with the evidence, ensuring that no one is wrongfully deprived of their property.

7. Property Rights and Compensation: In instances where property has been damaged or lost during an investigation or as a result of crime, the state may be required to compensate the individual for the loss or harm. The law must provide a mechanism for compensation in cases where property rights have been infringed upon, whether by criminal action or through negligence by law enforcement during the investigation.

3.2.4.5. Prevention of Crime

Crime prevention is increasingly prioritized in national public safety strategies, based on the understanding that crime and victimization stem from various underlying factors. These factors include global, national, and local conditions, as well as individual and family circumstances. By identifying these risk factors, targeted strategies and programs can be developed to address them, ultimately reducing crime and victimization.

a) Types of Crime Prevention

Over the past two decades, extensive research and evaluation have led to the development of various crime prevention approaches. These approaches include developmental, environmental, situational, social, and community-based prevention strategies. Interventions in these fields are often classified into categories such as social, individual treatment, situational, and policing/criminal justice mechanisms. The Guidelines for the Prevention of Crime outline four primary types of crime prevention approaches, each designed to address different aspects of crime and its root causes.

One approach is Crime Prevention through Social Development, which includes social, educational, health, and training programs aimed at at-risk children and families, especially in early stages of life. Known as developmental crime prevention, these programmes focus on building resilience and social skills to prevent future criminal behavior.

Another approach is Community or Locally-Based Crime Prevention, which focuses on high-risk areas, such as deprived neighborhoods or communities with weak social cohesion. This method aims to improve safety, address crime concerns, and strengthen social services and community ties. By involving local residents and organizations in identifying priorities and implementing solutions, the approach seeks to build "social capital" — trust, shared values,

and community involvement. Situational Crime Prevention, on the other hand, aims to reduce opportunities for crime by making committing crimes harder, riskier, or less rewarding.

Crime prevention remains a core responsibility of the police, serving as the primary deterrent against crime. Situational crime prevention focuses on reducing opportunities for crime by techniques such as making crimes more difficult, increasing the likelihood of getting caught, and reducing the rewards. Crime prevention is categorized into three levels:

1. Primary prevention addresses environmental factors that facilitate crime.
2. Secondary prevention focuses on early identification and intervention of potential offenders.
3. Tertiary prevention involves dealing with offenders after crimes have occurred.

Henry Fielding Method

The concept of crime prevention dates back to Henry Fielding, who, after becoming a justice of the peace in England in 1748, aimed to both reduce existing crime and prevent future offenses. He created the first neighbourhood watch and is often referred to as the "Father of Crime Prevention." Sir Robert Peel continued Fielding's work by establishing the first metropolitan police force in London in 1829. Peel believed that the efficiency of the police should be measured by the presence or absence of crime and emphasized the importance of sharing crime information for public safety. His officers became known as "Peelers" or "Bobbies."

Recap

- Two distinct police systems have existed: a rural, village-based system and one controlled by the dominant power of the time.
- The village headman (Gramani) was responsible for policing, supported by collective village efforts.
- The Mughal Empire was organized into provinces (Subas) and districts (Sarkars).
- Police control was transferred to District Magistrates in 1839.

- The All-India Police Commission was formed in 1860 to address issues in police administration, improve efficiency, and reduce costs.
- In 1979, the National Police Commission (NPC), chaired by Dharamvira, was constituted.
- The police Act of 1861 is a major law that governs the functioning of police in India.
- Article 246 of the constitution places the police in the state list.
- The police organization in Indian state is governed by police act of 1861.
- Situational Crime Prevention (SCP) is a strategy focused on reducing crime opportunities by altering the environment where crimes occur.
- The Criminal Procedure Code empowers police officers to investigate cognizable offences, conduct searches, and make arrests.
- The Inspector General of the police has the power of magistrate with in the general police district.
- On March 16, 1861, the Indian Police Act was passed and came into effect on March 22 after receiving the Governor General's assent.

Objective Questions

1. Who was responsible for local policing in villages during ancient India?
2. Which ancient Indian text by Kautilya details investigation techniques and espionage?
3. What was the role of the 'Thanadar' under the Mughal police system?
4. Which model inspired the police system introduced in Sind by Sir Charles Napier in 1843?
5. What major recommendation was made by the Indian Police Commission of 1902–03?
6. Which event led to the establishment of the 1860 Police Commission that resulted in the Police Act of 1861?
7. What is the primary function of the Police Act of 1861?

8. Which Act penalizes the incitement of disaffection within the police force?
9. Who heads the police force at the state level in India?
10. Under which section of the Criminal Procedure Code is a cognizable offence registered for investigation?
11. Who holds the final responsibility for forming an opinion on whether to proceed with a trial in a criminal investigation?
12. Which crime prevention approach focuses on increasing the risks and reducing the benefits of committing crimes?
13. What legal principle ensures that a suspect's property cannot be seized arbitrarily during an investigation?

Answers

1. Gramika (Village Headman)
2. Arthashastra
3. Responsible for law and order in thanas
4. Royal Irish Constabulary Model
5. Establishment of the CID
6. Revolt of 1857
7. To define the structure and duties of the police
8. Police (Incitement to Disaffection) Act, 1922
9. Director General of Police (DGP)
10. Section 154
11. Station House Officer (SHO)
12. Situational crime prevention
13. Due process

Assignments

1. Critically analyze the evolution of the Indian police system from ancient times to the Mughal era. How did policing structures and responsibilities differ across various historical periods?
2. Discuss the impact of colonial reforms on the Indian police system, particularly during the British East India Company and Crown periods. How did these reforms influence the modern structure and challenges of Indian policing?
3. Critically examine the Police Act of 1861 with a focus on its key features, provisions, and criticisms. How has this Act influenced modern-day policing in India, and why is it considered outdated by many experts?
4. Discuss the organizational structure of the Indian police system. Compare the roles and functions of Central and State police organizations, highlighting their hierarchy, responsibilities, and specialized units.
5. Critically analyze the objectives of the police system in the context of modern democratic societies.
6. Examine the legal and procedural framework of criminal investigations as described in the Criminal Procedure Code.

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UNIT 3

Judicial & Prosecution System

Learning Outcomes

Upon completing this unit, the learner will be able to:

- explain structure and functions of criminal courts and justice administration in India.
- comprehend salient features of Indian judicial system and the functionalities of various criminal courts
- identify the fundamental elements in the judicial functioning and analysis its evolution in the contemporary times

Prerequisites

In a courtroom, a judge listens carefully as lawyers present their arguments and evidence. The atmosphere is serious, and the outcome can deeply affect the life of the accused. This setting represents the core of the judicial and prosecution system, where justice is examined, argued, and sometimes challenged.

Do you know how many types of courts there are in India? How are they classified? In India, courts are broadly categorized based on their jurisdiction and functions such as civil courts, criminal courts, and revenue courts. Each type of court handles specific kinds of cases within its legal domain. Now, think about the judges appointed to these courts. How are they selected? Also, can an individual challenge the actions of a state government or the central government in any court in India?

Before engaging with the judicial and prosecution system in India, it is essential for learners to possess a foundational understanding of the Indian Constitution, especially the separation of powers among the Legislature, Executive, and Judiciary.

Familiarity with key constitutional provisions related to the judiciary such as Articles 124 to 147 (pertaining to the Supreme Court), Articles 214 to 231 (concerning the High Courts), and Article 50 (separation of judiciary from the executive) will greatly aid comprehension. In addition, a general awareness of the federal structure of governance and the roles played by various law enforcement agencies provides necessary context for understanding how judicial and prosecutorial functions are distributed and exercised across different levels of government.

Equally important is a basic grounding in legal terminology and criminal justice processes. Learners should be comfortable with concepts such as due process, fair trial, presumption of innocence, and burden of proof. An introductory knowledge of the Indian Penal Code (IPC), the Code of Criminal Procedure (CrPC), and the Indian Evidence Act will help clarify how legal procedures operate from investigation to prosecution and adjudication. This foundational knowledge ensures that students can critically engage with the institutional frameworks, procedural intricacies, and the broader socio-political dynamics that shape the Indian judicial and prosecutorial systems.

Keywords

Sessions court, Fast track Courts, Due Process, Defense Counsel, Juvenile Justice Board, e-courts

Discussion

Do you know how many types of courts there are in India? How are they classified? In India, courts are broadly categorized based on their jurisdiction and functions—such as civil courts, criminal courts, and revenue courts. Each type of court handles specific kinds of cases within its legal domain. Now, think about the judges appointed to these courts. How are they selected? Also, can an individual challenge the actions of a state government or the central government in any court in India?

The judicial and prosecution system in India is structured to uphold justice through the application of laws and the resolution of disputes. It is designed to ensure fairness and transparency in criminal cases, with a clear separation of powers between the judiciary, legislature, and executive.

India's legal system is designed with a focus on fairness, equity, and justice, with the judiciary ensuring that the laws are interpreted and applied consistently, while the legislature is responsible for enacting the laws. The role of the prosecution is vital in presenting evidence and arguments to prove the guilt of the accused in criminal cases, ensuring that justice is served in a lawful and efficient manner.

3.3.1 Judicial Administration in India: Structure and Functions of Criminal Courts

The Indian legal system is one of the

oldest in the world, evolving over centuries by incorporating elements from various global legal systems. The Constitution of India serves as the foundation of this system, reflecting an Anglo-Saxon influence, which stems from the British legal framework. India's diverse culture, local customs, and traditions, which align with the law and ethics, are considered within the legal system. People from different religious backgrounds and traditions are governed by their respective personal laws, particularly concerning family matters.

India's Criminal Justice System is based on the Anglo-Indian (British) model, where the adversarial (accusatorial) system applies to juvenile cases, and the inquisitorial system is followed in adult cases. In juvenile justice, a person under the age of 18 accused of a crime is presumed to have committed the offense, with the burden of proof placed on the accused to demonstrate their innocence. In contrast, for adults, the onus of proof lies with the state (prosecution).

Table: 3.3.1-Structure of Criminal Justice System

Criminal Justice System
Legislator in State and Centre
Judiciary Magistrate/ Judge/ Justice Prosecution Defense Counsel
Law Enforcement and related agencies
Victim/ Offender/ Witness
Evidence/ Expert
Prison/ Correctional Institutions
Probation

3.3.1.1 Structure of Criminal Courts in India

The structure of courts in India is pyramidal, with the Supreme Court at the top, followed by High courts and then district and subordinate courts.

a) Supreme Court of India

The Supreme Court is the apex court and the highest judicial authority in India. It exercises original, appellate, and advisory jurisdictions. It has the power to hear appeals from lower courts, issue writs, and interpret the Constitution. The Court deals with constitutional matters, ensures the protection of fundamental rights, and can review death penalty cases.

b) High Courts

High Courts are the highest judicial bodies at the state level. In some cases, a common High Court may serve two or more states. They possess both appellate and provisional jurisdiction over subordinate criminal courts. High Courts hear appeals in serious criminal cases, supervise the functioning of subordinate courts, and have the authority to transfer cases between courts within the state.

c) Sessions Courts

Sessions Courts function as the principal criminal courts at the district level. These courts handle serious criminal offenses such as murder, rape, and dacoity. The Sessions Judge presiding over these courts can impose any sentence permitted by law, including the death penalty, which is subject to confirmation by the High Court.

d) Chief Judicial Magistrate (CJM) Courts

CJM Courts are located at the district level beneath the Sessions Courts. They deal with less severe criminal offenses and oversee the operations of other magistrate courts within

the district. A Chief Judicial Magistrate can impose imprisonment for up to seven years and also handles administrative duties related to the subordinate magistrate courts.

e) Judicial Magistrate of First Class (JMFC)

These magistrates operate under the CJM at the district level. They are responsible for handling minor criminal cases and have the authority to award imprisonment of up to three years, a fine, or both.

f) Judicial Magistrate of Second Class

These magistrates rank below the Judicial Magistrate of First Class and are assigned to deal with petty criminal offenses. They can impose imprisonment of up to one year, a fine, or both.

g) Executive Magistrates

Appointed by the government, Executive Magistrates are distinct from judicial magistrates. Their primary role is to maintain law and order, implement preventive measures under the Code of Criminal Procedure (CrPC), and oversee local administrative functions. They can issue orders to prevent crimes, manage public nuisances, and enforce laws during emergencies.

h) Special Courts

Special Courts are established to handle offenses under specific legislations such as the Prevention of Corruption Act, the Protection of Children from Sexual Offences (POCSO) Act, and the Narcotic Drugs and Psychotropic Substances (NDPS) Act. These courts are designed to provide specialized and expedited trials for sensitive cases, including corruption, sexual crimes, and drug offenses.

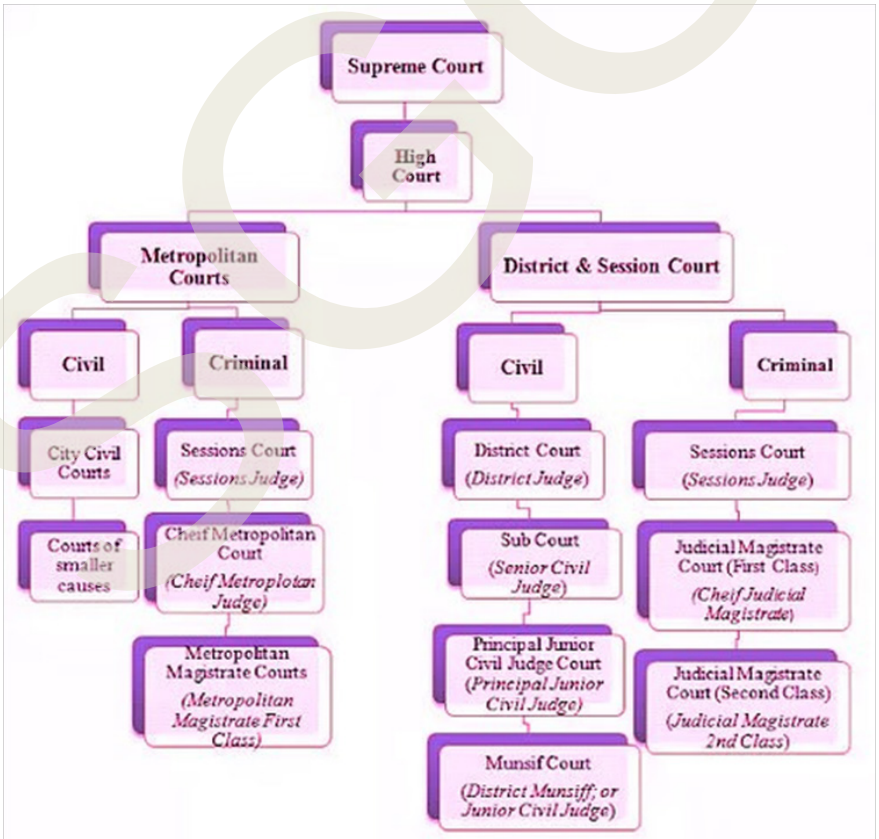

Fig. 3.3.1 Structure of Indian Judicial System

i) Fast Track Courts (FTCs)

Fast Track Courts are special courts created to ensure the speedy disposal of criminal cases, particularly those involving rape, crimes against women and children, and other heinous offenses. Their main function is to reduce case pendency and ensure timely justice.

3.3.1.2. Functions of Criminal Courts in India

Criminal courts in India handle a wide range of offenses, such as theft, fraud, assault, murder, dacoity, kidnapping, and financial crimes. These courts play a vital role in maintaining legal order by addressing violations of criminal law and ensuring justice is served in a fair and efficient manner. One of their primary functions is to supervise investigations, ensuring that the process is conducted lawfully, without bias, and safeguarding the rights of all parties involved. Once investigations are complete, the courts conduct trials where evidence is evaluated, witnesses are examined, and fair procedures are followed to reach a verdict.

In addition to overseeing investigations and trials, criminal courts are responsible for protecting the legal rights of both the accused and the victims. By ensuring due process, they uphold the principles of justice and fairness as outlined in the Constitution. Once a verdict is reached, the courts determine the guilt or innocence of the accused and impose appropriate punishments as prescribed by law. Higher criminal courts have the authority to hear appeals against decisions made by lower courts and revise judgments if legal errors are found. The Criminal Justice System generally follows several key stages, which can be summarized as follows:

1. Framing of Charge or Issuing Notice

The trial begins with the judge evaluating whether there is enough evidence to proceed with a case. If there is significant suspicion that has not been adequately explained, the judge frames a charge and moves forward with the trial. If there isn't sufficient evidence, the judge may discharge the accused, recording reasons for the decision. The charge defines the specific accusation against the accused. If the accused pleads guilty, the judge may convict them, but if they plead not guilty, the trial continues.

