

## **PREFACE**

In the curricular structure introduced by this University for students of Post-Graduate degree programme, the opportunity to pursue Post-Graduate course in Subject introduced by this University is equally available to all learners. Instead of being guided by any presumption about ability level, it would perhaps stand to reason if receptivity of a learner is judged in the course of the learning process. That would be entirely in keeping with the objectives of open education which does not believe in artificial differentiation.

Keeping this in view, study materials of the Post-Graduate level in different subjects are being prepared on the basis of a well laid-out syllabus. The course structure combines the best elements in the approved syllabi of Central and State Universities in respective subjects. It has been so designed as to be upgradable with the addition of new information as well as results of fresh thinking and analyses.

The accepted methodology of distance education has been followed in the preparation of these study materials. Co-operation in every form of experienced scholars is indispensable for a work of this kind. We, therefore, owe an enormous debt of gratitude to everyone whose tireless efforts went into the writing, editing and devising of proper lay-out of the materials. Practically speaking, their role amounts to an involvement in invisible teaching. For, whoever makes use of these study materials would virtually derive the benefit of learning under their collective care without each being seen by the other.

The more a learner would seriously pursue these study materials the easier it will be for him or her to reach out to larger horizons of a subject. Care has also been taken to make the language lucid and presentation attractive so that they may be rated as quality self-learning materials. If anything remains still obscure or difficult to follow, arrangements are there to come to terms with them through the counselling sessions regularly available at the network of study centres set up by the University.

Needless to add, a great part of these efforts is still experimental—in fact, pioneering in certain areas. Naturally, there is every possibility of some lapse or deficiency here and there. However, these to admit of rectification and further improvement in due course. On the whole, therefore, these study materials are expected to evoke wider appreciation the more they receive serious attention of all concerned.

**Professor (Dr.) Subha Sankar Sarkar**  
Vice-Chancellor

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## **Paper XII**

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# **Unit-1 □ Concept of Crime, Criminal and Criminology**

## **Classification of Crime : Crime as a Social Problem in India : Major Factors**

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**Structure :**

- 1.1 Concept of Crime**
- 1.2 Concept and Classification of Criminals**
- 1.3 Criminology**
- 1.4 Crime as a Social Problem in India**
- 1.5 Major factor Leading to Crimes**
- 1.6. References**
- 1.7 Exercises**

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### **1.1. Concept of Crime**

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Crime is associated from the very dawn of civilisation. Crime is almost common to every society. Nature of crime has been changed according to the changing phase of the society. Administration of “Rule of Law” postulated by Dicey and administrations of justice has evolved various processes to culminate crime in the civil society. One of the major objects of law is to protect the innocent and to punish the guilty. It provides a machinery for punishment of offenders under criminal laws for making the administration of justice fair and effective by avoiding all possible chances of error.

Crime are many and varied. The legal definition of crime is that it is behaviour or, an activity in violation of legal code. Paul Tappan (1960) has defined crime as an intentional act or omission in violation of criminal law committed without defence or, justification and sanctioned by the State for punishment as a felony or a misdemeanour. Following essential ingredients are manifested through this definition :—

- [1] The act should be actually committed or, it should be an omission of a legal duty, i.e. a person cannot be punished for his/her thoughts. Example : X on invitation from his friend Y went to Y’s house to dine with the members of Y’s family, During the time of the dinner X got a serious heart attack and died without any medical aid. Y did not get ample opportunity to call a doctor. Here Y cannot be held responsible any way as moral obligation to call a doctor. Moral duty

will not suffice for prosecution. But the situation will be different when a person runs a home or shelter for old-aged persons. An old-aged person falls sick and died without medical care. The owner of home for old-aged persons or, the shelter be responsible for omission of his legal duty to save the old person's life.

- [2] The act must be voluntary and committed when the actor has control over his actions. Suppose a person has a dog and he always keeps it chained. A neighbour's, child approaches the dog, teases it and throws stones at it. The dog breaks the chain and bite the child. The dog owner cannot be prosecuted. But in the reverse case, the dog-owner knowing well that the dog is in the habit of biting people, does not chain the dog. The unchained dog bites a visitor. The dog-owner will be held responsible and be prosecuted. The visitor can also file a case.
- [3] The act should be intentional, whether the intent be general or, specific. A person may not have specific intent to kill or injure another person, but he is expected to know that his action might result in injury or death or others. Thus, if he shoots a person even when having no specific intent to kill him, he commits a crime because he knows to well that his action might injure or, cause the death of a person.
- [4] The act must be a violation of a criminal law of the land. In a criminal wrong, the state brings an action against the accused wrong doer. It signifies a person who assaults another person can be prosecuted by the state as well as the assaulted person for damages.
- [5] The act should be committed without cause of defence and justification. If the act is proved to be in self defence or, to have been committed in insanity, it will not be considered a crime even if it causes harm to others.
- [6] The act should be sanctioned by the state as felony or, misdemeanour e.g. A child of 5 years of age who has killed his mother cannot be convicted for crime because the state has granted no penalty for a child of this age, even if the act is socially harmful.

### **Socio-Legal definition Crime**

The crime may be analysed from the stand-point of socio-legal or, social or, non-legal perspective. From stand-out of social view crime is that behaviour or, activity that offends the social code of a particular community. Mower (1959) has defined it as "an anti-social act". Cladwell (1956) has expounded it as "an act or, a failure to act that is considered to be so detrimental to the well-being of a society, as judged by its prevailing standards, that acts on against it cannot be entrusted to private initiative or, to haphazard methods but must be taken by an organised society in accordance with tested procedures." The legal or, non-legal definition of crime donot always coincide because the legal and social codes of



a society can often differ. For example, giving and taking bribes are both illegal, but in reality it is found to be prevalent in our society, even if it is within the knowledge of the rulers or persons who are at the high helm of the administration.

### **Thorsten Sellin (1938) View :**

Sellin propounded the cross-cultural aspect of crime. He said crime is caused by conflicts among norms. He suggested that criminologists should study crime not as “Violation of Law” violation of conduct or, norms”—which are the rules that prohibit persons from acting in a certain specified way in certain circumstances. Such norms are not necessarily embedded in criminal law, and if they are not, their violation should not be termed crime. Sellin further adds, to retain the term “crime” for the offence made punishable by the criminal law and to use the term “abnormal conduct” for the violation of norms whether legal or not.

Sellin further said to think of culture conflict as a conflict of conduct norms. Such conflict may arise as a result of a process of differentiation within a cultural system or area or, as a result of conflict or process of differentiation within a cultural systems or areas.

Sellin distinguishes between “Primary conflict” and “Secondary conflict”. The former is the conflict of culture and norms. When two different cultures clash, later occurs within the evolution of a single culture. For example, a man from Italy who while living in America killed a man who seduced his adolescent daughter. The father was arrested because in the United States it was a crime. But in Italy, such an act by a father was the expected behaviour for the purpose of defending the honour of the family. This is the apt case of conflict between the norms of two different cultures. The second type of conflict occurs during the normal growth of cultures from homogeneous to heterogeneous.