2. Recording of Prosecution Evidence

After the charge is framed, the prosecution presents its witnesses, whose statements are given under oath. The defendent has the right to cross-examine these witnesses. The trial is expected to proceed expeditiously, with witness examination conducted on a day-to-day basis until all witnesses are heard.

3. Statement of the Accused

The court can examine the accused at any stage of the inquiry or trial to clarify any incriminating circumstances. It is mandatory for the court to question the accused after the prosecution's evidence, especially if it points to the accused's involvement. This examination allows the accused to explain any incriminating facts.

4. Defence Evidence

If the judge finds no evidence linking the accused to the crime, they may acquit them. If not, the defense may present evidence to support the accused's case, and the prosecution will cross-examine the defense witnesses. The accused can also testify in their defense, though most accused persons do not choose to do so, as the burden of proof is on the prosecution, and the standard is "beyond reasonable doubt."

5. Final Arguments

Once all evidence is presented, the prosecutor summarizes the case, and the defense has the opportunity to respond. The

final arguments help the court assess the case before delivering a judgment.

6. Judgment

After the final arguments, the judge delivers the verdict. The CrPC also provides for the compounding of certain offenses, allowing the victim to settle the matter without the court's involvement or with its permission. Additionally, an accused can seek to withdraw from prosecution at any stage, which may result in a discharge before charges are framed or acquittal afterward.

While these six stages outline the trial process, there are numerous delays and inefficiencies that can hinder swift justice. Moreover, the option for appeal exists, allowing either the prosecution or the defense to challenge the decision in an appellate court or, in some cases, petition the Supreme Court on points of law.

The judicial system in India is structured to uphold the rule of law, with a tiered court system designed to handle criminal cases efficiently, from trial courts to appeals. All procedures follow the framework established by the Code of Criminal Procedure (CrPC), 1973, which outlines the processes for investigation, inquiry, trial, and punishment for offenses.

National Judicial Data Grid (NJDG)

The National Judicial Data Grid (NJDG) is an extensive online database developed under the eCourts Project, providing near real-time access to case information, orders, and judgments from over 18,700 District, Subordinate, and High Courts across India. With the Supreme Court joining in 2023, NJDG now covers all tiers of the judiciary. As of March 2025, it hosts over 30 crore case documents, offering details on both civil and criminal cases and enabling drill-down analysis by case age, state, and district. It also integrates land records data from 26 states to monitor land dispute cases.

NJDG serves as a powerful tool for monitoring court performance, reducing delays, and informing judicial and policy decisions. By including reasons for delay in its analytics, NJDG aids in identifying systemic bottlenecks at a granular level, thus facilitating targeted reform. It aligns with the National Data Sharing and Accessibility Policy (NDSAP), offering open API access to institutional litigants and aiming to expand this to the general public. Internationally recognized, including by the World Bank, NJDG significantly improves transparency, efficiency, and contract enforcement in the Indian judicial system.

3.3.2 Modern Judicial Systems: Fast Track Court, Children Court, JJB.

a) Fast Track Courts (FTCs)

Fast Track Courts (FTCs) are special courts established to expedite the judicial process and ensure timely justice, particularly in cases involving sensitive issues like rape and sexual offenses under POCSO (Protection of Children from Sexual Offenses). The initiative was launched in 2019 as a centrally sponsored scheme in response to the growing concerns over the alarming frequency of sexual crimes and the prolonged trials in regular courts. Initially planned for one year, the scheme has been extended until 2026 to continue addressing these critical cases. FTCs are designed to prioritize cases of sexual violence, dowry-related offenses, and other heinous crimes, with the aim of delivering verdicts in a shorter time frame.

The composition of FTCs is designed to

ensure fair and efficient trials. These courts are typically presided over by experienced judicial officers, often promoted from the subordinate judiciary, who possess the necessary expertise to handle sensitive and complex cases. By focusing on efficiency, FTCs aim to provide quicker relief to victims and ensure accountability for offenders, thereby enhancing public confidence in the judicial system. The emphasis on prioritizing urgent cases has also helped reduce the burden on regular courts, enabling the broader judiciary to function more effectively.

b) Children's Court

The Children's Court is a specialized judicial body created under the Juvenile Justice (Care and Protection of Children) Act, 2015, aimed at handling cases involving children with a focus on their rights and welfare. It ensures sensitive and efficient handling of offenses committed by or against children, providing a judicial space where the child's best interests are paramount.

These courts primarily address two categories of cases: those involving children in conflict with the law, i.e, cases involving minors who have allegedly committed offences and children need of care and protection, ie case involving children who required care due to abandonment, abuse or neglect. The purpose is to ensure that children receive justice in a manner that upholds their dignity and protects them from further trauma.

c) Objectives of the Children's Court

Children's Courts play a vital role in safeguarding the rights and welfare of children, particularly those in conflict with the law or in need of care and protection. These courts operate with a child-friendly approach, ensuring that legal proceedings are non-intimidating and sensitive to children's needs. Presided over by specially trained judges, Children's Courts function as Sessions Courts with additional provisions tailored to child-related cases. Their infrastructure supports this mission by including informal seating, separate waiting areas, and access to counselling and psychological support. The emphasis is on rehabilitation and social integration, offering children emotional and legal support through coordination with Child Welfare Committees, psychologists, and social workers. The court also prioritizes minimizing delays and may use video conferencing to shield children from direct confrontation with offenders.

d) The Juvenile Justice Board (JJB)

It is established by the state government for a district or group of districts to handle cases involving juveniles in conflict with the law. Each board typically comprises a Metropolitan Magistrate or a Judicial Magistrate of the First Class and two social workers, one of whom must be a woman. These members form a bench, and the magistrate is designated as the Principal Magistrate. The board exercises the same powers as those conferred under the Code of Criminal Procedure, 1973, for metropolitan or judicial magistrates of the first class.

Magistrates appointed to the board must possess special knowledge or training in child psychology or child welfare, and social workers must have at least seven years of experience in health, education, or welfare activities related to children. The state government may terminate a board member's appointment after an inquiry if the member is found guilty of abusing their powers under the Act, is convicted of an offense involving moral turpitude (unless reversed or pardoned), or fails to attend board proceedings for three consecutive months without valid reason or less than three-fourths of the sessions in a year.

When the board is not in session, a child in conflict with the law may be presented to an individual board member. The board may

function even if one member is absent, and decisions made during such absences remain valid. However, for final case dispositions, at least two members, including the Principal Magistrate, must be present. In case of disagreements among members, the majority opinion prevails. If there is no majority, the Principal Magistrate's decision is final.

Powers of the Juvenile Justice Board

1. The board has exclusive jurisdiction to handle all proceedings under the Juvenile Justice Act involving juveniles in conflict with the law.

2. High Courts and Sessions Courts may also exercise the board's powers when cases come before them on appeal, revision, or through other legal proceedings.

e-Courts

The eCourts Project, initiated in 2005 based on the National Policy for ICT implementation in the Indian Judiciary, aims to modernize courts through digital transformation. Guided by the eCommittee of the Supreme Court and funded by the Department of Justice, this Pan-India initiative focuses on the computerization of District Courts. Launched officially in 2013, the eCourts National Portal (ecourts.gov.in) now includes over 2,800 court complexes, offering online access to case statuses, cause lists, and judgments. Currently, it hosts data for over 7 crore cases and 3.3 crore judicial orders, significantly improving transparency and efficiency in the judicial system.

3.3.3 Salient Features of Indian Judicial System: Independence, Public and Fair Trial.

The judiciary is a system of courts that ensures the rule of law in a nation and plays a vital role in upholding democracy. According to the doctrine of separation of powers, the judiciary is one of the key branches of the state, alongside the executive and the legislature. While the legislature is tasked with making laws and the executive with implementing them, the judiciary oversees the proper enforcement of these laws and interprets and applies them to resolve legal disputes. This principle also mandates that the judiciary must function independently, free from external influence. Judicial independence is essential for a democracy to thrive.

i) The concept of independent judiciary

The judiciary has to play an important role in a society. Its functions are important and many. The judges cannot perform these functions unless they are independent, "The form independence of judiciary means independence of judges in the interpretation of law. They should be independent from the influence of the legislative and the executive organs of the government. The independence also demands that the judges should be immune against all sort of exterior or interior pressures. They should be absolutely free in the discharge of their duties. Certain conditions are necessary to ensure the Independence. They are briefly discussed below:

a) Mode of Appointment

Mode of appointment undoubtedly ensure the independence. There are three different methods of appointing Judges. They are election by the legislature, election by the people, and appointment of judges by the executive. The appointment of judges by the executive is the best method, though it not free from defects.

b) Security of Tenure

Security of tenure is also important in this context. They hold office during good

behaviour, with compulsory retirement at a definite age. They can to not be removed arbitrary. They can be removed only in the manner and on the ground as mentioned in the constitution.

c) Fixed Service Conditions

The Service conditions guaranteed by the constitution cannot be changed to their disadvantage after their appointment, except during financial emergency.

d) High Salaries

Honesty and independence in a judge also depend upon the inducements or the prospects that this office carries, the inducements are good salaries, permanence in office and Social Status. Therefore, the judges should be given sufficiently high salary so that as to enable him to lead a good social life. It is to be noted that are ill paid judge may will be susceptible to corrupt practices. In India, the salaries, allowances and other expenses are changed on the consolidating fund of India. It is not votable by the legislature.

e) Bar on parliamentary Interference

The constitution of India provides that the conducts of the judges of the supreme court and the Highcourts, in the discharge of their duties cannot be discussed in the legislatures.

f) Prohibition after Retirement

The independence of judiciary demands that the Judges should not practice after retirement. It is possible that a judge who desires to practice after retirement may not remain quite fair in the discharge of their functions. In order to avoid this situation, it is advisable that there should be legal ban on practice after retirement.

g) Bar on Appointment after Retirement

The principle of independence of judiciary require that the judges should be legally forbidden from holding any office of profit after having left the bench.

h) Separation of Powers

The judicial function should be separated from the other two functions- legislative and executive, this will go a long way in ensuring judicial independence.

i) Protection of Jurisdiction

The parliament and the state legislatures are not authorized to curtail its jurisdiction and powers. However, the parliament can extend the same. In this connection, it may be noted that the factors mentioned above are not enough to make the judges independent, much depends upon the conscience of the judges. Justice is considered to be one of the divine attributes and Judges are described as the blind folded person who hold's the scale of justice.

ii) Public and Fair Trial

Public and fair trial is a fundamental principle of Justice. It ensures that legal proceedings are open to the public and that all parties involved are treated fairly and impartially.

Ensuring free and fair trail is the main aim of the Indian criminal system. The supreme court defines fair trial as a trial before on impartial judge a fair prosecutor and an atmosphere of judicial claim. The court is said that a denial of fair trial is an injustice to the accused, the victim and the society. Let us examine the principles of fair trial.

a) Presumption of Innocence

The accused is presumed to be innocent until proved guilty beyond a shadow of doubt. The burden of proving the accused guilty is on the prosecution. The presumption of innocence is taken into consideration throughout the criminal trial. It is the fundamental principle of criminal jurisprudence that every person is presumed

to be innocent until proved guilty.

b) Independent, Impartial and Competent judge

Another Key principle of public and fair trail is that the judge must be impartial and unbiased. He makes decisions solely on the evidence presented before him.

c) Expeditious Trial

Expeditious trial refers to the right of speedy trail of the accused. This is to avoid unnecessary harassment of the accused. The supreme court directs that speedy trial is an essential ingredient of personal liberty under Article 21 of the constitution.

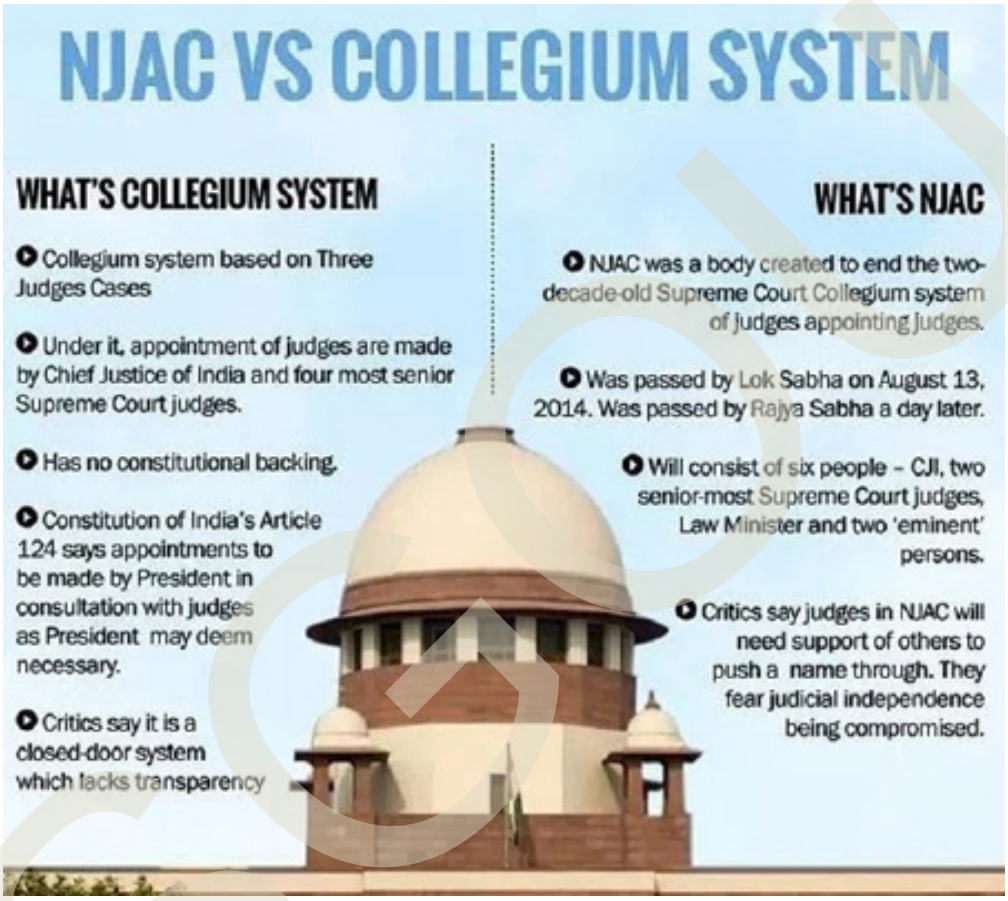

Fig. 3.3.2 NJAC Vs Collegium System

d) Hearing should be in Open Court

As a general rule of criminal justice administration, trial should be conducted in an open court. It is said that openness of trial brings more fairness to the trial. The criminal law requires that the trial should be conducted in an open court refers to a place to which the general public including the press have access. However, in certain circumstances the judge has the discretion to deny the conduct of a criminal trial in an open court. For eg: trial related to rape cases.

e) Right to Counsel

In a criminal trial the accused has the right to be consulted and defended by a lawyer of his own choice.

f) Knowledge of Accusation

It is the duty of the police officer who is arresting the accused to provide full particulars of the charges offences charged

against him, one of the vital principle of fair trial is that one should be given an adequate opportunity to defend himself. It is possible only if the accused is aware of the charges framed against him

g) Right to be heard

The accused has the right to present his case. No one should be punished unheard is a legal principle of natural justice. He also has the right to call his witnesses and presenting evidence in favour of him.

h) Trial in Presence of the Accused

One of the principles of fair trial is that all proceedings of the trial should be conducted in the presence of the accused. This enables the accused to prepare his defence. A criminal trial in the absence of the accused is not supported by the principles of natural justice. If evidence is given in the language not known to him, then it should be interpreted to him in the open court in a language known to him. However, it will be considered as an irregularity.

i) Cross Examination

In order to check the credibility of the prosecution witnesses their cross examination is necessary. This is to give equal and four chance to both the parties. The accused should not be denied the opportunity to cross examine the prosecution witness. According to the Supreme Court where a prosecution witness was not allowed to be cross examined, his evidence stands untested and cannot be accepted as a valid piece of evidence.

j) Prohibition of Double Jeo Pardy and self-incrimination

According to this doctrine no person shall be prosecuted and punished for the same offence more than once (Article: 20(2) of the constitution). It means that if a person is tried and punished of an offence he cannot be and punished again for the same offence. Similarly, no person accused of an offence shall not be compelled to give evidence against himself.

k) Legal Aid

Every person accused of an offence has the right to legal aid. This is a Constitutional right provided under Article 22 of the constitution. The right to counsel is one of the fundamental rights according to the supreme law of the land. The Supreme court observed that the accused is entitled to force legal counsel not only at the stage of trial but also when he is first produced before the magistrate

l) Judgement must be made public

The judgement of the court should be delivered in public. Every one tried before the court of law has the right to be given for the judgement

3.3.4 Fundamental Elements in Judicial Functioning: Due Process, Speedy Trials and Access to Justice.

Bharatiya Nagarik Surasha Sanhita (BNSS) ensures transparency and accountability in the trial process. To ensure transparency, BNSS uses digital records, online filing and virtual hearings to reduce delay and ensure transparency. It also protects accused's right to legal representation, protection against unlawful detention. It also allows judges or magistrate to proceed with the trial in the absence of accused in certain cases.