There are many other definitions of crime. Such as, statistical definition of crime by Wilkins (1964), a Labelling definition by Howard Becker (1963), Human Rights definition by Herman and Julia Schwendinger (1975) Utopian and Anarchist definition by Ian Taylor, Paul Watson, Jock Young (1973) etc.

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## **1.2. Concept and Classification of Criminal**

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Performer and Planner of crime is known as criminal. Sometimes laws are confronted as a habitual malicious practice. Ordinarily a Criminal means a person who commits a crime. This definition is apparent. Legally speaking, a criminal is one who is convicted by a court for violating the law of the land. A person who is arrested by the police and left off by the court cannot be designated as criminal i.e. technically the term criminal cannot be applied to one who has not been convicted of a crime. However the law has never specified whether the criminal status of a person ends after completing the term of imprisonment imposed upon him. A person who commits the crime and subsequently convicted by the court and completes the term of imprisonment is usually being stigmatised as criminal. Society is not always prepared to erase the label of criminal. In practice a person who is once labelled as criminal is often not permitted to forget that status. Those who commit crime as a matter of choice or, as a means of livelihood are few indeed. A

large number of criminals are victims of situations or, criminals by accident who entertain in the heart of their hearts the same ideal, the same hopes and the same ambitions which ordinary people have sometime people confronts Law out of ignorance or, out of compelling circumstance. For example, boarding a Railway train compartment without proper tick if is an offence. But under compelling circumstances people are to board into train compartment due to unusual delay in issuance of railway tickets.

### **Classification of Criminals**

Law does not specifically classify criminals. Sociologist have classified criminals into different heads analysing this different nature of crime. Criminals are basically classified as first offenders, casuals, habituals, professionals and white-colour criminals. However different criminologists, criminals on the basis of variegated features. Garofalo has classified criminals into four groups :- murderers, violent criminals, criminals deficient in probity and lascivious (feeling of lust) criminals. Another criminologist, Ferri has classified them as follows : the insane, the born, the habitual, occasional and the passionate.

Alexander and Stub have classified criminals as : the accidental and the chovonic. The accidental criminal is one who commits a single crime or, only a few crimes because of unusual circumstances, while the choronic criminals is one who commits crime repeatedly because of his association with criminals or, because of his anxieties, guilt feeling and personality conflicts (neurotic criminals) or, who are engaged in criminal behaviour because of an organic condition (Pathological criminal).

Apart from the above classification Ruth Cavan has classified criminals in the under-mentioned Six Categories :—

- [1] Criminal who are casual usually live in non-criminal world. They usually violates minor laws or, local laws.
- [2] Professional—who has taken the profession of crime and earned experties, skills. They earns their livelihood upon crime and develops a Philosophy in support of their crime.
- [3] Organised — (racketeer) who systemises his criminal activities just as the businessman does in case of his business.
- [4] Habitual — who repeats his crime.
- [5] Mentally abnormal whose committance of crime statisties his psychological needs.
- [6] Non-malicious, who is Law-abiding in terms of the norms of the own group and in general conforms to the laws of the larger society except in few cases where his small group norms contradict these laws.

### **Victimology**

The study of **Victimology**, includes the relationships between victims and offenders, the interactions between victims and the system which is entrusted of controlling crime in our society—

that is, the police and courts, and corrections officials. The study also includes the connections between victims and the various social groups and institutions, such as the Family, religion, business, and social movements. Victimology also deals with the significant issues related to human rights violations as well. In India victimology has no wide application because of political & judicial apathy stringency.

It is a very scientific way of analyzing a criminal act. It is a way to understand the trend of crime in a particular society and identify those factors which may be responsible to increase someone's chances of becoming a victim.

Victimology is crucial not only for awaring the citizens about the behaviours that may increase their chances of becoming victims, but it also helps those professionals working in the field of criminal justice, law enforcement and mental health. By a deeper understanding about the psychological effects that a victim often undergo the personnel who are engaged in the criminal justice system may become well equipped to deal with it with great competency.

Who is a victim- Any person who has been subjected to physical or emotional harm, property damage, or economic loss as a result of a crime is a victim.

Following individual may be considered as a victim—

- A person whose personal rights have been violated by criminal, violent or aggressive acts.
- Family and close friends of person(s) who have undergone an injury or killed as a result of a serious accident.
- Family and close friends of person who have been injured or killed as a result of crime.
- An individual who has viewed or been affected by a violent or traumatic incident;
- Family and close friends of person(s) who have been injured or killed as a result of a hostile situation.

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### **1.3. Criminology**

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Criminology has very steadily grown to meet the challenges of modern Complex Society. Crime is common to every society in some form or the other. Applied sociology deals with crime which hinders in social growth and destabilises the society. Criminology is a branch of applied and dynamic social science which studies crimes in different society and analyses the crimes and trace the reasons behind their committance criminology refers to scientific study of crimes from sociological point of view and from the legal science point of view so as to redress the social menace of crime and to dislodge criminality from man as far as practicable by applicable scientific methods and principles. Criminology also studies the weakening.

Criminology helps us to explain the characteristics of criminals and delinquents and their background (sex, age, marital status, education, occupation, income, motives, nature and psychological traits, residence etc to enable us to compare criminals with non-criminals. Thus from the

study of Criminology we gain some insight into possible causes of crime and also juvenile delinquency. It also indicates the kind of preventive and remedial measures. That are needed to cope with these problems.

Criminology also points out the weakening of motives for conformity to social norms and the disruption of social relationships and social bonds. The unrest is increasing almost in all sections of our society. There is unrest among youth, peasants, industrial workers, students, teachers, Government employees and minorities. Social unrest increases frustrations and strains which lead to violation legal and social norms. Criminology studies these social problems and crimes and suggests possible measures to seal these loopholes. That is why as a branch of applied social science and legal science criminology is so much important.

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## 1.4 Crime as a Social Problem in India

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A characteristic feature of Indian criminal scene shows an upward trend in organised crime and emergence of large-scale organisations for criminal activities. What is being systematically organised is the control and distribution of illicit goods and services—drugs (narcotics), girls for prostitutions (in India and in the Arabian countries), smuggling of gold etc. In addition to these, there are the organised efforts of mafia groups to control various legitimate business activities, such as coalmines, unions in industries and the like. Mostly organised crimes are found in cities and major towns.

Of the total crime committed in India every year, about 16.5 lakh are cognizable crimes under the Indian Penal Code (I.P.C.) including theft, burglary, robbery, dacoity, murder, riot, kidnapping, cheating, breach of trust etc and about 38 lakh are offences under the local acts and special laws like Dowry Prohibition Act, Gambling Act, Excise Act, Arms Act, Immoral Traffic Act, Narcotic Drugs Act, Explosive substances Act. All these statistics are gathered from the Report of Crime Bureau of India in 1993-94. By 2005-06 all these reported crimes have increased almost 2.2 times : This picture poses very alarming scenario in socio-political and economic fields. The rising graph of crime might cause alarm among the public but our police and our politicians remain unaffled about the deteriorating law and order situation.