Provisions in the BNS

The public and fair trial plays a significant role in the judicial process. It ensures transparency, protects the right of the accused, promotes justice, and above are safeguards the interest of the society. The fair trial helps to ensure that those who are guilty are punished and innocent are set free.

3.3.4.1 Due Process

Due process focuses on the fairness of certain legal proceedings and governmental actions. For example, an accused person must be given the opportunity to present their defense before any sentencing. It ensures that no person can be deprived of life, liberty, or property without adherence to proper legal procedures and protections. As a fundamental legal principle, due process upholds constitutional rights and regulates the application of law.

This concept is generally seen as a directive to the government to avoid unjust treatment of individuals. While the term "due process" is often interpreted differently, many countries incorporate its essence within their legal systems. It mandates that when the government restricts someone's life or freedom, they must follow legal procedures.

The origin of the due process can be traced to the Magna Carta of 1215. In the Magna Carta the English monarchy recognized the right of individuals to be judged according to the law of the land rather than arbitrary royal actions. Over centuries the concept was accepted by various legal systems through judicial interpretations. In particular, the US constitution in fifth and fourteenth amendments enshrine the doctrine of due process. The Indian constitution has also absorbed the due process of American

Due process of law is generally divided into two categories. Procedural Due process and Substantive Due process.

a) Procedural Due Process

It means legal proceedings affecting an individual must be fair, transparent and unbiased. This includes the right to a fair trial, notice of legal action and opportunity of being heard, it ensures that - individuals are treated fairly and that their rights are protecting throughout the process. When the government deprives someone right without following regal procedures, it constitutes violation of rule of law and legal process

b) Substantive Due Process

The substantive due process exam the fairness of law. "The law itself must be reasonable and not arbitrary. It protects Fundamental rights from government's interference, even if the procedure is correctly followed. A law infringing fundamental rights may be deemed to be invalid if it lacks legitimate propose is oppressive. Due process clause is the corner stone of American legal system. It ensures fairness and justice in government's interactions with the citizens.

3.3.4.2 Speedy Trials and Access to Justice

Speedy trial is a fundamental right. It is a basic human right. It has been endorsed in almost all international characters and conventions. We all know the fact that speedy trial is the need of the hour. It is based on the principle that innocent person should not be harassed by the legal system to an unreasonable period and the victim should get justice at the earliest possible time.

The Constitution of India and the BNSS collectively emphasize the importance of a speedy trial to uphold justice and safeguard individual liberties. Article 21 of the Constitution guarantees that no person shall be deprived of life or personal liberty except according to the procedure established by law. The Supreme Court held that speedy trial is implicit in Article 21. The right to speedy trial was first recognised by the Supreme Court in India in the Hussainare Khatoon case in 1979. In its decision the court mandated greater access to bail and a significant reduction in time from arrest to trail. The court observed that a procedure which does not ensure reasonable quick trial cannot be regarded as reasonable, fair, and just procedure.

a) Framing Charges

The BNSS provides that a magistrate frame charge against the accused 60 days from the date first hearing on the charge. This provision is applicable in the case of Session courts also.

b) Delivering Judgements

After the completion of arguments, a judge is required to deliver the judgment within 30 days, extendable up to 45 days, in accordance with the constitutional mandate of a speedy trial. The Supreme Court has reaffirmed that the right to a speedy trial is a fundamental right under Article 21 of the Constitution. This right extends across all stages of the criminal justice process, including investigation, inquiry, trial, appeal, and revision. Delays in trials can cause significant harm to the accused, including prolonged detention, financial burden, emotional distress, and damage to reputation and livelihood. In cases where this right is violated, courts may grant bail. However, challenges like increasing case backlogs, limited resources, and procedural delays continue to hinder the effective implementation of speedy trials in India.

To overcome these challenges, several measures have been proposed. These include establishing more fast-track courts, setting time limits for investigation, trial, and judgment, and incorporating technology such as Artificial Intelligence to reduce the workload of courts.

3.3.4.3 Prosecution System

India's criminal justice system follows the adversarial model, rooted in the common law tradition. This system rests on the foundational principle that an individual is presumed innocent until proven guilty. The burden of proof lies entirely with the prosecution, which must establish the guilt of the accused beyond reasonable doubt. Meanwhile, the accused has the right to contest the prosecution's claims and cross-examine witnesses. As highlighted by Sankar Sen (2002), this system often benefits the accused, making convictions more difficult. Its primary aim is to ensure fairness by providing both parties equal opportunities to present their cases under clearly defined legal frameworks, with the judiciary acting as a neutral decision maker.

In this framework, the prosecution builds its argument based on police investigations, while the defense prepares its case grounded in the accused's version of events. Nevertheless, the adversarial model is not without its drawbacks. Both sides may exaggerate, withhold, or distort facts, and the process may involve witness intimidation or procedural delays, obstructing the path to justice.

The prosecution holds a critical position in criminal trials, tasked with presenting evidence gathered by investigating agencies and representing the State. The prosecutor, as a quasi-judicial officer, assesses whether the case merits prosecution, and has the discretion to drop or reduce charges if necessary. Their role demands fairness, impartiality, and courage, as they must present the case thoroughly while safeguarding the public interest. The prosecution must prove each element of the alleged offense before the court considers the defense, making their role essential in equipping the judiciary with the necessary facts and legal clarity to deliver a just verdict.

a) Duties of the Prosecutor

The prosecutor has a responsibility towards society, ensuring justice for both the victim and the accused while upholding the rule of law. The specific duties of the prosecutor include:

1. **Upholding the Rule of Law**: The prosecutor acts as an independent agency committed to strengthening

the rule of law during the investigation and trial of criminal cases.

2. **Evaluating Police Charges:** The prosecutor critically examines the charges presented by the police to establish the validity of the accusations based on available evidence and witnesses.

3. **Assisting the Court:** The prosecutor helps the court by assisting in framing charges, providing a list of prosecution witnesses, and skilfully advocating for the case.

4. **Seeking Justice, Not Just Convictions:** The prosecutor's primary duty is to seek justice rather than merely secure convictions.

5. **Adhering to Professional Standards:** The prosecutor must follow the professional standards and ethical guidelines set forth in legal codes. They have a moral and legal obligation to ensure that justice is served, and innocent individuals are not wrongfully convicted.

Best Bakery Case: Failure of Prosecution System

The Best Bakery case, also known as the Tulsi Bakery case, is a landmark in Indian judicial history as it was the first case tried in relation to the 2002 Godhra riots. On March 1, 2002, a mob set fire to the Best Bakery in Vadodara, Gujarat, resulting in the death of 14 individuals, including Muslims and three Hindu employees. The attack was part of a larger wave of violence triggered by the Sabarmati Express train burning. Initially, all 21 accused were acquitted due to weak evidence and mishandled police work. Zaheera Sheikh, the key eyewitness who lost several family members, retracted her statement in court citing threats and fear for her life, which led to her turning hostile.

The case took a significant turn when the National Human Rights Commission (NHRC) intervened and the Supreme Court ordered a retrial outside Gujarat, transferring the case to Maharashtra to ensure witness protection and a fair trial. The apex court criticized the earlier proceedings as "without parallel and comparison." While the Vadodara Sessions Court and Gujarat High Court initially dismissed calls for a retrial, the Supreme Court in April 2004 mandated reinvestigation. The Mumbai Sessions Court later convicted and sentenced nine individuals to life imprisonment in 2006, though the Bombay High Court reduced the number to four upon appeal. The case is notable not only for the brutality involved but also for highlighting systemic failures in protecting witnesses and delivering justice during communal violence.

b) The Defense Counsel

Defense counsel plays an essential and multifaceted role in the criminal justice system, holding a position as significant as that of the public prosecutor. They serve as both advocates and counselors for their clients, while also acting as adversaries to the prosecution and guides to the court. Without their professional expertise, courts may find it difficult to fully examine the facts and reach fair decisions, as even well-educated individuals often lack the skills to adequately defend themselves. The Kerala High Court, in

the *Kurien Case* (1970), highlighted this need by referencing Lord Denning's remark that individuals often face confusion and anxiety in court and cannot effectively present their case or cross-examine witnesses without trained legal representation.

Similarly, the U.S. Supreme Court in the *Power's Case* (1932) emphasized that even intelligent and educated individuals may lack the legal knowledge necessary to handle a trial properly. In the absence of legal counsel, such individuals risk being tried on flawed charges or evidence, increasing the likelihood of a wrongful conviction. Defense counsel is thus vital to upholding justice by clarifying legal complexities, safeguarding the accused's rights, and helping the court understand the case from all angles. Their role ensures that legal proceedings are fair and that the rights of the accused are protected throughout the judicial process.

Moreover, defense counsel is professionally and ethically bound to uphold the legal and constitutional rights of the accused, acting as a check against arbitrary actions by the executive. Their statutory duties include respecting judicial officers, offering honest and accurate advice to clients, and employing only legal and truthful means in court. They are expected to maintain confidentiality, even at personal risk, and must avoid offensive conduct, misleading the court, or taking cases for personal gain—especially when representing the vulnerable. These responsibilities reflect their broader role in maintaining the integrity of the justice system and ensuring that everyone, regardless of background or resources, has access to fair legal representation.

c) Presumption of Innocence

The Criminal Justice System (CJS) is founded on the principle that an individual is presumed innocent until proven guilty. This cornerstone of justice prioritizes the protection of the innocent, emphasizing that it is better for many guilty persons to go free than for one innocent to be wrongfully punished. However, this principle has faced criticism from legal experts like Gavin Drewary and Chief Justice Warren E. Burger, who argue that it may lead to inefficiencies and the failure to convict the guilty. They caution that justice can be equally compromised when the guilty are acquitted, not just when the innocent are convicted.

In criminal cases, the burden of proof lies with the prosecution, and any reasonable doubt must benefit the accused. This becomes crucial in cases built on circumstantial evidence, where the court must favor the accused if reasonable doubt exists. However, this doubt must be grounded in logic and not in baseless speculation. The Supreme Court in Shivaji's case (1973) clarified that only genuine, reasonable doubts should influence a verdict. The wrongful conviction of an innocent person is seen as the most severe form of injustice—particularly in cases like murder, where a mistaken execution cannot be undone.

To enhance justice delivery, the judiciary must actively evaluate evidence and not serve merely as a conduit for the prosecution. This approach was emphasized in cases like *Molu* (1976) and *Prafulla Kumar* (1979), where the Supreme Court urged judges to distinguish truth from falsehood. The judiciary, prosecution, and defense all share responsibility in uncovering the truth during trials. While the Malimath Committee proposed altering the presumption of innocence, such recommendations have been met with criticism. India's CJS is structured around multiple levels of courts from the Supreme Court to Magistrate Courts with specialized courts like Fast Track and Juvenile Justice Boards aimed at improving efficiency and protecting vulnerable groups. Core judicial principles such as due process, speedy trials, and access to justice continue to uphold the integrity and fairness of the system.

Recap

- The Supreme Court is the apex court and the highest judicial authority in India
- High Courts are the highest judicial bodies at the state level
- Sessions Courts function as the principal criminal courts at the district level
- CJM Courts are located at the district level beneath the Sessions Courts.
- Special Courts are established to handle offenses under specific legislations such as the Prevention of Corruption Act, the Protection of Children from Sexual Offences (POCSO) Act, and the Narcotic Drugs and Psychotropic Substances (NDPS) Act.
- One of the primary functions of criminal courts is the supervision of investigations
- The Children's Court is a specialized judicial body created under the Juvenile Justice (Care and Protection of Children) Act, 2015, aimed at handling cases involving children with a focus on their rights and welfare.
- The parliament and the state legislatures are not authorized to curtail its jurisdiction and powers
- Public and fair trial is a fundamental principle of Justice
- The judgement of the court should be delivered in public
- The origin of the due process can be traced to the Magna Carta of 1215.
- Speedy trial is a fundamental right.
- The fundamental principle of the Criminal Justice System is that every individual is presumed innocent until proven guilty.

Objective Questions

1. Which court is the highest judicial authority in India?

2. What is the maximum sentence a Chief Judicial Magistrate (CJM) can impose?
3. Which courts are specifically designed to handle cases under acts like the POCSO Act and NDPS Act?
4. What is the function of Executive Magistrates?
5. In which stage of a criminal trial does the accused have the opportunity to explain incriminating evidence?
6. When was the Fast Track Courts (FTC) scheme re-extended by the Union Government?
7. Which act governs the functioning of the Children's Court?
8. What is the minimum number of Juvenile Justice Board (JJB) members required for a final case disposition?
9. What is the primary objective of a fair trial according to the Indian criminal justice system?
10. Which article of the Indian Constitution guarantees the right to a speedy trial?
11. What does the doctrine of double jeopardy prohibit?
12. What is the role of a defense counsel in a criminal trial?

Answers

1. Supreme Court
2. 7 years imprisonment
3. Special Courts
4. Maintain law and order
5. Statement of the accused
6. 2023 to 2026
7. Juvenile Justice (Care and Protection of Children) Act, 2015
8. Two, including the Principal Magistrate

9. Justice for both the accused and society
10. Article 21
11. Two trials for the same offense
12. To protect the rights of the accused and ensure a fair trial

Assignments

1. Discuss the hierarchical structure of criminal courts in India. Explain the jurisdiction and functions of each level, from the Supreme Court down to the Judicial Magistrate of Second Class.
2. Describe the major stages of a criminal trial in India as laid out by the Code of Criminal Procedure (CrPC), 1973. What safeguards are provided to ensure fairness and justice for both the accused and the victim?
3. Discuss the roles, composition, and challenges of Fast Track Courts, Children's Courts, and Juvenile Justice Boards in India. How do they contribute to the overall judicial process, especially in relation to children and sensitive cases?
4. Explain the salient features that ensure the independence of the judiciary in India. How does this independence uphold the rule of law and contribute to the democratic framework of the country?
5. Explain the fundamental principles of a public and fair trial in the Indian judicial system.
6. Describe the concept of Due Process and its relevance in ensuring justice in India.

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BLOCK

Punishment and Corrective Methods

SGOU

Punishment and Penology in India

Learning Outcomes

Upon completion of the unit, the learner will be able to:

- identify and describe the different types of punishment recognized in the Indian criminal justice system
- explain the concept of penology and its development in the Indian context
- analyze the relevant sections of the Indian Penal Code related to punishment
- comprehend and evaluate major theories of punishment, including retributive, reformative, and deterrent theories

Prerequisites

Long ago, in a bustling village market, a man named Raju was caught slipping a loaf of bread into his tunic without paying. In those ancient times, punishment was swift and harsh. The village chief, following the principle of retributive justice—"an eye for an eye"—ordered that Raju's hand be cut off. The pain and public shame were meant to match the seriousness of the offense.

Centuries later, in a modern city, a man named Ramesh committed a similar act by stealing from a supermarket. This time, justice followed the deterrent theory. A judge sentenced Ramesh to six months in jail—not only to punish him but also to send a clear message: crime does not pay. The goal was to discourage others from committing similar acts through fear of punishment.

In yet another town, a man named Rahul was caught stealing from a shop. However, the approach here was different. The court viewed Rahul not just as an offender, but as someone in need of support. He was placed in a rehabilitation program that offered counseling, skills training, and community service. The goal was to reform his behavior and help him reintegrate into society as a responsible citizen.

From Raju to Ramesh to Rahul, these three stories show how ideas about crime and punishment have changed over time. Each reflects a different theory in penology—the study of punishment: retributive, deterrent, and reformative. As you explore this unit, you will learn how these theories continue to shape laws, courts, and correctional systems around the world.

Keywords

Offender, Deterrent theory, Reformative theory, Penal code, Punishment, Penology

Discussion

4.1.1 Punishment Related to Crime

Punishment is a penalty for infringement of law. To punish means to inflict penalty or to cause the offender to suffer for an offence. Punishment is an act of punishing; it is a penalty for the violation of law. In other words, punishment is a sanction imposed on the offender for his act or omission. The principal object of punishment is prevention of offences, protection of society and deter others from committing crimes. Thus the punishment serves two objects: (1) prevent person who has committed the offence from repeating it, and (2) to prevent others from committing crimes. While fixing punishment, the court must take into consideration several factors, such as the nature of offence, the circumstances in which the offence is committed, age and background of the offender, education, family background, prior criminal record, provocation, and motive behind the offence etc.

4.1.1.1 Types of Punishment

Section 4 of the *Bharatiya Nyaya Samhita*, 2023 specifics the following punishments:

a. death

b. imprisonment for life

c. imprisonment which may be rigorous (with hard labor) or simple (with soft/light labor)

d. forfeiture of property

e. fine

f. community service

a) Death Sentence

The extreme punishment which can be imposed on any offender is death sentence. It is also known as capital punishment. It involves the execution of an individual by the state as a punishment for committing a serious crime.

Death Sentence may be awarded by a competent court under BNS in serious crimes like those of:

1. Waging war against the Government of India – Sec. 147
2. Giving or fabricating false evidence leading to execution of an innocent person – Sec. 230
3. Murder – Sec. 101
4. Abetment of suicide of a minor,

insane or intoxicated person – Sec. 107

5. Attempt to murder by a life convict if hurt is caused – Sec. 109
6. Kidnapping for ransom – Sec. 140
7. Dacoity with murder – Sec. 310

b) Imprisonment for Life

Originally, IPC provided for 'transportation for life'. It was substituted by 'imprisonment for life' by Act 26 of 1955. Imprisonment for life necessarily means 'rigorous imprisonment and cannot be simple imprisonment.

In the following cases, minimum imprisonment for life has to be imposed by the court.

1. Waging war against the Government of India (sec. 147)
2. Murder (sec. 101)
3. Kidnapping for ransom (sec. 140).

'Imprisonment for life' normally means imprisonment for full or complete span of life. In other words, it means the offender has to remain in jail for the entire remaining life.

c) Rigorous Imprisonment

Rigorous imprisonment involves hard labor. For example, the prisoner may be asked to grind corn, dig earth, crush stone etc. In criminal offences like robbery or dacoity, the court awards rigorous imprisonment. In other cases, discretion has been conferred on the court either to order simple imprisonment or rigorous imprisonment.

d) Simple Imprisonment

Simple imprisonment involves soft or light labor. It means confinement of the offender in jail. Certain offences under BNS provide for simple imprisonment only. For example, uttering words or making gestures to insult the modesty of women or appearing in public place by a drunken condition (sec: 355). Simple imprisonment is awarded in minor or small offences. The prisoner may be asked to do light labor.

e) Solitary Confinement

Sections 11 and 12 of BNS enable the court to impose the punishment of solitary confinement. In solitary confinement, the prisoners is secluded from the sight of other prisoners. It is the total isolation of the prisoner not only from the society but also from co-prisoners. However, it cannot be awarded for the whole form of imprisonment; it must not exceed three months. Solitary confinement is administered in most exceptional cases of compelling necessity.

f) Forfeiture of Property

The authors of Indian Penal Code proposed 'forfeiture of property' as one of the punishments on person guilty of high political offences. According to them the persons involved in such offences should be deprived of their property to ensure public peace. In England, this punishment is abolished. In India, also absolute forfeiture of all property of the offender was abolished in 1921 by repeating sections 61 and 62 of the IPC (forfeiture of property in respect of offenders punishable with death, transportation or imprisonment). However, it has been retained in respect of offense against state and by public servants. The Supreme Court, in 2001, urged the legislature to revive these sections.

g) Fine

Payment of fine by an offender is one of the punishments provided by BNS as also by several other statutes. Section 8 of BNS deal with amount of fine, limit of imprisonment for non-payment of fine, termination of imprisonment on payment of fine, limitation for recovery of fine etc. Fines are common punishment for minor offences,

such as traffic violations and property crimes. Courts may also order compensation to victims or payment of prosecution costs. The quantum of the fine should consider the offender's financial capacity to ensure fairness. Section 421 of the Indian Code of Criminal Procedure, 1973, governs fine recovery, allowing courts to direct part of the fine as victim compensation. Imposing fines alongside severe penalties like death or long imprisonment is discouraged to avoid undue burden on the convict's family.

h) Security Bond

A security bond for good behavior is a corrective measure rather than a punishment. It provides offenders an opportunity for reform and avoids negative impacts on their families. This method is increasingly recognized as effective for rehabilitation.

i) Banishment

Banishment, exile, or transportation involved relocating criminals to distant colonies, eliminating them from society. England sent criminals to Austro-African colonies, France to Guyana and New Caledonia, and Russia to Siberian camps, where conditions were brutal. In British India, dangerous criminals were sent to the Andaman and Nicobar Islands, known as "Kalapani." Banishment caused severe psychological effects and was abolished in 1955. A modern form of this punishment, called "externment," still exists to isolate offenders from their surroundings.

j) Community Service

Community service refers to work performed by an individual or groups for the benefit of the public. A crime is an act against society or community, though the ultimate sufferer is an individual. Hence, where a crime has been committed by an accused, it is his duty to serve the society or community. Unlike voluntary service community service is mandatory and is imposed as a punishment for an offence.

Fig 4.1.1 Cellular Jail in Port Blair, Andaman and Nicobar Islands

4.1.1.2 Other Forms of Punishment

a. **Payment of Compensation**: In appropriate cases courts may award compensation for the complainant for the loss of injury suffered by him.

b. **Release on Probation:** In certain cases, the court may release the accused on probation of good behavior. The object of it is to protect young generations and first offenders from turning out to be criminals.

c. **Detention in Reformatory School:** The court may direct young offenders to be sent to a reformatory school rather than to Jail.

d. **Admonition:** Where an offence is said to have been committed by the accused, it is not serious and there is no previous conviction, the court may instead of sending the accused to jail may release him after admonition.

e. ***Public Censure*****:** One of the punishments, which can be imposed on the accused is publication of his name, details of offense committed and sentence imposed on him. This is really a public censure.

f. **Cancellation of License:** In certain cases, the license of an accused person may be suspended

or cancelled along with sentence. Thus, an accused causing death of any person by rash and negligent driving may be punished to undergo imprisonment and his license may also be forfeited or cancelled.

g. **Corrective Labor:** Where the offence is not very serious the offender may be asked to do some work at his own place or at some other place. A part of the amount may also be deducted from his wages

4.1.2 Concept of Penology

Penology, a branch of criminology, specifically deals with the study of punishment. It aims to explore the purposes, theories, and efficacy of different forms of punishment, it seeks to identify the most effective methods to deter crime, rehabilitate offenders, and protect society. Penology considers factors such as the severity of punishment, the role of retribution, deterrence, rehabilitation, and social responses to criminal behavior.

4.1.2.1 Relationship between Crime and Punishment

The relationship between crime and punishment is complex and multi-faceted. Punishment serves multiple purposes: retribution, deterrence, rehabilitation, and social protection. Retribution is the idea of exacting revenge on the offender to restore a sense of justice within society. Deterrence aims to discourage potential offenders by creating fear of punishment. Rehabilitation seeks to reform offenders and reintegrate them into society, while social protection focuses on preventing further harm and maintaining order.

4.1.2.2 Key Aspects of Penology

Penology focuses on the study of punishment and prison management. It includes several theories of punishment: Retribution, which emphasizes punishment as revenge; Deterrence, which aims to prevent crime by instilling fear; Rehabilitation, which focuses on reforming offenders; and Restorative Justice, which seeks to repair harm caused by crime. The prison system deals with the management of correctional facilities, protecting inmate rights, and regulating conditions such as solitary confinement, parole, and probation. Alternatives to incarceration include community service, fines, restorative justice programs, and systems like probation and parole to help reintegrate offenders into society. Criminal justice policies are designed to reduce crime and improve rehabilitation, analyzing the effectiveness of punitive versus reformative approaches.

4.1.2.3 Penology in India

In India, penology is governed by the *Bharatiya Nyaya Sanhita* (BNS), *Bharatiya Nagarik Suraksha Sanhita* (BNSS), and the Prisons Act of 1894. The system balances punishment with rehabilitation through correctional institutions. Indian prisons are categorized into central, district, and sub-jails, but often face challenges such as overcrowding and understaffing. Reform initiatives like open prisons, vocational training, and mental health programs led by both NGOs and the government aim to rehabilitate offenders. Alternatives such as parole, probation, and community service help reduce the prison population, while restorative justice practices are increasingly being used for minor offenses. Overall, penology plays a vital role in creating fair, effective, and humane systems for handling crime and offenders both in India and globally.

4.1.2.4 Issues in Penology

1. **Overcrowding:** Many correctional facilities face overcrowding. It leads to poor living conditions and increased violence.

2. **Recidivism:** High rate of re-offenders indicate the failure to rehabilitate offenders.

3. **Prisoners Right:** Protecting prisoners' right is a significant concern in penology.

4.1.3 Indian Penal Code

The Indian Penal Code (IPC) has its origins in the draft prepared by the First Law Commission in 1835, under the chairmanship of Thomas Babington Macaulay. This draft was submitted to the Governor-General of India's Council in 1837. The IPC draws heavily from English law but is simplified by removing unnecessary complexities, technicalities, and local peculiarities. It serves as the principal criminal code of India, listing all punishable offenses and the corresponding penalties applicable to Indian citizens or individuals of Indian origin. However, crimes committed by members of the military or armed forces are excluded, as they are governed by separate laws that take precedence over the IPC.

The initial draft of the IPC was formulated in 1860, with the First Law Commission overseeing the process, and the code was officially enacted in 1862. Since its inception, the IPC has undergone several amendments. It is a comprehensive legal framework covering all substantive aspects of criminal law in India. While the IPC applies throughout the country, the state of Jammu and Kashmir had its own version, called the Ranbir Penal Code (RPC). The IPC consists of 511 sections, each defining a specific category of offenses applicable to individuals of Indian origin.

The primary objective of the Indian Penal Code (IPC) is to establish a comprehensive penal code for India. While the IPC consolidates and provides an exhaustive framework on the areas it addresses, additional penal statutes have been enacted over time to govern various other offenses. India's security system has evolved significantly, shaped by the country's complex political and social circumstances. As a nation of diverse cultures, traditions, religions, and ethnicities, India's legal framework reflects the need to maintain harmony and address challenges arising from its unique demographic makeup.

4.1.3.1 Format of the Indian Penal Code

The Indian Penal Code (IPC) serves as a foundational document that outlines offenses and their corresponding punishments for individuals of Indian origin. However, it excludes military and armed forces personnel, as they are governed by separate laws. Established during British rule in 1860, the IPC has undergone various amendments to address evolving legal and social needs. For example, Section 498-A was introduced to address dowry-related offenses.

The IPC comprises 511 sections, each categorized to address specific crimes committed by civilians. These sections cover diverse areas such as dowry laws and other criminal jurisdictions in India. As the cornerstone of India's legal framework, the IPC guides law enforcement agencies and the judiciary, ensuring a stable and equitable system of justice that has been tested and refined over the years.

The judiciary operates based on the laws outlined in the IPC, which provides a uniform standard for decision-making and penalization. Unlike personal interpretations or biases, the IPC ensures impartiality, treating government employees, common citizens, and judicial officers equally under the law.

The IPC is also applicable to crimes committed within Indian Territory, including ships and aircraft operating within Indian waters and airspace. It is a critical component of India's criminal justice system, answering

fundamental questions about its origin, applicability, operation, and role in law enforcement.

The impartiality promoted by the IPC has strengthened public confidence in the judiciary and minimized corruption or abuse of power. Over time, it has evolved into a modern legal framework that considers the humane aspects of offenders while maintaining justice. This evolution has enhanced the credibility and respect for Indian law among its citizens.

4.1.3.2 Importance of the Indian Penal Code

The Indian Penal Code (IPC) is a crucial legal framework that ensures the proper functioning of the criminal justice system in India. Serving as the country's primary criminal code, it addresses a wide range of offenses, including crimes against the state, public offenses, and offenses involving the armed forces. It also encompasses serious crimes such as kidnapping, murder, and rape, alongside offenses against religion and property.

Additionally, the IPC includes provisions related to marriage, cruelty by a spouse or relatives, defamation, and more, thereby covering various aspects of criminal conduct. This comprehensive structure is essential for maintaining order and addressing social concerns effectively.

4.1.4 Retributive and Reformative Theory

In primitive society, retributive theory of punishment was the only theory which was followed. The Central idea of the theory is that, it regard the punishments an end in itself. The theory believes that evil should be returned for evil. A man should be dealt with in the same way he deals with that of others. The philosophy behind the theory is that 'an eye for an eye, a tooth for a tooth and a limb for a limb'. Retribution basically means that the wrong doer pays for his wrong doings. The idea behind the theory is to make the offender realize the sufferings/pain. According to this theory, an offence creates imbalance in society, punishment of offence is the means of restoring balance. Retributive punishment gratifies the instinct of revenge which is inherent in every human being.

Plato was the supporter of this theory. He argues that justice is the good and health of the soul, while injustice is its disease. According to Kant, punishment must always be inflicted on the wrong doer for the sole reason that he has committed crime. Sir James Stephen says that the purpose of punishment is to gratify the desire for vengeance by making the criminal to suffer.

The theory has been criticized as it ignores the basic purpose of punishment, i.e. to reform the criminals. John Salmond says retribution in itself is not a remedy for the mischief of the offence but an aggravation of it. Further, the theory ignores an important element that a crime is a disease which should be cured rather than be repeated. It should not be forgotten that punishment is not an end in itself. It is the cause of crime which should be found out and should be removed in the larger interest of the society.

Fig. 4.1.2 Four criminals in a pillory

A public punishment device holding the head and hands, exposing them to public ridicule and abuse, c. 1805

4.1.4.1 Reformatory Theory

A young man named Arjun was caught stealing food to feed his hungry siblings. Instead of sending him to jail, the court placed him in a reform center where he received counseling, basic education, and job training. Over time, Arjun changed his behavior and started working honestly to support his family. The judge considered his background and gave him a second chance. This approach reflects the reformative theory, which treats offenders as individuals who can improve with the right support. However, such methods are not always effective for habitual or violent criminals.

4.1.4.2 Comparison between Retributive and Reformative Theory

- Retributive theory focuses on punishment as moral revenge, whereas Reformative theory focuses on changing the offender's behavior.
- Retribution emphasizes justice for the victim, while reformation emphasizes rehabilitation of the offender.
- Retribution is more rigid, while reformation is more progressive and humanitarian.

Aspect	Retributive Theory	Reformative Theory
Objective	To punish the offender as a form of moral vengeance	To rehabilitate and reform the offender for reintegration
Focus	Crime and its consequences	The criminal's behavior and potential for change
Punishment Approach	Proportional and often severe to match the offense	Lenient, focusing on correction and education
View on Offender	Offender is morally responsible and must suffer	Offender is a product of social/environmental factors
Impact on Society	Provides justice and satisfaction to victims and society	Aims to reduce future crime through rehabilitation
Humanitarian Aspect	Lacks focus on human rights or offender welfare.	Emphasizes offender's rights and human dignity
Recidivism Prevention	Low focus on preventing repeat offenses	High focus on preventing repeat offenses

Cost of Implimentation	Generally, less costly due to direct punishment	More costly due to rehabilitation programs and resources
Criticism	Can be excessively harsh and ignores rehabilitation	May be too lenient and fail to deliver justice to victims
Examples of Use	Death penalty, life imprisonment	Parole, probation, vocational training in prisons

4.1.4.3 Deterrent Theory

Deterrent theory aims to deter criminals and protect society. The main supporters of this theory include Plato, the Sophists, and Locke. The theory views punishment as a deterrent. According to it, punishment protects society by discouraging potential offenders. Offences are committed due to a conflict between the interests of wrongdoers and the interests of society at large; punishment prevents crime by resolving this conflict of interest. The theory teaches that an act harmful to others is ultimately harmful to the wrongdoer as well. In the words of Locke, punishment makes every offence "an illegal bargain to the offender." The theory suggests that punishment serves as a warning to both offenders and other evil-minded individuals.