The act of gender based violence, particularly violence against women is growing day by day whether at home, at work, on the street, at work place, in custody or, elsewhere. Some statistical data from Indian scenario will reveal the true picture.

*National Crime Record Bureau*—This Bureau is responsible for analysing the crime data and it is a part of the Ministry of Home Affairs, Government of India National Crime Record Bureau in a national repository of all Crime and Criminal information. It is framed with a Mission to empower. This bureau is responsible for training police force in various aspects of crime managements like crime record managements, computer related training, assessments of finger prints, sharing crime & criminal informations, the provide information for easier & faster analysis and to improve the service delivery system & make a safer crime free society : The Present Director of NCRB is ARK Kinni Crime.

### **According to National Crime Record Bureau, 2013 :**

- In 2012, Kerala highest Cognizable crime rate of 455.8 was reported; while Nagaland was recorded lowest amongst the state of India i.e. 47.7.
- Out of 92 women raped in India, every day one was from Delhi.
- According NCRB the total number of rape cases reported in India in 2013 was 33,707 in comparison to 2012 where the total number of rape cases was 24,923.
- The age of the rape victims of 15,556 cases were between 18-30 in 2013.

### **Violence against women may be categorised as :**

- |     |                    |   |
|-----|--------------------|---|
| [1] | Criminal Violence— | Rape, abduction, murder.  |
| [2] | Domestic violence— | Dowry-death, wife-battering, sexual abuse, maltreatment of widows and/or, elderly women.  |
| [3] | Social violence—   | Forcing the wife/daughter-in-law to go for female foeticide, eve-teasing, refusing to give a share to women in property. Harassing the daughter-in-law to bring more dowry. Causing other forms of domestic violence. |

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## **1.5 Major Factors Leading to Crimes**

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- [1] Acute poverty and social imbalance and lack of social security creates unrest among a section of people who are tempted to commit crime to get rid of dire poverty and social insecurity.
- [2] Gender specific violence is increasing due to failure of the society as well as the Government affirm dignity of women. Women are beaten, mutilated, burned, sexually abused and raped. To overcome the problem a massive education drive is required which should include sensitisation to common people, police, judiciary, legislators etc.
- [3] Disorganisation and disintegration of the family and society is another major factor for deteriorating social values which in turn leads to commission of crime and continuous suffering from social insecurities.
- [4] Environment in the work place also sometimes contribute to sexual torture.
- [5] Four important emotional abuse can also be identified as major factors leading to commission of crime. They are : poverty, 'deficient' parental control and non-co-ordial relations within family, maltreatment in childhood and alcoholism, drug addiction etc.
- [6] Illiteracy and lack of social commitment and social consciousness also accelerate crime.
- [7] Growing Lawlessness in the society.
- [8] Criminalisation of politics and political corruption also responsible for various types of corruption.

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## 1.6. References

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- (i) Ram Ahuja Sociology and Criminology.
- (ii) Neera Desai and Usha Desai—Women in Indian Society—National Book Trust of India, New Delhi
- (iii) Any book of IPC and GPC

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## 1.7 Exercises

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- (i) Define crime, criminal and criminology. State the reasons behind committance of major crimes in India.
- (ii) Classify the various crime. Suggest measures to control and prevent crimes for effectively combating social problem.
- (iii) State the nature of violent crimes committed against the women in India.

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## **Unit-2 □ Concept, nature and extent of Juvenile Delinquency in India, major factors, legal provision and Juvenile justice system, programme for control and prevention of delinquency**

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### **Structure :**

- 2.1 Concept, Nature and extent of Juvenile Delinquency in India**
- 2.2 Major factors**
- 2.3 Legal provision and Juvenile Justice System**
- 2.4 Programme for Control and Prevention of Delinquency.**
- 2.5 References**
- 2.6 Exercises**

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### **2.1 Concept, Nature and extent of Juvenile Delinquency in India**

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#### **(a) Concept :**

Juvenile delinquency is not the problem of ours and theirs. It cuts across the political boundaries. Juveniles, constitute almost one third of total population of every country. Juvenile delinquency is an universal problem. It is not ours or, theirs. It cuts across the boundaries of the countries. Juvenile delinquency has become a serious concern to Indian society and the administration like other countries. Since 1961, the Government of India has been postulating to redress the problem of juvenile delinquency through the promulgation of new legislation. Committance of crime by the child and young persons and corresponding penal measure was seriously considered by the Indian Government. It was also reflected through the Children's Act 1960 which is regarded as first and significant legislation in India concerning the children and the young persons and juveniles.

The Encarta Dictionary states that juvenile delinquents are young persons who habitually breaks the law, especially somebody repeatedly charged with vandalism or, other anti-social behaviour.

#### **(b) Nature :**

Juvenile Delinquency or, youth deviance is one of the major problems facing contemporary Indian society. Juvenile Delinquency refers to the violation of legal notion and social norm by a

juvenile that is a child. According to the Children's Act 1960, a child means a boy who has not attained the age of 16 years and a girl who has not attained the age of 18 years. The word "juvenile" is a traditional and conventional usage. The word "youth" is a contemporary usage. Thus crime or, violation of the law by a child or, young person is called juvenile delinquency.

The word "juvenile" has been derived from the Latin word 'Juveniles' meaning 'young'. The dictionary meaning of the 'Juvenile' is 'characteristics of youth' & "relating to young people." The word 'delinquent' comes from the Latin word "delinquere" meaning "to offend". The etymological sense of delinquency is unlawful, criminal anti-social behaviour or, illegal acts especially by young people. Crimes committed by children and adolescents under statutory age are referred to as delinquencies.

### **(c) Extent of Juvenile Delinquency in India.**

Juvenile Delinquency has been increasing steadily since last few decades. Juveniles have been found committing various forms of crimes like murder, violent form of activities, drug trafficking, sex violence etc. The trend of crime during the sixties showed a rise which has steadily increased from nineties into 21st century. In fact crimes recorded under the Indian penal code show that crime rates are increasing more rapidly than the population growth rate : Juveniles are held responsible for a small percentage of the total cognizable crime but this percentage is showing a sharp increase in recent years. The recorded rate of problem, however, does not reveal the full picture. There are many deviant problems which are unreported and it is certainly greater than the official delinquency rate. The hidden delinquency is more dangerous than the open deviance. This problem is of great concern to social scientists, social workers, policy makers, correctional administrators and the public since if it goes unchecked it could gravely endanger the social order and security of the people. The increasing Juvenile offences makes it essential that they are not mixed with adult ones but treated separately. The age factor shows that the antisocial behaviour of an illegal nature, often a minor criminal offence is the main type of Juvenile Delinquency. The onset of delinquent behaviour in children usually starts in the early teens and if goes unabated, continues upto adulthood.