Individual deterrence targets the offender directly, aiming to prevent them from repeating the crime due to the harsh experience of punishment. General deterrence, on the other hand, serves as a warning to society by making an example of the punished offender, thereby discouraging others from committing similar offenses. The death penalty for heinous crimes such as murder and terrorism is an example of this approach. Long-term imprisonments for serious offenses like rape and armed robbery, as well as heavy fines for economic crimes such as fraud and tax evasion also serve this purpose. These punishments are designed to send a strong message about the consequences of breaking the law.

The Deterrent theory offers several advantages:

1. It plays a significant role in crime prevention by creating a psychological barrier against criminal behavior.
2. It helps maintain social order by demonstrating that violations of the law will not be tolerated.
3. Swift and certain punishments under this theory can reinforce the rule of law and act as an effective warning to potential offenders.

However, the theory has also faced criticism. It is often regarded as inhumane due to its emphasis on severe punishments, which can sometimes be disproportionate to the crime committed. Critics argue that the fear of punishment does not effectively deter hardened or habitual criminals who may act out of compulsion or desperation. Moreover, the theory neglects the rehabilitation and reform of offenders, focusing solely on punishment rather than addressing the root causes of criminal behavior.

Beccaria warns that increasing cruelty in punishments only hardens human minds, making them less effective over

time. Similarly, Hobhouse observed that the public execution of murderers does not deter others but instead excites violent tendencies in onlookers. In 18th-century England, public hangings failed to deter thieves, who continued to steal even during the executions. These examples illustrate that the fear generated by severe punishments diminishes with repetition. Another limitation is that overly harsh penalties may lead to resistance in enforcing them, as seen in England when juries would alter verdicts to avoid imposing the death penalty. Consequently, if the punishment is too severe, its intended deterrent effect may be lessened by criminals' hope of escaping punishment. The Deterrent theory remains a fundamental approach to crime control, especially for serious offenses where strong punitive measures are deemed necessary to uphold social order. Despite its drawbacks, it continues to influence criminal justice systems worldwide.

Recap

- Punishment acts as a legal penalty for crimes, aiming to uphold justice, deter future offenses, and protect society
- Courts consider factors such as the severity of the crime, the offender's background, and intent before deciding on a sentence
- The Bharatiya Nyaya Samhita (BNS), 2023 prescribes punishments ranging from the death penalty for grave offenses like murder and terrorism to life imprisonment, rigorous or simple imprisonment, and forfeiture of property, fines, and community service
- Theories of punishment include:
  - The retributive approach, which focuses on moral retribution
  - The reformative method, which emphasizes rehabilitation of the offender
  - The deterrent model, which seeks to discourage crime through fear of punishment
- Penology studies the effectiveness of punishment, seeking to balance retribution, deterrence, and rehabilitation
- It also addresses challenges such as prison overcrowding and the issue of repeat offenders
- The Indian Penal Code (IPC) historically guided India's criminal justice system

- The IPC was replaced by the BNS to promote fairness and implement humane reforms
- A balanced approach—combining justice, deterrence, and rehabilitation—is vital for maintaining social order and addressing the root causes of crime

Objective Questions

1. What type of punishment involves introducing an unfavorable consequence to reduce unwanted behavior?
2. What form of punishment involves execution for serious crimes?
3. What type of facility is designed for offenders aged 18 to 20 in the UK?
4. What practice involved physical punishment like cutting off limbs as a form of punishment?
5. Who chaired the First Law Commission that prepared the draft for the Indian Penal Code (IPC)?
6. According to Plato, what is the purpose of chastisement in the context of the Retributive Theory?
7. Which level of deterrence aims to prevent an offender from repeating their crime by making the punishment harsh?
8. Which concept in penology focuses on reforming the offender to prevent future crimes?
9. What does 'solitary confinement' mean in the context of punishment?
10. Which punishment involves the offender doing hard labor like crushing stones or digging earth?

Answers

1. Positive
2. Death

3. Young Offender Institution
4. Mutilation
5. Thomas Babington Macaulay
6. To restore order and justice to the soul
7. Individual deterrence
8. Rehabilitation
9. Total isolation of the prisoner from co-prisoners
10. Rigorous imprisonment

Assignments

1. Compare and contrast retributive and reformative theories of punishment.
2. Analyze the effectiveness of the death penalty as a deterrent.
3. Examine alternatives to imprisonment in the Indian Criminal Justice System.
4. Critically assess the challenges faced by the Indian Prison System.
5. Discuss the evolution of punishment from IPC to BNS, 2023.

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UNIT 2

Correction Methods and Prisons in India

Learning Outcomes

Upon completion of the unit, the learner will be able to:

- understand the significance and various forms of correction within the criminal justice system and their role in social reintegration
- describe the history of prison reforms in India and evaluate the evolution of penal philosophy
- interpret the provisions of the National Policy on Prisons and assess its relevance, implementation challenges, and implications for the rights and rehabilitation of inmates
- examine various correctional programmes and identify the structural and administrative challenges

Prerequisites

Ravi was only 19 when he was arrested for a petty theft in a small town in northern India. Driven by poverty and desperation, he had stolen a mobile phone to sell it for food. It was his first offence. He was convicted and sent to a district prison. The prison was overcrowded. Ravi found himself in a cell with hardened criminals. There were no structured activities or guidance. Days turned into months, and he began to lose hope.

One day, a newly posted jail superintendent introduced a vocational training programme in the prison, supported by a local NGO. Ravi chose to learn electrical repair work. Soon, he also joined literacy classes and began to read and write fluently for the first time in his life. A psychiatric counsellor visited the jail weekly,

helping inmates like Ravi address their emotional struggles. There were group meditation sessions and recreational activities like music and drawing.

Over time, Ravi began to change—not just in skill, but in attitude. When he was released after two years, he didn't go back to crime. He opened a small repair shop with the help of a local re-entry programme. He now volunteers to speak to young offenders in juvenile homes, sharing his story of reform. However, not all prisons offer what Ravi received. Many inmates across India still lack access to meaningful correctional programmes. Institutional challenges—like understaffing, poor funding, lack of trained professionals, and outdated practices—continue to hinder effective correction. Imagine you are part of the prison reform committee. After reading the story of Ravi, what changes or programs would you propose to ensure that people like him get a real second chance?

This unit explores how correction is more than just punishment—it is about rehabilitation and giving individuals a second chance. By studying the significance and forms of correction, the history of prison reforms, the National Policy on Prisons, and various correctional programmes, you will understand both the potential and the problems of correctional administration in India.

Keywords

Reform, Rehabilitation, Recreation, Correction, Therapy, Couselling, Vocational training

Discussion

Correctional methods are an integral part of the criminal justice system, designed to reform, rehabilitate, and reintegrate offenders into society. These methods hold significant importance as they aim to address the root causes of criminal behavior and contribute to public safety. Over time, correctional approaches have evolved to meet the challenges posed by the rising crime rate, increasing prison populations, and the financial burden of incarceration. Despite skepticism about the rehabilitative ideal, various correctional programs continue to play a crucial role in transforming the lives of offenders and shaping public perceptions of the prison system.

In India, the history of prison reforms reflects a shift from punitive measures to more humane and rehabilitative practices. The adoption of the National Policy on Prisons underscores the importance of addressing the welfare of inmates through structured programs. Modern correctional initiatives encompass educational, vocational, psychiatric, and recreational activities, along with meditation and spiritual guidance. However, correctional administration faces numerous challenges, including overcrowding, limited resources and social stigmas. This unit explores the significance, history, and forms of correction, highlighting the transformative potential of correctional programs while addressing their inherent issues.

4.2.1 Significance and Forms of Correction

Correction is a vital component of the Criminal Justice System aimed at rehabilitating offenders, preventing recidivism, and ensuring their reintegration into society. Its significance lies in promoting social harmony by transforming criminal behavior into law-abiding conduct. Correctional measures focus on addressing the root causes of crime, providing psychological support, education, vocational training, and counseling to offenders. By shifting from purely punitive actions to reformative approaches, the correctional system seeks to reduce overcrowding in prisons, decrease crime rates, and protect society from repeat offenses. Additionally, effective correctional programs foster personal responsibility and help offenders become productive citizens.

4.2.1.1 Concept of Correction

During ancient times, prisons were viewed as 'Houses of Captives,' primarily serving as places for deterrent and retributive punishment. However, evolving perspectives led by thinkers and human rights activists have transformed the concept into one of 'reformation and rehabilitation.' In the modern correctional philosophy, prisons are now seen as institutions focused on the reformation and rehabilitation of individuals.

The contemporary prison administration in India traces its roots to the British rule. Lord Macaulay's observations in 1835 prompted the establishment of a Prison Discipline Committee in 1836. A significant turning point occurred with the formation of the All India Jail Committee (1919-1920), marking the identification of reformation and rehabilitation as key objectives of prison administration.

4.2.1.2 The New Generation Philosophy

Prisons are recognized as 'communities' reflecting diverse socio-cultural, socio-economic, and socio-political aspects of society. Efforts are directed towards creating conditions conducive to the physical and mental well-being of prisoners, aligning with the visions of Mahatma Gandhi and the Indian Constitution. The principle of "hate the crime, not the criminal" underscores the belief that criminals are products of their socio- cultural and socio-economic environment. Our correctional systems align with the view that imprisonment is justifiable only if it leads to the protection of society by reforming and rehabilitating convicts. The goal is to motivate offenders for a law-abiding and self-supporting life post-release. The prison system should not exacerbate the inherent suffering in custody.

Our father of Nation, Mahatma Gandhi envisioned crime and prisons in a therapeutical context, emphasizing the need for an environment resembling a hospital for the treatment and care of individuals. This principle has become a state policy in India, advocating the protection of basic rights and human dignity during incarceration.

Fig. 4.2.1 Central Jail, Tihar

4.2.1.3 Correction: A Legal Mandate of Prison Officers

The role of prison officers in India goes beyond mere custodial responsibilities; it entails a legal mandate deeply rooted in

principles set forth by the Supreme Court and enshrined in legislative frameworks. This note explains into the legal foundations guiding correctional duties, emphasizing the importance of reformation and rehabilitation within the Indian prison system.

4.2.1.4 Principles Established by the Supreme Court

The Supreme Court of India has outlined three fundamental principles regarding imprisonment and custody. Firstly, a person in prison retains their status as a human being and does not become a non-person. Secondly, individuals in prison are entitled to all human rights within the constraints of imprisonment. Lastly, there is no justification for exacerbating the inherent suffering in the process of incarceration.

4.2.1.5 Legal Framework for Correctional Duties

The legal foundation for correctional duties is firmly established in various statutes, rules, and guidelines governing the prison system in India. Key legislative frameworks, such as the Prisons Act of 1894, provide the basis for the management and administration of prisons. Additionally, the Model Prison Manual 2016 by the BPR&D, MHA Govt of India and state prison Manuals and rules offer detailed instructions on the treatment, discipline, and rehabilitation of inmates.

The legal mandate for correction underscores the integral aspects of reformation and rehabilitation within the imprisonment process. The Prisons Act specifically highlights the duty of prison officers to secure the custody and welfare of prisoners, promoting efforts towards their moral and social improvement.

India's commitment to human rights is evident in legal mandates designed to safeguard the rights and dignity of prisoners. Notably, the Supreme Court's pronouncements, exemplified in the case of Sunil Batra v. Delhi Administration, stress the importance of humane treatment and correctional measures within the prison system.

4.2.2 History of Prison Reforms in India

4.2.2.1 Prison Administration during British Period

The modern Indian prison system is a legacy of British colonial rule. Its roots can be traced back to 18th-century England. During that period, even the slightest criminal offence was punishable by death. However, the Select Committee in 1819 proposed providing alternative punishments to execution. Subsequently, the Peel Acts were passed between 1826 and 1827. These Acts reduced the number of capital offences and introduced other methods of punishment.

Fig. 4.2.2 Lord Macaulay

In December 1835, Lord Macaulay appointed a committee to suggest measures to improve discipline in prisons. The committee recommended more rigorous treatment of prisoners and rejected all notions of reforming prisoners through moral and religious teachings. Sir John Lawrence, a jurist, once again examined the condition

of Indian prisons. Consequently, a second commission of enquiry was appointed by Lord Dalhousie. This commission also did not recommend any reforms related to the reformation of prisoners.

The fourth Jail Commission was appointed in 1888 to inquire into prison administration. The Commission drafted a bill, which was presented to the Governor-General-in-Council and ultimately became the Prison Act of 1894. This Act remains the current law governing the management and administration of prisons. The process of reviewing prison issues continued even after the enactment of the Prison Act. This led to the appointment of the All India Jail Committee (1919–1920). It marked a major landmark in the history of prison reforms in India. For the first time, reformation and rehabilitation of offenders were identified as key objectives of prison administration.

4.2.2.2 Indian Jail Reform Committee (1919-1920)

The committee was appointed to suggest measures for prison reforms. It was headed by Sir Alexander Cardew. The committee visited different countries in addition to inspecting Indian jails. The committee highlighted the need for a reformative approach toward prison inmates and discouraged the use of corporal punishment in jails. It recommended the utilization of prison inmates in productive work to aid their reformation. The committee also emphasized the need for an intensive aftercare program for released prisoners to support their rehabilitation.

4.2.2.3 Post Independence Reforms

During the post independent era, various committees have been constituted to tackle the problems relating to prison administration in India.

a. All India Jail Manual Committee: The Government of India, in 1957, appointed the All India Jail Manual Committee to prepare a model prison manual. The committee submitted its recommendations in 1960. It strongly recommended the formulation of a uniform prison policy and the adoption of the latest methods relating to jail administration, probation, aftercare, juvenile and remand homes, etc. Moreover, the report suggested amending the century-old Prison Act of 1894 to provide a legal basis for correctional work.

b. Model Prison Manual: The committee prepared the Model Prison Manual and presented it to the government in 1960 for implementation. The manual became the foundation for current prison management in India. The Model Prison Manual paved the way for the appointment of a Working Group on Prisons in 1972. The working group submitted its report in 1973, emphasizing the need for a National Prison Policy. It also recommended the effective use of alternatives to imprisonment, proper training for prison personnel, classification of offenders, development of prisons, improvement of correctional administration, and similar reforms.

c. Justice V. R. Krishna Iyer Committee on Jail Reforms (1987): In 1987, the Government of India appointed a committee headed by Justice V. R. Krishna Iyer to study and make recommendations regarding the problems faced by women prisoners. The committee recommended the induction of more women into the police force, considering their special role in dealing with women and child

offenders. It also highlighted the need for better facilities and support for women and child prisoners within the prison system.

4.2.2.4 Recent Efforts

- In 2016, a Model Prison Manual was established to standardize prison management, focusing on prisoner classification, medical care, and vocational training.
- In 2018, the Prison Development Fund was launched to modernize prison infrastructure and support improvements at the state level.
- In 2018, the Justice Amitava Roy Panel recommended several prison reforms, including the establishment of special fast-track courts, improvement in the lawyer-to-prisoner ratio, and the use of video conferencing for trials. The committee also recommended that individuals charged with minor crimes who have been granted bail but are unable to provide surety should be freed on a Personal Recognizance (PR) Bond.
- In 2023, the Model Prison Act was passed. This Act made provisions for managing high-security and open jails. It also focused on prisoners' welfare through legal aid, parole, good conduct incentives, and the use of technology for transparent prison administration and security.
- It also emphasized the safety of women and transgender prisoners and aimed to bring greater transparency to prison management. Furthermore, it focused on vocational training, skill development of prisoners, and their reintegration into society.

4.2.2.5 Indian Jail Reform Committee (1980-83) (Mulla Committee)

In 1980, the Supreme Court in Sunil Batra vs. Delhi Administration brought attention to the deplorable conditions in Indian prisons. The Court laid down clear guidelines for the humane treatment of prisoners, medical care, and access to legal aid. In the light of the Supreme Court decision, All India committee for Jail Reforms under the chairmanship of Justice Mulla was appointed. The basic objective of the committee was to review the laws, rules and regulations keeping in view the interest of the society and rehabilitation of the prisoners. The committee submitted its report in 1983.

Some of the prominent suggestions of the committee are:

1. The conditions of the prison should be improved by making adequate arrangement for clothing, sanitation, ventilation etc.
2. The prison staff should be properly trained and organised in to different cadres. The commission recommended for the constitution of an All India Service called Indian Prison and Correctional Service for recruitment prisoner officials.
3. After care, rehabilitation and probation should constitute an integral part of prison service.
4. The media and public man should be allowed to visit prisons and allied correctional institutions periodically
5. The number of under trial prisoners in jail should be reduced to bare minimum and they should be kept separate from the convicted prisoners. Since under trials constitute a sizeable portion of prison population, their number can be reduced by speedy trial and liberalization of bail provisions.
6. The government should make an endeavor to provide adequate resources and fund for prison reforms.

4.2.2.6 Government Initiatives for Prison Reforms

1. Establishment of Review Committee for under trial prisoners
2. Appointment of law officers to provide legal assistance to inmates
3. Adherence to time bound strategies for better living conditions
4. Formulation of state Boards of visitors to inspect prisons

Prison administration is an important component of the criminal justice system; continuous steps should be taken by the prison administration to improve the conditions of prisons in India

4.2.2.7 Challenges in the Indian Prison System

1. Overcrowding: Many Indian prisons suffer from overcrowding. Lack of adequate resources and delay in the timely disposed of the cases account for this sorry state of affairs.
2. Under- trials: Excessive number of under -trial prisoners led to delay in trails and unjust incarceration.
3. Pendency of cases: The backlog of cases in the Indian courts hampers timely justice delivery.
4. Shortage of staff: Under staffed prisons struggle with maintaining security, supervision and inmate wellbeing.
5. Condition of women prisoners: Female prisoners face unique challenges, from hygiene issue to custodial abuse.
6. Torture and Abuse: Some prisoners face physical and Psychological abuse, comprising compromising human rights
7. Infectious Diseases: Overcrowding contribute to spread of infectious diseases among inmates.
8. Obsolete Laws: The colonial legal framework governing prison rains questions about relevance in contemporary times.
9. Human Right concerns: Report of human rights violations highlights the need for enhanced oversight and accountability within the prison system.

Thus the prisoners in India face several challenges which violate the human rights of prisoners and prevent their integration in the society.

4.2.3 Key Objectives Outlined in the National Prison Policy on Prison Reforms and Correctional Administration

a. Reclaiming Offenders: Emphasizes the social responsibility to reclaim offenders rather than focus solely on punishment.

b. Reformation and Rehabilitation: Aims to reform, reclaim, re-assimilate, and rehabilitate offenders through appropriate correctional treatment.

c. Alternatives to Imprisonment: Recognizes resource constraints and explores alternatives to imprisonment in the sentencing policy.

d. Positive Prison Atmosphere: Advocates for a positive prison environment with opportunities for inmates to reform themselves.

e. Human Dignity Maintenance: Acknowledges that while prisoners lose their right to liberty, they retain their right to be treated as human beings with access to basic amenities.

f. Reformative Approach: Prioritizes reforming criminal minds through education, work, physical exercises, counseling, meditation, and yoga.

4.2.4 Types of Correctional Programs: Educational, Vocational, Psychiatric, Meditative, and Recreational Interventions

Recent trends in correction and best prison practices include a focus on work programs, education, prison products, and prison brands. These initiatives aim to enhance the reformation and rehabilitation of prisoners, making them self-sufficient individuals who can positively contribute to society upon release. Work programs have gained prominence as they provide prisoners with vocational skills and employment opportunities. By engaging in productive work, inmates can develop discipline, learn new skills, and earn wages, fostering a sense of self-worth and financial independence. This approach contributes to their successful reintegration into society, reducing the likelihood of recidivism. Examples of successful work programs can be seen in the food units in Kerala, where inmates are trained in food production and processing.

4.2.4.1 Educational & Vocational Training

Education is another essential aspect of prison reforms. Providing access to formal education, vocational training, and life skills development ensures that inmates have the opportunity to improve their knowledge and acquire useful skills. Education equips prisoners with the necessary tools to secure employment and lead a productive life upon release. Tihar Jail's TJ Brand and Tamil Nadu's Freedom Products are examples of prison brands that have successfully incorporated education and vocational skills training into their systems. Karnataka's Parivarthana is one such example where prison products are manufactured and marketed to generate revenue for the correctional facilities.

The objective of prison education is to socialize the inmate through activities and to return these inmates to society with a more wholesome attitude towards living within the skills and knowledge which will give them a reasonable chance to maintain them and their dependents through honest labor.

Education programs cover two general areas:

- Academic education
- Vocational training

Academic Education

Prisons, generally, provide worthwhile educational opportunities for inmates who have the desire for it. The basic components are adult education, occupational education, social education and recreation. Educational programmes in prisons have certain unique problems.

1. Elementary education should be provided at adult level.
2. The inmates have varying abilities and background and thus need to start their programmes at different level.

Vocational training

Absence of work leads to moral and physical degradation and it also corrupts institutional order. There is greater emphasis on the importance of prison work as an element in their rehabilitation. The most common training within the prisons, such as tag making, furniture making etc., do not prepare the inmate, for living and working in a capacitive society heavily dominated by automation. Inmates know that their jobs are not usually important to society but only to the maintenance of the prison and

they may therefore see the job as a form of punishment. Emphasizing skill development and vocational training, the prison hosts various production units that contribute to both rehabilitation and self-sustainability. The production units include:

a. **Food Unit:** Catering to culinary activities within the prison.

b. **Tailoring Unit:** Equipping inmates with sewing and tailoring skills.

c. **Poultry Farm:** Providing hands - on experience in poultry management.

d. **Agriculture Unit:** Engaging inmates in agricultural practices.

e. **Fish Farm:** Offering insights into fish farming and aquaculture.

4.2.4.2 Psychological Therapies, Counseling and Treatment Procedures

a. Psycho therapies

i. Psychotherapy: Penologists believe that treatment of criminals implies changing their personalities, beliefs or motivation so that they acquire internal controls to prevent criminal behaviour. The most important tool for this purpose is psychotherapy. In general, the aim of psychotherapy is to bring about a process of growth in patients, so that they can manage their own affairs. The therapists work individually with patients and try to understand the early life experiences that are thought to be important in causing personal problems.

The types of psychotherapy are:

1. Group psychotherapy (changing the individual within the group setting)
2. Client centered therapy

ii. Reality Therapy: Unlike psychotherapy, reality therapy does not go into the past of the inmate. The focus of the reality therapy is on the present. Reality therapy is based on the assumption that all people have two basic psychological needs:

1. the need to give and receive love, and
2. the need to feel important to other as well as to themselves.

Reality therapy mobilizes its efforts towards helping people accept reality and aims to help them meet their needs. In reality therapy, the therapist becomes involved with patients, they help these patients adapt to reality by being both a model and a mirror of reality. It has been seen that persons who have not responded to correctional treatment methods have responded well to reality therapy.

iii. Behavior Modifications: Behavior modification is based on learning theory, it is assumed that some types of deviant behavior are acquired through an unfortunate quick learning and are in some way rewarding to the patient. The undesirable behavior can be eliminated; modified or replaced by taking away the reward value or by replacing the behavior by regarding more appropriate Wone that is incompatible with the deviant behavior.

iv. Transactional Analysis: Transactional analysis is based on the belief that each person has three persons within; a parent, an adult and a child. By the use of games, psychodrama and script analysis, individuals are helped to understand how these three persons control his or her behaviour.

b) Counselling Therapies

i) Group Therapy : Group therapy is designed to change the behavior of the entire group through a process of socialization. If criminals or delinquents are to be reformed, they must be assimilated into groups that emphasize law-abiding behavior and be alienated from those that emphasize

law-violating behavior. Group therapy can be used within the institution by utilizing already existing groups or by forming new ones.

ii) Milieu Therapy: Milieu therapy also has the same goals of group therapy (changing the behavior of the entire group) but is more extensive in that, it includes the entire milieu of the group undergoing the milieu therapy. One of the criticisms of the milieu therapy is that the participants may learn to live within the milieu structure but still not be able to live within society, without the protection of the group.

4.2.4.3 Meditation

Meditation as a correctional program has gained recognition as an effective tool for rehabilitating offenders and improving mental health in correctional facilities. It offers a non-invasive, cost-effective approach to reducing stress, managing anger, and fostering self-awareness among inmates. By addressing the psychological and emotional factors contributing to criminal behavior, meditation promotes behavioral change, emotional regulation, and overall well-being, aligning with the reformative goals of correctional systems.

1. Concept of Meditation in Correctional Settings

Meditation involves practices that encourage mindfulness, self-reflection, and mental clarity. In correctional facilities, meditation programs are designed to help inmates develop coping mechanisms, reduce negative emotions, and manage stress and aggression. Techniques like mindfulness, breath control, and focused attention guide inmates to reflect on their actions and develop inner peace, potentially reducing tendencies toward violence or recidivism.

2. Types of Meditation Practices Used in Prisons

Several meditation techniques have been adapted for correctional environments:

a. **Mindfulness Meditation:** Focuses on present-moment awareness and accepting thoughts and emotions without judgment. It improves emotional regulation and reduces impulsivity.

b. **Vipassana Meditation:** A deep mindfulness practice that promotes self-observation and mental purification. Pioneered in Indian prisons by S.N. Goenka, this technique has shown positive behavioral impacts.

c. **Transcendental Meditation (TM):** Involves silent mantra repetition to induce a state of relaxed awareness, reducing anxiety and stress.

d. **Yoga and Pranayama (Breath Control):** Combines physical postures and breathing techniques to calm the mind and body. Programs like Prison SMART (Stress Management and Rehabilitation Training) integrate yoga and breathing practices for inmates.

3. Psychological and Behavioral Benefits

a. **Stress and Anxiety Reduction:** Regular meditation lowers stress hormones like cortisol, helping inmates manage anxiety, depression, and emotional distress.

b. **Anger and Aggression Control:** Meditation promotes self-awareness, helping individuals recognize triggers and control aggressive impulses.

c. **Emotional Regulation:** Enhances the ability to process emotions constructively, reducing mood swings and emotional outbursts.

d. **Improved Focus and Self-Discipline:** Meditation enhances concentration and self-discipline, helping inmates engage in productive activities.

e. **Reduction in Substance Abuse:** Mindfulness meditation has been effective in reducing cravings and preventing relapse in individuals with substance abuse disorders.

4. Rehabilitation and Reintegration Support

a. **Behavioral Transformation:** Meditation encourages self-reflection and accountability, leading to reduced recidivism. Programs like Vipassana have shown significant behavior change in inmates.

b. **Improved Social Skills:** By fostering empathy and compassion, meditation improves interpersonal relationships and reduces conflicts within the prison.

c. **Preparation for Re-entry:** Meditation equips inmates with coping strategies for handling stress and temptation after release, aiding smoother reintegration into society.

5. **Notable Meditation Programs in Prisons**

a. **Vipassana in Indian Prisons:** The first Vipassana program was introduced in Tihar Jail (New Delhi) in 1993 by Kiran Bedi. It led to noticeable improvements in inmate behavior, emotional well-being, and discipline.

b. **Prison SMART Program:** Developed by the Art of Living Foundation, this program teaches inmates breathing techniques and meditation to reduce stress and aggression.

c. **Mindfulness-Based Stress Reduction (MBSR):** Widely used in Western prisons, MBSR incorporates mindfulness meditation to help inmates manage anxiety and anger.

6. Challenges in Implementation

a. **Resistance to Participation:** Some inmates may be skeptical or reluctant to engage in meditation practices due to cultural or personal beliefs.

b. **Lack of Trained Instructors:** Implementing structured meditation programs requires trained facilitators, which can be limited in availability.

c. **Security Concerns:** Organizing group meditation sessions must be carefully managed to ensure safety in high-security environments.

d. **Consistency in Practice:** Sustained impact requires regular practice, which can be challenging due to prison schedules and transfers.

4.2.4.4 Recreation

Correctional programs that focus on recreation play a crucial role in the rehabilitation process by providing inmates with structured activities that promote physical, mental, and emotional well-being. These recreational programs help reduce stress, improve behavior, and offer inmates opportunities to develop new skills, fostering a sense of accomplishment and self-worth. Activities such as sports, arts, vocational training, and educational programs are essential components of correctional recreation, encouraging positive interaction among inmates and with staff.

Recreation in correctional settings also serves as a tool for reducing the risk of violence, as it offers inmates an outlet for their energy and emotions. Moreover, it promotes teamwork, discipline, and the development of social skills, which are vital

for successful reintegration into society after release. By focusing on rehabilitation rather than punishment, correctional recreation programs aim to improve the overall quality of life for inmates, enhancing their chances of reintegration and reducing the likelihood of recidivism.

4.2.5 Problems of Correctional Administration

The correctional administration in many countries, including India, faces numerous challenges that hinder its ability to effectively rehabilitate offenders and ensure secure, humane, and efficient prison management. These problems stem from structural deficiencies, resource constraints, and systemic issues that compromise the goal of correctional facilities to reform and reintegrate inmates into society.

1. Overcrowding in Prisons

One of the most serious issues in prisons is severe overcrowding, with many facilities operating beyond their capacity. This leads to poor living conditions, limited resources, unsanitary environments, and increased health risks. Overcrowding also makes inmate management difficult, often resulting in higher levels of violence and unrest.

2. Understaffing and Poor Training of Prison Personnel

There is a major shortage of trained prison staff, including correctional officers, medical personnel, and counselors. The existing staffs are often overworked, lack proper training, and are ill-equipped to manage security, rehabilitation, and inmate welfare. The absence of ongoing professional training further hampers their ability to handle emergencies and manage prisoner behavior effectively.

3. Lack of Rehabilitation and Reformation Programs

Many correctional institutions focus more on punishment than rehabilitation, offering limited access to educational, vocational, or psychological programs. The lack of skill development, counseling, and therapy hinders inmates' rehabilitation and increases the chances of reoffending. As a result, many inmates leave prison without the tools needed to reintegrate into society or find employment.

4. Inadequate Healthcare Facilities

Prisons often lack proper medical infrastructure, resulting in poor healthcare services for inmates. Mental health care is especially neglected, despite the high prevalence of psychological disorders among prisoners. Additionally, overcrowding and poor sanitation contribute to the rapid spread of communicable diseases.

5. High Number of Undertrial Prisoners

A large portion of prison populations consists of undertrial prisoners who await trial for extended periods. Delays in the judicial process, insufficient legal aid, and systemic inefficiencies lead to prolonged detention without conviction. This not only violates the right to a speedy trial but also worsens the problem of overcrowding.

6. Human Rights Violations and Abuse

Custodial violence, torture, and inhumane treatment are commonly reported in many prisons. Vulnerable groups such as women, juveniles, and mentally ill inmates often face discrimination and neglect. The lack of effective oversight and accountability fosters an environment where abuse and corruption persist.

7. Poor Infrastructure and Living Conditions

Many prisons function in outdated, poorly maintained buildings with inadequate sanitation, ventilation, and hygiene. Basic necessities like clean water, nutritious food, and proper bedding are often insufficient.

These substandard conditions undermine the dignity and basic human rights of inmates.

8. Corruption and Mismanagement

Corruption within the prison system leads to preferential treatment for influential inmates and exploitation of the poor. Mismanagement of resources and funds hampers the success of rehabilitation programs and reforms. Political interference and nepotism further weaken effective prison administration.

9. Lack of Focus on Reintegration

Post-release support and reintegration programs are severely lacking, leaving former inmates without social or financial assistance. The stigma associated with incarceration makes finding employment and housing difficult, increasing the risk of recidivism. There is minimal coordination between prisons and community-based rehabilitation services.