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## **2.2 Major factors influencing Juvenile Delinquency**

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Juvenile delinquents usually commit minor crimes though they may assist adults in major felonies. In rare cases they may be involved in heinous offences like murder, manslaughter, armed robbery, rape, drug dealing etc.

The sex of the offender is another factor influencing Juvenile delinquency. Relatively fewer females are convicted of delinquency. Some possible explanations for this phenomenon are greater passivity of women, the greater exposure of men to crime—producing situations & differences in Cultural training. An additional factor is the greater leniency of police officials and courts towards female offenders. Other offences caused by juveniles include violating traffic laws,



using banned substances, damaging public property, petty theft etc. Recent technological progress has allowed for emergence of new types of crime involving the use of computers, Mobile phones, the internet etc. The young being more technologically advance, have been quick to adapt such criminal techniques.

In the general field of social sciences to search for a single cause for delinquent behaviour among criminals has long been abandoned causation of such behaviour is not due to one isolated factor but it is a multi-factored condition. Different patterns of crime require different causal examination.

The following factors have been identified as the major causes of Juvenile Delinquency.

- [1] **Biological Factors :** Individuals are not born as delinquents, yet studies and research point out that inheritance of unfavourable physiological & mental traits may increase the probability that a person will engage in illegal acts if he is exposed to life situations that encourage criminality. Volavka 1977, Kessler and Moss 1970 stated that people who behaved counter to prescribed social norms did so out of certain hereditary pre-dispositions. Nonetheless most experts and researchers believe that the entire problem of delinquency is social fact dependent on the structural content of society and the dynamicity of the prevailing laws. The causes which trigger anti-social acts are multidimensional and socio-psychological in character. The significance of heredity is most marked in cases of persistent criminality and in those cases where criminal tendencies are associated with personality defects.
- [2] **Physiological Factors** were first given prominence during the last part of 19th century by Lombroso, an Italian Physician, who advanced the theory that criminals possessed a greater number of physical traits of an atavistic or, apelike nature than did the general population. Among the 'Stigma of degeneration' listed were high pointed head, low and retreating forehead, large, outstanding ears. Damaging evidence against Lombrosian doctrine was presented in 1913 by Goring, the English investigator. More recently, the Lombroso theory of biological inferiority has been received by the American expert Hooten. His findings, however, have received limited acceptance and extensive criticism. Race as a biological factor influencing criminality also failed to exhibit a direct link.
- [3] **Social factors :** In the case of social sciences, it is pertinent to note, as social scientist have pointed out, that much law breaking activity has its roots in childhood development processes of the individual. The majority of offenders may be said to be individuals who at some point of time and in certain ways have failed to grow up & behave in the required manner. 3 major sources of influences during the formative period are—home, school and neighbourhood. The disruption of family life of delinquents is characterised by disorganisation, discord and general instability. Most researchers have found that delinquents are often non-delinquents, are reared in homes broken through desertion, divorce, separation or the death of one or, more

parents. Several psychiatrists stated that delinquents rarely come from happy homes with a wholesome emotional atmosphere. The making of a delinquent takes place during the individual's multi-dimensional propulsion into society. The need for psychological communication between the child and his parents calls for an overt expression of love and affection on part of the parents. Mere physical comforts do not necessarily fulfil the need of the child. The loosening of the joint family system has contributed in large measures in aggravating juvenile delinquency in India. Social disorganization is another important factor. Highest rates of delinquents are found in disorganised slum areas in and around the city centre.

- [4] **Economic Factors :** It has been observed that the majority of delinquents come from poor households whose adult members are either unemployed or, engaged in unskilled or, low-income occupations. This may be an incentive to offences against property. As a result of economic development and rapid industrialisation and social disorganisation has increased poverty, broken, neglected or, overcrowded homes, slum culture contributes to juvenile delinquency. A recent survey by the International Labour Organisation that there are almost 38 million child labourers in India. Many of them are exploited and exposed to crime leading to an increase in Juvenile delinquency. A similar situation is found in the street children many of whom are forced into prostitution, beggary and petty crimes. Indeed socio-economic factors are largely responsible for growing juvenile delinquency in India.

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## 2.3 Legal Provision and Juvenile Justice System

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Juvenile justice system is primarily-guided by the Juvenile Justice Act 2000 (Amended). The basic purpose of Juvenile Justice Act is to look into the care, protection, treatment. Development and rehabilitation of juveniles and delinquent juveniles. The major purpose of this Act is to see that a juvenile delinquent or, a child is not lodged in jail or, police custody even for 1 hour. This Act is a uniform legislation applied through out the country. The Act has been amended to attune the spirit of the minimum standard of the United Nations Organisation. One of the major objective of the J. J. Act is to secure unique blending between the Governmental activities to that of the Non-Governmental activities in dealing with the variegated juvenile problems including juvenile delinquent problem. The J. J. Act provides complete separate Judicial System for juvenile delinquents.

The problem of Juvenile delinquency, till recently confined to a few metropolitan cities has now become an all-India problem whose dimensions are growing rapidly. Treatment of juvenile delinquency is a state subject. It is administered by the welfare departments in states. The control of Juvenile delinquency depends upon judicial system of a nation. The system of Juvenile Justice is in fact a part of larger criminal justice system criminal justice means administrator & enforcement of Law & reinforcement of behaviour of criminals into pro-social being. It also involves the

making of Law, establishing of courts & deciding criminality of the individuals through the process of judge and jury.

The difference between the criminal justice system & the Juvenile Justice system is decided primarily by the age of an individual coupled with an assumption that a person below a certain age is incapable of having criminal intent. It is assumed that since children are incapable of criminal intent special punishment need to be given.

Juvenile delinquent is distinguished from the adult criminal in the following manner.

In most jurisdictions the cut-off point between delinquency and criminality is marked by age, usually by 18 years. Juvenile delinquents are generally considered less responsible for their behaviour than adult offenders & hence less culpable.

In the handling of a juvenile delinquent the emphasis is more on the youth personality and the factor that motivated his illegal act rather than his offence itself. The opposite is true of an adult offender.

Treatment of the Juvenile delinquent has been directed more towards the therapeutic programmes than punishment.

Although there has been recent modification by the Juvenile Justice Act 2000, the judicial process for a juvenile has been tended to de-emphasize legal aspects, of due process. It has been geared to a more informal and personalized court procedure : with this end in view the J. J. Act provides greater importance on the functioning of Juvenile welfare Board which takes all round care of the juvenile Particularly, delinquent juvenile.

The philosophy of Juvenile Justice system, according to Tappan, “is by no means a direct borrowing from chancery & common law” but on the contrary has emerged largely from the “Philosophy and techniques of modern case work” more particularly the ideologies of the child welfare movement considering the rights of the children and the devices that should be used to meet their needs.” Infact, the operation of the specialized juvenile court reflects the contemporary impact of case work.

To administer the Juvenile Justice system separate juvenile courts were established with the following essential characteristics—

1. A separate hearing for children cases.
2. Informal or, chancery procedure.
3. Regular probation service.
4. Separate detention of children in Homes (special).
5. Special Courts and probation records.
6. Provision for mental and physical examination.

The Juvenile court has to perform two functions one as a court of law and the other as a social

service agency. The role of the police is very important in the Juvenile justice system and part of the criminal justice. Police as an agent of the Government, is also suppose to discharge its obligation as agency of social control. In juvenile court Judges are also required to the sensitised properly so that they can consider the problem of juvenile delinquency more intensely.

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## **2.4 Programme for Control and Prevention of Delinquency**

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Control and prevention of juvenile delinquency is considered to be of paramount importance for the purpose of social control of crimes by teen agers. This is directly connected with the “Rule of Law” and administration of justice. For effective control economic, social, psychological matter be kept in mind by the appropriate authorities as envisaged by the J. J. Act 2000 and various forms of Psychopathic treatment be given to the accused. Parents of the delinquents be given family counselling treatments. Many experts believe that the cause of crime is best sought in the adjustment of the individual to his environment.

Prevention of juvenile delinquency involves the supression, removal or, minimisation of those problems which are the causal problems which are the casual factors of such delinquent behaviour in children. Prevention should ideally begin in the family environment where the child learns his first social skills. Family should provide a feeling of love, affection and security which are absolute necessity for the growth of healthy, integrated and whole personality. The child get satisfaction of his basic emotional needs and companionship of his parents with who he can identify and whom he can emulate. Similarly school which is another factor in socialisation.

Modern scientific researches reveal that if social and economic development go hand in hand then juvenile delinquency be automatically prevented.

Following measures be adopted to prevent and control Juvenile delinquency.

- [A] Family environment—Family environment should be such where parents will discourage anti-social tendencies in their children by maintaining a favourable atmosphere at home. They should guide their children is such a way so a moral training is automatically done to make them morally high.
- [B] Neighbourhood & peer group relation—In second phase of development of the children, their neighbour and peer-group relation plays and an significant part. Parents must be aware of the effect of these relationship.
- [C] The early discovery and treatment of potential delinquents, and guidance in the early stages. Prevents Juvenile delinquents from transforming into adult criminals.
- [D] Disorganised and disintegrated society also tends children towards delinquencies. Such slum area or, crime prone areas allures children to join in criminal activities.
- [E] Good Governnace and legal reforms also prevents juvenile delinquencies.

[F] Social and political environment must consider juvenile delinquencies as natural phenomenon.

In India, 40% or more of its one billion population are children. Therefore, the responsibility of the government to provide a child protective environment along with ensuring Child Rights becomes necessary. Children are the most vulnerable segment of our society. They need proper care and protection for their overall growth and development. The Constitution of India as well as the legal systems, provides several provisions for ensuring that the children are not deprived of their basic human rights.

There have been many acts which came up in our country to deal with children, in order to provide justice and secured life.

Some of these Acts are- The Apprentice Act 1850, Reformatory Schools Act, 1897, Indian Jail Committee (1919-1920), Children Act in Madras in 1920, The Central enactment, the Children Act, 1960 and finally on 22nd August, 1986.

*The Juvenile Justice Act 1986.*

This Act was enforced keeping in mind the Beijing Rule 1985. This Act prescribed that a boy who is 16 years of age and a girl who has attained the age of 18 shall be termed as a child. In this Act children were categorized as neglected as well as delinquent children. The juvenile welfare board dealt the neglected children while the Juvenile court became the adjudicating authority for the children who were delinquent.

After the United Nation Convention on the Rights of the child in 1992, there was an urgent need to review the JJ Act 1986 for the interest of the children, without restoring to judicial proceedings. In the year 2000 this law was replaced and stress was given on need for Care and Protection to both the categories of children. According to this Act any person who has not completed the age of 18 years shall be called a child. The Act gave the provision for treating the children in need of care and protection and children in conflict with Law separately through Child welfare committee and Juvenile Justice Board respectively.

Further in 2006 this Act again amended. The Act emphasised on special treatment and rehabilitation measures for the children and to plan effective mechanisms for extending care, protection and other support.

### **Need for Juvenile Justice Act 2015**

According to the National Crime Records Bureau (NCRB) data there has been a significant increase of offences committed by juveniles, especially in the age group of 16-18. One of the perpetrators in the Delhi gang rape of December, 2012 popularly known as the NIRBHAYA CASE, was few months short of 18 years' age and he was tried as juvenile. He was sent to reformation home for three years and was released in December 2015. This raised the public demand for lowering the age of juveniles under the act. This Act underwent some major changes like. It treats all the children below 18 years equally, except that those in the age group of 16-18 can be tried as adults if they commit a heinous crime.

A child of 16-18 years' age, who commits a lesser offence (a serious offence), may be tried as an adult.

A heinous offence attracts a minimum seven years of imprisonment.

A serious offence attracts three to seven years of imprisonment and a petty offence is treated with a three year imprisonment.

No child can be awarded the death penalty or life imprisonment.

It mandates setting up of Juvenile Justice Boards (JJBs) in each district with a metropolitan magistrate and two social workers, including a woman. The JJBs will conduct a preliminary inquiry of a crime committed by a child within a specified time period and decides whether he should be sent to rehabilitation centre or sent to a children's court to be tried as an adult.

The board can take the help of psychologists and psycho-social workers and other experts to take the decision.

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## 2.5 Reference

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- (i) Juvenile Justice Act — Asoke Mukherjee
- (ii) Ram Ahuja—Social Problems in India, Rawat Publication, New Delhi.
- (iii) Nature of Problems of Juveniles and Statutory Management by Dr. Reeta Vurma.

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## 2.6 Exercises

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- (i) State the major factors influencing juvenile delinquency in India.
- (ii) State the legal measures for effective control and prevention of juvenile delinquency problem in India.
- (iii) State the major objectives of juvenile justice Act 2000.
- (iv) What is meant by Juvenile Justice System.