10. Gender-Specific Challenges

Women inmates face unique difficulties, including inadequate healthcare, the absence of childcare for mothers, and gender-based violence. Rehabilitation and vocational training programs for female prisoners are often limited and not gender-sensitive, failing to address their specific needs.

11. Inadequate Legal Aid and Access to Justice

Many inmates, especially those from marginalized backgrounds, lack proper legal representation. Legal aid systems are often underfunded and poorly organized, leaving prisoners unaware of their rights and legal options.

12. Absence of Modern Technology

The limited use of modern technology in prisons affects security, record-keeping, and rehabilitation efforts. Tools such as surveillance systems, digital records, and e-courts are underused, which slows the delivery of justice and efficient prison management.

The correctional administration faces complex challenges that hinder its ability to rehabilitate offenders and ensure secure, humane conditions. Addressing these problems requires a multi-faceted approach, including infrastructural improvements, better staffing and training, expanded rehabilitation programs, judicial reforms, and strict enforcement of human rights standards. A shift from a punitive to a reformative and rehabilitative model of correction is essential to reduce recidivism and support the successful reintegration of offenders into society.

Recap

- Correctional methods aim to reform, rehabilitate, and reintegrate offenders into society, contributing to public safety
- The concept of correction has evolved from punitive punishment to reformation and rehabilitation
- Modern Indian correctional philosophy emphasizes "hate the crime, not the criminal," recognizing offenders as products of their socio-economic environment

- The Supreme Court mandates humane treatment of prisoners, affirming their human rights within incarceration
- The Prisons Act of 1894 and Model Prison Manual (2016) provide the legal basis for correctional administration.
- The All India Jail Committee (1919–20) was a landmark in recognizing reformation and rehabilitation as prison goals
- Ongoing reforms aim to balance security with humane treatment and skill development of prisoners
- Correctional programs now focus on reformation through work programs, education, and branded prison products
- Behavior modification uses rewards to replace deviant behavior with appropriate conduct
- Meditation enhances emotional regulation, stress management, and self-awareness among inmates
- Types of meditation include mindfulness, Vipassana, Transcendental Meditation, and yoga-based practices

Objective Questions

1. What is the primary aim of correctional methods in modern criminal justice systems?
2. How do modern correctional programs address the root causes of criminal behavior?
3. What is the key shift in the concept of correction over time?
4. What does the Indian correctional philosophy mean by "hate the crime, not the criminal"?
5. Who inspired the vision of prisons as therapeutic spaces in India?
6. Name the legal frameworks that form the basis of correctional administration in India.
7. What landmark judgment reinforced prisoners' human rights in India?
8. Which committee during British India first emphasized rehabilitation in prisons?

9. What was the main contribution of the All India Jail Manual Committee (1957)?
10. Which recent document (2023) focuses on prisoner welfare, legal aid, and reintegration?
11. Name two branded prison product initiatives.
12. What is the role of vocational training in correctional programs?
13. Which psychological therapy aims to change inmates' behavior using rewards?

Answers

1. To reform, rehabilitate, and reintegrate offenders into society
2. Through education, counseling, and vocational training
3. From punitive punishment to reformation and rehabilitation
4. It emphasizes understanding offenders as products of their socio-economic environment
5. Mahatma Gandhi
6. The Prisons Act of 1894 and the Model Prison Manual (2016)
7. Sunil Batra v. Delhi Administration
8. The All India Jail Committee (1919–20)
9. It created a model manual to standardize prison policies and promote reformative methods
10. The Model Prison Act, 2023
11. Tihar's TJ and Tamil Nadu's Freedom Products
12. It builds practical skills, reduces idleness, and prepares inmates for honest work post-release
13. Behavior modification

Assignments

1. Critically examine the evolution of correctional philosophy in India, with reference to Gandhian thought.
2. Analyze the legal and human rights framework governing prison administration in India.
3. Trace the history of prison reforms in India from the colonial period to the present day.
4. Evaluate recent trends and best practices in correctional programs in India, with examples.
5. Explain the role of psychological therapies, counseling, and meditation in the correctional system. How do these methods contribute to behavioral change and rehabilitation?

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UNIT 3

Alternatives to Imprisonment: Probation, Parole, and Open Prisons

Learning Outcomes

Upon the completion of the unit, the learner will be able to:

- describe various alternatives to imprisonment and their role in the criminal justice system
- discuss the effectiveness of rehabilitation and reintegration strategies in reducing recidivism and promoting restorative justice
- recognise the socio-legal framework supporting non-custodial measures and their impact on offender reform, victim satisfaction, and community safety

Prerequisites

Listen to the story of Reshma, a 22-year-old IT student in Bengaluru, who was arrested for hacking into a small company's database to expose poor working conditions. Though her actions caused financial damage, she claimed she was motivated by a sense of justice. The court acknowledged her intent and instead of jail time, offered her a parole-based arrangement — a conditional release with structured support and surveillance.

Under parole, Reshma had to report to authorities regularly, attend a cyber ethics training program, and complete community service at a digital literacy NGO. She also underwent counseling to understand the legal and ethical boundaries of activism. As part of a restorative process, Reshma met the company's leadership and apologized for the harm caused. In return, the company agreed to a workplace audit and opened a dialogue on employee welfare — an unexpected but constructive outcome.

Recognizing her skills, the NGO later hired her as a digital trainer. Through after-care and rehabilitation support, Reshma built a new identity — one rooted in social change through legal means. Her case highlighted how non-custodial correctional methods could turn a potentially destructive path into a socially valuable one. It is to these alternatives that we turn our attention now.

Alternatives to imprisonment have gained significant attention as a means to address the challenges associated with incarceration, focusing on rehabilitation, reducing overcrowding in prisons, and supporting the reintegration of offenders into society. These alternatives offer more flexible approaches to justice that emphasizes the rehabilitation of offenders while ensuring public safety.

Keywords

Reformation, Re-integration, Prison, Inmates, Stigma, Victimisation

Discussion

4.3.1 Probation

'If every saint has a past, every wrong doer has a future also'. Hence, Gandhiji advocates to hate the sin, not the sinner'. Probation is an essential aspect of the reformation theory of punishment. The term probation is derived from the Latin word 'probo' which means 'I will prove'. The term probation was used for the first time by John Augustine in 1941. He started the practice of keeping criminals in friendly protection. The main objective of probation is to give the prisoner a chance of improvement by suspending his sentence for sometimes. It is done on the basis of his good conduct. The benefit is not given to dangerous criminals. It is meant only for those who commit offence under sudden probation or due to weakness in character. In India, the concept of probation is legally recognized under the probation of offenders Act 1958. The act provide for release of offenders of certain categories, on probation or after due admonition. It also aims to prevent conversion of youthful offenders into hard criminals. The act is a statutory recognition of Gandhian thought.

4.3.1.1 Concept and Scope

Probation is an alternative to imprisonment, mainly used for minor offences and first-time or youthful offenders. It serves as a behavioral contract between the judge and the offender, involving a set of conditions that the offender must follow or face returning to court. Probation decisions are often based on information provided by a Probation Officer through a Pre-Sentence Report. It offers the offender a chance to reform and change their behavior while remaining within the community.

4.3.1.2 Types of Probation

1. Supervised Probation

In supervised probation, the probationer is required to regularly meet with a probation officer and fulfill specific conditions set by the judge. These conditions often include instructions issued by the probation officer

and must be followed strictly. The combined directions from both the court and the probation officer aim to guide the offender's behavior and support their rehabilitation.

2. Unsupervised Probation

In unsupervised probation, the probationer is not required to meet with a probation officer. It is granted when the court believes that the individual has learned their lesson and is capable of correcting their behavior independently, without direct supervision.

4.3.1.3 Conditions for the Grant of Probation

1. The person should not be guilty of an offence punishable with death or imprisonment for life
2. The court considers the following
   a. Circumstances of the case
   b. Nature of the offender
3. The period of probation should not be more than 3 years and less than one year

4.3.1.4 Mandatory Conditions of Probation

- Attend court as and when directed to do so
- Keep the peace and be of good behavior
- Any other condition which the judge believes to be reasonable and will assist the offender in changing their behavior,
- Fulfill all social and legal obligations
- Abstain from alcohol or drugs
- Find employment within a specified period of time
- Avoid contact or involvement with certain persons (usually named)

The person is released on probation subject to these conditions. If they fails to observe these conditions, the court may issue a warrant to the probationer or his sureties requiring to attend before the court. It may sentence him for the original offence and impose him a penalty.

4.3.2 Parole

Parole is the conditional release of an offender for the purpose of his reformation and reintegration into the society. It represents the final stage in the penal or correctional system, with probation often serving as the initial stage. Since the life in prison is too rigid and restrictive, it offers no opportunity for the offender to rehabilitate himself. It is therefore necessary that in suitable cases, the inmates be released under proper supervision from the prison institution after serving a part of their sentence. This will serve a useful purpose for their rehabilitation in free society. This goal is achieved through the parole system, which aims to reintegrate the inmate into society as a law-abiding and responsible citizen. In other words, parole may be said as conditional release, a ticket of leave, an administrative pardon, a permission to spend the part of the sentence outside the prison or a premature release.

4.3.2.1 Objectives and Types

The primary aim of granting parole is to promote a humanitarian approach within the prison system. The major objectives behind awarding parole are;

a. It serves as a vital tool for reforming prisoners and allowing him to mould the way of his life

b. It enables a parole to maintain his family ties

c. It provides him the liberty and freedom to an extent while being on parole

In order to be released on parole, a convict

must have served at least one year of his jail term excluding the period covered by remission

a. He must have shown good constant and good behaviour as an inmate in the jail.

b. He must not have committed any crime while he was serving any previous parole period.

c. There must be a gap of at least six months between two parole periods.

d. The convict to be released on parole is expected to adhere all the conditions of parole. If the parolee violates the term of his parole he may be sent back to prison to serve the remainder of his sentence.

The concept of parole in India is based on English law. In India, parole can be granted in case of short form imprisonment also. India currently lacks a central legislation that directly governs the subject matter of parole. However, the procedure for granting parole is governed by the parole guidelines under the prisoners Act 1894 and the prisoners Act 1900. The *Bharatiya Nyaya Suraksha Sanhita*, 2023 (BNSS) has made parole as an integral part of Indian Criminal Justice System.

Due to the lack of a united legislation, every state has made its own rules and laws to regulate the parole system. Each state has its own guidelines and prison manuals which deal with the process and conditions of granting parole.

4.3.2.2 Types of Parole

a) **Custody parole:** It is provided in emergency situations. All convicted persons except foreigners and those serving death sentences are eligible to receive emergency parole for 14 days. The emergency situations may include death or marriage of the parole's family members.

b) **Regular parole :** offenders who served at least one year in prison are eligible for regular parole for a maximum period of one month. It is granted on certain ground like marriage, accidents, death, and illness in family or birth of a child.

In this context, it is important to note that certain categories of prisoners are excluded from the privilege of parole, such as those convicted of terrorism, multiple murders, and offenses that pose a threat to national security. While parole is recognized as a right of prisoners by several international organizations, it has not yet been acknowledged as a legal right in India. In the Indian context, the granting of parole remains at the discretion of state authorities. Therefore, prisoners cannot claim parole as an entitlement but must seek it as a discretionary privilege.

4.3.2.3 Refusal of Parole

The awarding of parole is at the discretion of the State or Jail authorities. As per Clause 12 of the guidelines, parole can be refused to the following categories of convicts:

1. Convicts found violating prison discipline or committing crimes against the state (indicating no behavioral change in jail)
2. Convicts whose release on parole is considered risky or a threat to the national security of India
3. Prisoners convicted of murder after committing rape
4. Prisoners convicted of murder following the rape of children
5. Prisoners convicted of multiple murders
6. Escaped prisoners are not eligible for parole

4.3.2.4 Difference between Parole and Probation

1. Origin: Probation originated earlier than parole.
2. Stage of Release: Parole is granted only after the inmate has served part of their sentence in prison or a similar institution. In contrast, probation is granted without the execution of a sentence or with the sentence not being carried out.
3. Eligibility: Parole can be granted regardless of age, whereas probation is typically intended for first-time or youthful offenders under 21 years of age.
4. Authority: Parole officers are employees of the state government, while probation officers work under the court.
5. Nature of Custody: In parole, the offender is released from prison; in probation, the offender is placed under supervision without serving prison time.
6. Legal Nature: Probation is a judicial function, whereas parole is essentially quasi-judicial.
7. Correctional Process: Parole is the final step in the correctional process, while probation is often the initial step.

A parole system cannot function independently; it presupposes incarceration in a prison or reformatory. Parole is not merely a method to reduce prison overcrowding. Rather, it is the final phase in the rehabilitation and reintegration of an offender into free society. It forms part of a broader treatment method that begins with imprisonment and continues through education, vocational training, and gradually relaxed discipline based on behavioral improvement.

4.3.3 Open Prisons

An open prison is also called a minimum-security prison, open camp, or prison without bars. It is a facility in which prisoners are confined under specific conditions. The concept provides prisoners more freedom. In these prisons, inmates can engage in activities such as agriculture and other work that helps them reintegrate into society.

Open prisons are open in four respects: open to prisoners, open in security, open in organization, and open to the public. They are designed with minimum security, allowing prisoners to participate in activities outside the prison. Some open prisons are located alongside closed prisons, but inmates have the opportunity to engage in community service.

The main objectives of establishing open prisons are:

1. to reduce overcrowding in jails
2. to reward good behavior
3. to give training in self-reliance
4. to provide dependable permanent labor for public works
5. to prevent frustration and create hope
6. to provide training in agriculture and industry
7. to examine suitability of releasing offenders
8. to enable the prisoners to live with family members (in some states)

Open prisons have been part of the global correctional system for centuries. The first open prison was established in Switzerland in 1891, in the USA in 1916, in Britain in 1930, and in the Netherlands in 1950.

In India, the first open prison was started in 1905 in the Bombay Presidency, and the

concept has evolved since then. India currently has 91 open jails spread across 17 states. Rajasthan has the largest number of open jails (41), followed by Maharashtra (19).

4.3.3.1 Eligibility Conditions

Eligibility conditions for admission to open prisons vary from state to state. The major conditions are as follows:

1. Prisoners should be willing to abide by the rules of the prison.
2. They should have been sentenced to a term of one year or more and must have completed at least one-fourth of the total sentence.
3. They should have a record of good behavior in prison.
4. They should not be below 21 years of age or above 55 years.
5. They should not have been convicted of certain types of crimes (such as dacoity, forgery, counterfeiting, etc.).
6. They should not have any case pending in the courts.
7. They should not be habitual offenders.
8. They should not be classified as Class I prisoners or be women prisoners.

4.3.3.2 Types of Open Prison

The Model Prison Manual classifies open prison institutions in India into three types:

A. Semi Open Training Institutions

This open prison is attached to closed prison with moderate security. The prisoners who show reformation are eligible for further transfer.

B. Open Training Institutions/Work Camp

It focuses on public work and accessional training.

C. Open Colonies

In open colonies, inmates are allowed to bring their family members, and both inmates and their families are given opportunities to work in agriculture or other allied fields. The wages paid are on par with those offered outside the prison system. Open prisons maintain at least the minimum standards prescribed for closed jails, and the wages are generally higher than those in closed prisons. Inmates in open institutions receive additional concessions such as remission, leave, and sentence reviews. There are no restrictions on reading materials, and prisoners are allowed to pursue education through open universities. Training programs, cultural activities, and recreational facilities are also provided. In essence, inmates in open prisons are entitled to all human rights within the limits of incarceration.

The Supreme Court of India, through various rulings, has supported the expansion of open jails. Several committees, including the All India Prison Reform Committee, have recommended the establishment of open prisons across states. Additionally, the National Human Rights Commission has advocated for their expansion. Most importantly, the United Nations, through the Nelson Mandela Rules (2015), has endorsed the open prison system as a means of supporting rehabilitation by promoting prisoners' rights to employment and contact with the outside world.