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## **Unit-3 □ Emergency of Crime in Europe, Contribution of Cesare Beccaria, Jeremy Bentham, Enrico Ferri**

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**Structure :**

- 3.1 Emergence of Crime in Europe**
- 3.2 Contribution of Cesare Beccaria**
- 3.3 Contribution of Jeremy Bentham**
- 3.4 Contribution of Enrico Ferri**
- 3.5 References**
- 3.6. Exercises**

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### **3.1. Emergence of Crime in Europe**

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Emergence of the concept of crime and its development in Europe started from later part of sixteenth century. Industrial Revolution in England reverberated the corridors of the world history. Industrial Revolution has also consequent effect on the crimes particularly economic crimes in England and rest of the Europe. The classical school represented by Bentham and Beccaria came into existence as a result of barbarity and arbitrariness in the criminal law. Bentham, the English Philosopher, propounded the theory that greatest good for greatest number of people should be the ultimate object. Punishment must be at par with the offence and in no circumstances should not be more what is necessary in a case. Beccaria (1738-94) was an Italian nobleman and mathematician. He was terribly influenced by the principles of utilitarian hedonism propounded by Bentham. Beccaria was of the opinion that punishment try to strike a balance between illegal act of crime and punishment. He considered punishment also as a evil act. That much punishment also creates a reverse as well unwanted effect to the criminal and the society. Punishment should be inflicted only in the cases where it is absolutely necessary.

In the Nineteenth century there grew neo-classical school depending upon the appreciable contribution of Beccaria towards crime and criminal. This school was responsible for emphasizing that the mental element ought not to be ignored while dealing with certain types of offenders. As a consequence of which due protection was provided to the child and insane offender under the Penal Law and the Question of Premeditation or, lack of it, also became relevant in the commission of certain offences.

In the middle of nineteenth century gradually developed the positive school of Italy. Positive school focussed its attention many towards the personality of the offender and thereby

rejected the free will theory and by that time other postulations and theories provided back-ground preparations for the development of positive school and the stage was well set. The positive school owes its origin to the contributions Cesare Lombroso (1836-1909), Enrico Ferri (1858-1928) and Raffaele Garofalo (1852-1934). These criminologists and other contemporary criminologists analysed the crime from different angle of vision. They ignored external factors altogether or, gave them secondary importance. They considered physical, mental and biological factors as of prime importance in case of commission of a crime.

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### **3.2. Contribution of Cesare Beccaria (1738-94)**

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Cesare Beccaria immensely contributed to the growth of modern criminology : He was pioneer in the establishment of classical school of criminology which had four important principles. First and foremost the rights and liberties of an individual must be protected. Secondly all persons who commit the same crime should be punished alike. Third, crime is a judicial abstraction and therefore a definite penalty should be attached to each crime and invariably inflicted. Fourthly, Punishment should be limited by the social need, Cesare Beccaria and Jeremy Bentham are two noted contributors and propounders of classical criminology. Cesare Beccaria was an Italian thinker. He was terribly influenced by the writings of John Howard. Beccaria pointed the following fundamentals :-

(i) Human nature is rational, free and governed by self interest (ii) Social order is based on consensus and social contract (iii) crime is the infringement of legal code and norms of social norms (iv) distribution of crime is limited and to be ascertained through “due process”. (v) Crime is caused by an individual’s rational motivation. (vi) crime must be judged by a jury of one’s peers i.e. by other rational and equal individuals. The judges should be guided by a clear and systematic legal code and (vii) In punishing the offender, the Principle of “restraint” should be observed i.e. sentencing should be limited in applying a prior, agreed and fixed set of penalties.

Following are the essential ingredients of Beccaria’s classified theory :—

- [1] Basically man is purposive guided by the rationality and his behaviour is based on hedonism or, pleasure pain principle, that he consciously chooses pleasure avoids pain.
- [2] Each and every crime should not go unpunished but punishment should be limited to the actual injury caused to the public welfare by the criminal punishment outweigh any pleasure derived from commission of crime.
- [3] Punishment should not be very severe and deterrent and it should be proportionate to crime, predetermined, prompt and public. Torture should be abolished, more use should be made of imprisonment instead of corporal punishment and all arrangements should be made for a fair trial.
- [4] Law must be equally applied to all citizens.
- [5] Legislatures should clearly enact the law and prescribe specific punishment for its



violation judges should not interpret the laws according to their preconceived idea but should apply their free and judicial mind for the sake of justice they refer punishment accordingly.

- [6] Considering the loftiest contribution of Beccaria, he was regarded as a modern thinker. McDonald estimated that Beccaria laid emphasis on two basic causes of crime i.e. displorable economic conditions and bad laws. Beccaria emphatically mentioned that most of crimes on property is made by the people who economically insolvent and poor and they commit this crime out of necessity. Beccaria emphasised that a careful matching of the crime and its punishment be made, in keeping with general interest of the society. He discouraged imposition of severe punishment for a crime.

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### **3.3. Contribution of Jeremy Bentham (1748-1832)**

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Jeremy Bentham is regarded as a leading contributor and greatest thinker of classical school of criminology. Bentham emphasised on true good of the people. Bentham was physically challenged person since his early age. He wrote with abandon. He is stated to be to some extent excentric. Bentham sometimes compared to Adam Smith and stated that Bentham was to the field of law what Adam Smith was to the world of economics. Truly speaking Bentham was a reformer. He pointed out that Law has a distinguished part of science as well as arts. He stated that Public good ought to be the basis of reasing to legislator principles evolved in this score is science where as means of realising public good is the arts. He further pointed out legislation be based on the sound principle of utility.

Bentham's basic proposition greatest's good for the greatest number of people drew the attention of the consideration section of legal luminaries through out the world. Beccaria join with Bentham to boost up and propound this idea more concretely through Pseudomathematical concept the called "felicity calculus". The "Calculus" was intended a means of estimating the goodness or, badness of acts. Law at that time was mostly disorganised and contradictory. Bentham intended to make the law an efficient, indeed economical and means of preventing crime. Like Beccaria, Bentham insisted that prevention was the only justifiable purpose of punishment and furthermore that punishment was too "expensive" when it produced more evil than good, or, when the same good could be obtained at the price of less suffering. Bentham published his celebrated works "The principles of Moral and Legislation" first in year 1789. Through his works he reconmended that penalties be fixed so as to impose an amount of pain the excess of the pleasure that would deter crime. Bentham recommended that capital punishment would be inflicted only in the case which created highest degree of shock in the public mind. He was against the punishment of hanging as it was an act of cruelty and strongly recommended that capital punishment be given only in cases of crime which created maximum effect.

Bentham's propositions are not free from contradictions and he has unusual ideas about

imprisonment. He spent most of his life trying to convince authorities that an institution of his design, called the “Panopticon Prison” would solve the Problem of correction. In the latter part he developed his ideas and recommended for establishment of the office of public prosecutor. He stressed the point that crimes are committed against the society not the individuals. He argued that many crimes were imaginary rather than real offences, suggesting for example, that “offences which originate in the sexual appetite, when there is neither violence, fraud, nor interference with the rights of others and also offences against one’s self, may be arranged under this head. He strongly argued that offences against society must be covered through the appropriate formulation social policy and law. In fact, understanding Bentham requires more examination of the thoughts and principles he propounded with intense desire. Actually he showed us the way to study crime and its due prevention for social and public good.

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### **3.4 Contribution of Enrico Ferri (1856-1929)**

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Enrico Ferri was a legal philosopher of nineteenth century. He is infact the leader of the positive school of criminal sciences which attempted to explain crime “in its reality on a scientific bases.” Enrico Ferri expressed his view point in his great work “New horizons of criminal law and Penal procedure”. In the completion of this great works he drew inspiration of the thought of Lombroso. Ferry’s commendable works on mainsprings of human behaviour published in 1878—a 476 page dissertation, titled as “The Denial of Free will And The Theory of Imputability.” Ferry suggested to identify and understand. Crime a serious study of the manifold causes is require. Surface study of the problem will not do any good to the social malady. Depending upon his grave concern. Ferry stated that factors of crime be classified into (a) individual on anthropological (b) Physical or natural and (c) social.

Enrico Ferri emphatically said that crime is the result of biological, physical and social conditions. Ferri gave 5 classifications of criminals :—

- (i) Criminal lunatics
- (ii) Criminal born incorrigibles
- (iii) Habitual criminals from acquired habits.
- (iv) Occasional criminals and (v) Emotional criminals.

We deeply consider modern times the term ‘social defence as means of prevention of crime. This term was used first by the Enrico Ferri of the Positivist school. Social defence means and includes the following (a) the personality of the offender. (b) The Penal Law (c) the manipulation of environment for social betterment as well as prevention of crime. Social defence presupposes that the means of dealing with crime should be conceived as a method of protecting society, rather than punishing the individual.

He pointed out that the protection of society can better be accomplished by rehabilitation and socialization than by punishment and vengeance. The method of social protection,

he mentioned, the neutralisation of the offender, either by removal and segregation or, by applying remedial and educational methods Ferri suggested various ways of removing Biological and social abnormalities of the individual. He stressed the need of the study “Criminal Social Pathology.” Ferri also developed the idea of preventive measures, such as free trade, abolition of monopolies, build and accommodation, for men’s dwelling, freedom of marriage, public savings bank, better street, lighting, public recreation and others. Detection of criminals was also part of Ferri’s catalogue of practical reforms. He recommended the application of another efficient instrument of Police enquiry, the sphygmograph. Close to the end of life Ferri proudly admitted that he was an idealist, for him life without an ideal is not worth living.

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### **3.5. References**

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- (i) Crime as social control—American Review by Black, Donald and Albert Reiss.
- (ii) Modern Criminology—John Hagen, McGraw Hill Book Company.

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### **3.6 Exercises**

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- (i) State the contribution of Jeremy Bentham.
- (ii) Why Enrico Ferri suggested to identify and understand crime as a serious study.
- (iii) Trace the contribution of Cesare Beccaria in growth of modern criminology.
- (iv) State process of emergence of crime in Europe.

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## **Unit-04 □ Emergence of Crime in North America, Theories of Crime**

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**Structure :**

- 4.1 Introduction**
- 4.2 Emergence of Crime in North America**
- 4.3 Theories of Crime**
- 4.4 Exercises**

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### **4.1. Introduction**

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Crime is a common phenomenon in each and every society. Hence concept of crime and consequent development of criminology become a subject of serious study and observation to every society. Crime is stated to be an indicator of social progress. The crime can tell us about the society we live in. Thus the way in which a society responds to crime can tell us much about what the society values and disvalues, what the society sets in priority and how society strives to main social stability through Law and the administration of justice and between the achievement of social order and personal freedom. The rise and decline of particular kind of crime can tell us much about the way a society is changing and with what consequences. Similarly, the social location and distribution of different types of crime and the strategies used in their control, can reveal a great deal about how a society is organised and about whose interests its organisation serves. Thus the purpose of criminology is not simply to solve the problem but suggest remedial and preventive measures. Crimes in North America is of manifold involving social, moral and economic crimes. North America is a developed country with decentralised economy. Since its independence from 1776 for almost during 230 years it had to witness varigated form of crimes. And as a natural consequence the vast country had given birth many renowned schools of criminology which have during the passage of time endeavoured to institutions on sound footing to give the world new light on criminal science and criminology and relevant criminal law.

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### **4.2. Emergence of crime in North America**

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#### **Dr. William Henry and the Child Guidance Clinics**

In American child guidance clinics provided positivist roots for dealing with Juvenile problems. Dr. William Henry established first “child guidance” clinic in 1909 in Chicago. The work of the

clinics was organised on a case study approach, involving a psychiatrist, physician, psychologist and social worker to collect information on the “multiple causes” of individual cases of Juvenile Delinquency. Healy published an account of his methods and findings in 1914, under the appropriately positive title, “The Individual Delinquent”. Healy’s work became a model for establishment of such clinics in a number of major cities. Healy is considered to be a pioneer in establishing child guidance clinics in massive scale.

Another land-mark event in the history of juvenile study in America in the National Conference of Criminal Law and Criminology which was held in the year 1909 at the law school of North Western University. The conference was attended by various noted personalities from the field of sociology, psychiatry, medicine, penology, criminology and distinguished members of the Bench and the Bar of the criminal courts. Another important Institute came into being in the year 1920. The name of the Institute is American Institute of Criminal Law and Criminology. Subsequently their “Journal of Criminal law and Criminology was published to highlight and analyse various problems pertaining to Juveniles and Juvenile delinquency. This publication continued for almost seven decades. The Institute considered it as a prime task to publish various works of European criminologists and psychiatrists including Ferri and Lombroso. The first American text book on crime written for academic use was authored by Maurice Parmelle in 1981. Although Richard Quinney (1975) creolits Parmelle’s criminology with focussing attention more clearly on sociological aspects of crime. From the beginning the fields of sociology and criminology were closely linked in North America (clinard) 1951) and both were product of what is called the “progressive era” in American History (Gibbons, 1979). The progressive era was characterised by a growing awareness of the harsh social consequences of American’s rapid industrialisation and urbanization.

The names of Edwin Sutherland’s and John Gillin deserve mentioning. Midurstern roots of American Criminology exactly through these two great personalities. In 1924 Edwin Sutherland published “Criminology” and 1926 John Gillin published criminology and penology. Southerland received doctorate from the University of Chicago and spent most of his career at Indiana University. Actually various social theories for dealing juvenile problems of scientifically given during twentieth century. It is known as modern era in study and explanation various psychological social problem and criminal problems, sociol-legal problems.

### **The Chicago School**

The Chicago school is an esteemed institution in generating real coherence and sustained development in the field of criminology and social psychology. Since 1920 eminent sociologists Robert Park, Ernest Burgess and W. I. Thomas Park, all were attached to Chicago University. Department of Sociology. They all contributed to development and study of social psychology concerning the child and juvenile and juvenile delinquency. Criminal research came into full flourish in Chicago in 1930. Two giants of this period were Clifford Show and Henry Mcjat. They continued their scientific research in the child guidance clinic emphasising greatly on social disorganisation and its effect on juvenile delinquency.