4.3.3.3 Characteristics of Open Prisons

1. Living informally in small groups with minimal custodial supervision
2. Encouraging inmates to develop a sense of social responsibility
3. Providing adequate training facilities in agriculture and related occupations

4. Offering greater opportunities for inmates to interact with their relatives and friends to resolve domestic issues through mutual discussions
5. Granting liberal remissions of up to fifteen days per month
6. Ensuring proper attention to inmates' health and recreational needs
7. Managing open jail institutions with specially qualified and well-trained personnel.
8. Providing an improved diet, including special dietary arrangements for weak and sick inmates
9. Paying wages to inmates, with a portion sent to support their families
10. Offering financial assistance to inmates through liberal bank loan schemes
11. Promoting free and close interaction between staff and inmates, as well as among inmates
12. Providing regular, paid work under expert supervision as a means of reformation
13. Avoiding unduly prolonged detention

4.3.3.4 Advantages of Open Prisons

The utilisation of open prisons in the post-independence era has been particularly significant and has attracted considerable interest among penologists. This is due to the growing realisation that a substantial proportion of prison inmates do not require confinement within heavily guarded prison enclosures. Instead, individuals who are carefully selected can be assigned to open-air camps, farm colonies, or other outdoor work environments, maintaining an acceptable level of safety. The clear advantages of open prisons over traditional prisons can be summarised as follows:

1. they help reduce overcrowding in jails
2. construction costs are significantly lower
3. operational costs of open prisons are much less than those of enclosed prisons
4. engaging inmates of open-air prisons in productive work reduces idleness, keeping them physically and mentally fit
5. transferring prisoners from general prisons to open prisons aids in the conservation of natural resources and broadens the scope of the rehabilitative process
6. it reduces psychological pressure and helps restore prisoners' confidence

The concept of open jails is essentially based on the dual systems of probation and parole, both of which have gained considerable popularity as correctional and reformative techniques in modern penology.

Despite these advantages, open prisons face certain challenges. The first is underutilisation, with many facilities having vacant spaces. Many eligible prisoners are denied these benefits due to arbitrary eligibility criteria. Additionally, the lack of uniformity in rules across states poses another problem. There is a pressing need for greater accountability in prison administration and the selection process for open prison inmates.

4.3.4 After-care and Rehabilitation

The primary goal of correctional administration is to reintegrate offenders into society as productive and responsible citizens. After-care plays a crucial role in this rehabilitative

process, serving as a bridge that addresses the social isolation and dependence of released offenders. It aims to help them overcome social disadvantages, remove the stigma of incarceration, and facilitate their reintegration into society.

Prisoners are often individuals shaped by unfavorable circumstances, and their time in custody should be utilized to provide them with training and skills to aid their reintegration. Aftercare programs for released prisoners are essential for their comprehensive rehabilitation, not as acts of charity or patronage but as a thoughtful response to their specific needs. These programs recognize the psychological trauma and sense of rejection that many released prisoners experience, focusing on restoring their self-confidence and helping them reintegrate as productive members of society. The All India Jail Manual Committee (1957) aptly described aftercare as the convalescence of released prisoners, transitioning them from the restrictive and controlled environment of custody to resettlement and ultimate rehabilitation in the broader community.

4.3.4.1 Origin and Development

The importance of after-care for released prisoners has long been recognized in India. The Indian Jail Conference of 1877 first discussed aiding ex-convicts but took no action. Later, Discharged Prisoners' Aid Societies were formed in various regions, starting with Uttar Pradesh in 1894, followed by Bengal in 1907 and Bombay in 1914. However, these efforts faltered due to lack of government support and public interest. Provincial governments eventually formed committees and societies to help discharged prisoners with social and economic rehabilitation.

A significant step came in 1954 when the Central Social Welfare Board appointed an Advisory Committee, led by Professor M.S. Gore, to assess aftercare needs and recommend improvements. Based on its findings, comprehensive aftercare programs were launched during the Second and Third Five-Year Plans, leading to the establishment of aftercare homes in several states. Further support came from the All India Committee on Jail Reforms (1980–83), which emphasized creating Aftercare Homes to address released prisoners' immediate needs. The Seventh Five-Year Plan also proposed a national scheme for prisoner welfare, and financial aid was extended to voluntary organizations for aftercare services.

Despite these initiatives, rehabilitation efforts remain inadequate due to funding shortages, lack of government interest, and mismanagement. Many aftercare institutions have closed or been repurposed. Challenges include the absence of continuity between institutional programs and aftercare services, outdated vocational training, insufficient coordination between institutions and agencies, and inadequate communication with released prisoners. Both correctional institutions and aftercare agencies often work in isolation, with limited accountability for ensuring offenders' reintegration. Public awareness and concern about the rehabilitation needs of released prisoners also remain low.

4.3.4.2 Ways and Means for Enhancing Aftercare and Rehabilitation Services

In India, there is an urgent need for an officially recognized and structured system to ensure the rehabilitation of offenders, starting from their entry into prison and continuing through to their successful reintegration into society. This task is not overly complex, as most prisoners come from agricultural backgrounds and can return to their original communities with proper counselling and social support. However,

assistance is particularly crucial for those who have lost their socio-economic roots during incarceration.

The importance of offender rehabilitation has been recognised since the All India Jails Committee of 1919. Although subsequent prison reform committees have made numerous recommendations, their implementation has remained largely inadequate. India should establish a dedicated governmental mechanism—similar to Japan's Rehabilitation Bureau—under the Ministry of Justice, to oversee, monitor, and review rehabilitation efforts from the start of imprisonment through reintegration.

Community participation in prison rehabilitation programs is essential, as reintegration becomes easier with socialsupport. A three-pronged approach is recommended:

1. involving the community in prison programs
2. engaging the mass media to highlight prison reforms
3. strengthening voluntary organisations to work alongside government agencies

Community-based initiatives, such as probation services, hold significant potential for rehabilitation but remain underutilized. Although the Probation of Offenders Act, 1958 exists, its implementation has been hampered by public ignorance and apathy within law enforcement agencies. Greater awareness and better integration of probation services into the criminal justice system are urgently needed. A legal framework similar to Japan's 1995 Law for Offenders Rehabilitation Services could help strengthen these efforts.

The All India Committee on Jail Reforms (1983) also recommended that aftercare be made a statutory function of the Department of Prisons and Correctional Services. Prison officers should be trained in counselling, legal assistance, and guidance to support prisoners' reintegration. They should maintain contact between prisoners and their families, mobilize community support for ex-prisoners, and collaborate with voluntary organisations for effective rehabilitation. Police officers, especially at the grassroots level, should also be trained to support the resettlement of released offenders.

For juvenile offenders, aftercare must become a core function of correctional services. Each state should have a team of trained officers to oversee rehabilitation activities. There is also a pressing need for more aftercare institutions and organisations to meet the needs of released juveniles. Both governmental and voluntary bodies must be equipped with the necessary infrastructure and resources. After-care workers should receive proper training, support, and incentives to maintain their motivation and effectiveness.

Despite a century of discussions and proposals, after-care services in India remain grossly inadequate. Existing efforts are limited to temporary shelter and small-scale financial aid for a handful of discharged prisoners. Most after-care organisations suffer from financial constraints, lack public support, and receive minimal government assistance. Key recommendations from the Advisory Committee on Aftercare (1955), the Model Prison Manual, and the Mulla Committee on Prison Reforms remain unimplemented. While the Juvenile Justice Act, 1986 provides a legal framework for juvenile aftercare, the necessary infrastructure and institutional mechanisms remain underdeveloped.

A systematic approach is required to implement these past recommendations and to sensitise both the government and the community to the importance of aftercare in crime prevention and control. Without such

efforts, the goals of correctional administration—and the resources invested in it—will remain underutilised.

4.3.5 Victimological Perspective

Victimisation is a complex phenomenon that extends beyond the initial act of harm, encompassing various dimensions of an individual's experience. Two key concepts in victimology—primary victimisation and secondary victimisation—highlight distinct aspects of the aftermath of a crime.

a) Primary Victimisation

Primary victimisation occurs when an individual directly suffers harm or trauma as a result of a criminal act. This initial victimisation is the core event that violates a person's rights, safety, or well-being. The primary victim may experience physical, emotional, or financial consequences depending on the nature of the crime. Understanding primary victimisation is essential for assessing the immediate impact on victims and guiding interventions that address their specific needs, such as medical care, counseling, and legal support.

b) Secondary Victimisation

Secondary victimisation refers to the additional harm or distress that a primary victim may experience following the crime, often as a result of interactions with the criminal justice system, society, or even well-meaning support systems. This concept acknowledges that the effects of victimisation can extend well beyond the initial incident. Common sources of secondary victimisation include insensitive treatment by law enforcement, stigmatisation by the community, or difficulties faced during legal proceedings. Such experiences can compound the trauma suffered by the victim and may hinder their recovery.

Understanding both primary and secondary victimisation is crucial for developing comprehensive, victim-centered approaches. While primary victimisation requires immediate attention to address the direct consequences of the crime, equal effort must be made to minimise secondary victimisation. This involves building supportive and empathetic systems, improving the responsiveness of legal and social institutions, and fostering a culture that respects and validates the experiences of those who have suffered harm.

Recap

- Probation is an alternative to imprisonment, mainly granted to first-time or youthful offenders
- Gandhiji's principle "Hate the sin, not the sinner" underlies the reformative theory of punishment, where probation offers a chance for reformation based on good behavior and moral improvement
- The Probation of Offenders Act, 1958 in India legally recognizes probation and aims to prevent the conversion of minor offenders into hardened criminals by allowing release on admonition or supervision

- There are two types of probation: Supervised (involves regular reporting to a probation officer) and Unsupervised (granted when the court believes the offender has reformed and can self-regulate)
- Parole is the conditional release of a prisoner after serving part of their sentence, intended for reintegration into society, and is supervised by prison authorities rather than the court
- The objectives of parole include promoting a humanitarian approach, reforming the offender, maintaining family ties, and ensuring a smoother return to society
- Open prisons, or minimum-security prisons, provide inmates with more freedom and opportunities to engage in productive activities
- The goal of open prisons is to reintegrate prisoners into society by rewarding good behavior, encouraging self-reliance, and allowing family interaction
- Purpose of Aftercare: The core aim of aftercare is to reintegrate released offenders into society as responsible citizens

Objective Questions

1. What is the origin language of the word "Probation"?
2. Who first used the term “Probation” in 1941?
3. What is the maximum duration (in years) allowed for probation?
4. Which act legally recognizes probation in India?
5. What type of parole is granted in emergency situations?
6. What is the final stage in the penal or correctional system?
7. Which country first established an open prison in 1891?
8. Which committee, chaired by M. S. Gore, assessed the aftercare needs in 1954?
9. Which Five-Year Plan proposed a national scheme for prisoner welfare?
10. Which state first established a Discharged Prisoners’ Aid Society in 1894?
11. Which Act of 1958 aimed to rehabilitate offenders through community-based services?

12. Which type of victimisation involves harm caused by insensitive treatment post-crime?

Answers

1. Latin
2. Augustine
3. Three
4. Probation of Offenders Act
5. Custody
6. Parole
7. Switzerland
8. Advisory
9. Seventh
10. Uttar Pradesh
11. Probation
12. Secondary

Assignments

1. Critically Examine the reformative theory of punishment in light of Gandhiji's principle "Hate the sin, not the sinner."
2. Differentiate between probation and parole in terms of their legal provisions, objectives, and implementation mechanisms.
3. Discuss the significance of open prisons and aftercare programs in the process of rehabilitation and reintegration of offenders.
4. Trace the origin and development of aftercare services for released prisoners in India. Evaluate the role of voluntary organizations and government agencies in strengthening aftercare and rehabilitation.

5. Examine the concept of victimization from a victimological perspective. How do primary and secondary victimization affect the psychological and social well-being of crime victims, and what measures can be taken to address both?

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BA (HONOURS) SECOND SEMESTER EXAMINATION

MULTI- DISCIPLINARY COURSE-SGB24SO101MD- CRIMINOLOGY

(CBCS - FYUGP) 2024-25 - Admission Onwards

SET-I

Time: 2 Hours Max Marks: 45

Section A

Objective Type Questions

Answer any 5 questions. Each question carries 1 mark (5x1=5 marks)

1. Which scholar proposed that social structures can lead to deviant behavior?
2. Who coined the term "criminology"?
3. What is the most influential factor that increases a person's risk of becoming a crime victim?
4. Who holds the power to introduce a bill independently in the Criminal Justice System?
5. Which crime targets computer networks or devices?
6. What is the term used to refer to the act or behavior when a person deviates from societal norms?
7. In which year was the Society for the Advancement of Criminology established?
8. Who first used the term "Probation" in the early 1940s?

Section B

Very Short Answer Questions

Answer any 5 questions. Each question carries 2 marks (5x2=10 mark)

9. Define the term Deviance.
10. What is BNS? Define briefly.
11. What does CPO stand for? Define.

12. Mention any two main objectives of the police system.
13. What is an act of violence involving corrosive substances, and how is it classified under law?
14. What is the function of fast-track courts in the judicial process?
15. Mention two major challenges in managing correctional facilities.
16. How are different types of parole classified under supervised release?

Section C

Short Answer Questions

Answer any 4 questions. Each question carries 5 marks (4x5=20 marks)

17. Explicate the nature and defining features of white-collar crime, discussing its distinctiveness from other forms of criminal activity.
18. Discuss the differences between positive and classical school of criminology.
19. Explain Structure of Criminal Courts in India.
20. Discuss the essential functions performed by criminal courts in India within the justice system.
21. Explain how reform and rehabilitation are incorporated into legal and punitive measures.
22. Evaluate the major challenges faced by the Indian prison system in achieving effective incarceration and rehabilitation.

Section D

Long Answer/Essay Questions

Answer any one the following questions. The question carries 10 marks (1x10=10marks)

23. Identify and examine crimes that target vulnerable segments of the population.
24. Critically examine the contribution of labelling theory to the understanding of crime and deviance within criminology.

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(CBCS - FYUGP) 2024-25 - Admission Onwards

SET - II

Time: 2 Hours Max Marks: 45

Section A

Objective Type Questions

Answer any 5 questions. Each question carries 1 mark (5x1=5marks)

1. Who introduced the term used to define the study of crime and criminal behaviour?
2. Which theorist argued that crime is influenced by multiple factors rather than a single cause?
3. What are the most serious crimes in the Islamic criminal justice system?
4. Who proposed the theory of social structure and anomie?
5. Which country was the first to introduce open prisons in the late 19th century?
6. Who stated that subcultural theory is based on the conflict of norms between different groups?
7. Which language is the origin of the term “Probation”?
8. Who is considered the Father of Crime Prevention?

Section B

Very Short Answer Questions

Answer any 5 questions. Each question carries 2 marks (5x2=10 marks)

9. Mention any two key characteristics of deviance.
10. List any two primary functions of criminal courts in India.
11. State any two important duties of a public prosecutor.

12. What is meant by violent crime?
13. Define Homicide
14. What is white collar crime?
15. Define concept of Penology
16. Define IPC

Section C

Short Answer Questions

Answer any 4 questions. Each question carries 5 marks (4x5=20 marks)

17. Discuss the organizational structure of the Indian police system.
18. Compare and contrast the Retributive and Reformative approaches to justice.
19. Explain the key steps involved in investigating and solving criminal cases.
20. Discuss the types and characteristics of open prisons.
21. Describe the main principle of the Deterrent Theory.
22. Critically assess the challenges faced by the Indian Prison System.

Section D

Long Answer/Essay Questions

Answer any one of the following questions. The question carries 10 marks (1x10=10 marks)

23. Critically examine the roles and responsibilities of the three main components of the Criminal Justice System in India. How do they interact to ensure justice is delivered?
24. Differentiate between probation and parole in terms of their legal provisions, objectives, and implementation mechanisms.

സർവ്വകലാശാലാഗീതം

വിദ്യയാൽ സ്വതന്ത്രരാകണം
വിശ്വപൗരരായി മാറണം
ഗ്രഹപ്രസാദമായ് വിളങ്ങണം
ഗുരുപ്രകാശമേ നയിക്കണേ

കൂരിരുട്ടിൽ നിന്നു ഞങ്ങളെ
സൂര്യവീഥിയിൽ തെളിക്കണം
സ്നേഹദീപ്തിയായ് വിളങ്ങണം
നീതിവൈജയന്തി പാറണം

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ജാതിഭേദമാകെ മാറണം
ബോധരശ്മിയിൽ തിളങ്ങുവാൻ
ജ്ഞാനകേന്ദ്രമേ ജ്വലിക്കണേ

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CRIMINOLOGY

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