Show and Mckay (1931, 1942) found that Juvenile Court referral rates followed a gradient through the zones; that is the rates were highest in the inner-city or, code areas and declined with distance outward from the city-centre. It could better be said that the research of Shaw and Mckey influenced and eventually was influenced by various contemporary theories added with Mckey and Shaw to give new shape to the Chicago School and the Gang provided an important antidote to an increasingly grim portrayal of the urban criminal and delinquent.

### **Conflict and Contradictions in the Study of Crime**

The initial stage of the study of North American Criminology was positivist in character—emphasizing and focussing on criminal behaviour more than criminal law, on determining causes of such behaviours, and on differentiation of criminals from non-criminals—more recent event have seen a return of criminological interest to its classical roots, with a particular focus on the role of criminal law in generating legal labels that may constitute the clearest distinctions which exist between criminals and non-criminals. This embarks upto analytical study of the criminals and their crime pattern.

It is agreed on all hands that criminology as a subject of study and observation and analysis is continually changing. An important change in criminological work has been a disagreement about the role that process of consensus and conflict play in our society, particularly in the definition of crime and in the role that criminologists should play in influencing these events. Many of the early criminological theories were premised on the implicit assumption that there is a consensus of values and interests in the definition of crime. Recall, for example, that Garofalo of “natural crimes” that violated two basic “altruistic sentiments”. The assumption was that these sentiments were widely shared and reflective of mutual interests in all parts of society. In recent years this assumptions has been questioned in a variety of ways and often replaced by the assumption that values and interests, particularly between social and economic classes, are in conflict (e.g. Turk-1969, Quinney 1975). This had led to a renewed interest in the criminal law, and to a questioning to a social and economic purposes to which the criminal law is put.

In consequence of the discussion in the foregoing paras, the study of crime, often called the “new” “critical” or “conflict” criminology. It is to be remembered that this type of demand has led to some very serious conflicts among academic criminologists themselves, particularly involving the roles they should play in modern society. One way of understanding these conflicts is to note how they developed in the United States, particularly in the School of Criminology at Berkeley and more generally in Britain.

### **Conflict between Berkely and Britain**

The School of Criminology of Berkely opened on 1949 with no anticipation of the turbulence that would eventually follow. During the first decade of its existence it offered a strong vocational emphasis, with most of its programme directed to the training of persons to work, particularly at the administrative levels, the law enforcement and correction agencies, criminology was

expected here to influence government policy by influencing the very people who would carry out. However, by 1961 the school came under attack from the university for being too vocational. The eventual outcome was a reorganisation of the school on an interdisciplinary basis that was to be more theoretical and academic in character. The new orientation that persisted for much of the second decade of the school's existence focussed on social scientific and legal approaches to the study of crime. As well, the emphasis of the school's programme now shifted from undergraduate to graduate instruction. This had implication to the teachers. Researchers as well government law policy makers. Three British criminologists—Ian Taylor, Pol Walton and Jock Young—authored book titled “The new criminology” (1973) which again called upon criminologists to assume more and more active role, this time in ending the part played by the state in defining “human diversity” as crime. In its place, the new criminologists called for a “crime-free society” based on “Socialists diversity.”

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### **4.3. Theories of Crime**

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Theories developed in the early and mid nineteenth century examined the question “why”. The theories of under control try to explain, “would any one violate rules of social conduct that nearly all of us accept? The theories talk about how and why some of us are beyond or, out of control. Thus the theories we consider here can be regarded as “consensus theories” and why exist in opposition.

There are at least three kinds of theories and each explains lawbreaking in different way.

#### **(a) Social Disorganisation Theory**

This theory originated from the Chicago school and the work of several of its most important members. W. I. Thomas; Fredrick Thrasher and Clifford Shaw and his associates. Prominent in the work of all the early Chicago criminologists was the idea of social control. Like Durkheim, these theories believed that it was the absence or, failure of controls that explained deviant behaviour.

W. I. Thomas and the unadjusted Girl/Women :—Social control is necessary according to Thomas (1923), because there is an inevitable contradiction between the wants and needs of individuals and society. In particular, individuals pursue their wishes for four things—(a) Security (b) New-experience (c) Response (d) Recognition—while “an organised society seeks...to regulate the conflicts and competition inevitable between its members in the pursuit of their wishes.” The instruments of social control or regulation are “definitions of situations these comprise a moral code that for Thomas are society's defence against social disorganisation. However Thomas also observed that modern, urban, capitalist societies are characterised by competing and socially disorganising definitions of individual behaviour, including such ideas as “women's right?” Thomas

saw young women seeking new opportunities previously unavailable settings. This movements away from the home and its primary relationships was seen as weekending traditional social controls and subjecting young women to conflicting definitious of situations.

Thomas was interested in using these ideas to explain the involvement of young women in prostitution.

In the unadjuisted girls, Thomas argued that the process of social change that were occurring in cities like Chicago were destroying older social controls and the force of definitions favouring such ideas as “virginity” and “puberty”. Particularly for young women whose economic resources are limited, Thomas argued that sex now took on new condition of the realization of other wishes. It is their capital. Thus Thomas saw sex as a medium through which improvised young women could achieve their wishes for security, new experience and response. In fine postutation was seen as a product of the socially disorganising forces of the city. The theories of social disorganisation saw informal society as requiring formal control that is laws to take their place.

#### **(b) Differential Association Theory—**

Edwin Suther Land, Propounded the “Differentist Association” theory. According to this theory, individual learn the values, attitudes, and motives for criminal behaviour through interaction with others. This theory in one of the major theories of deviance. Although this theory deals with how an individual becomes a criminal, but it does not focus on the cause of becoming a criminal. The theory Suggests that criminal behaviour is learned, in interaction with other people through communication. In most of the carear such interaction takes place within intimate personal group. The learning of the criminal behaviour may include techniquer of Commetting the crime, which are guided by some kind of drives, attitudes & motives. There drives or motives in learned from definition of legal codes an favourable or unfavorable. The process of learning of criminal behaviour in just similar to learning of any other type of behaviour. The theory also emphasis that it may very in frequency, priority or intensity. Thus this theory does not take into account the personal traits and only based on the influence of environment the individual.

#### **(c) Social Control Theory**

The theory of Social control though does not deal with the cause of crime, but its main four is an how to make the people of a society to obey the Social norms. Travis Mirschi, viewed that due to strong social bonds, people obey the rules and regulation of the society. The social bonds includes Attachment, commitment, involvement and Belief.

This theory complains, that if peiple’s relationship within the society is strong enough, then it is more likely that people will obey the law but if these relationship are weak, there right be occasions, where the laws may not be obeyed. Further it suggests that, lack of commitment to a particular life style lide marriage etc, may lead to duration from lifestyle. Therefore if a person is motivated to be engaged in law abiding behaviour, and is socialised to obey the expected social norm, then the chancer of involvement in crime will reduce.



(d) Labelling Theory—Labelling theory explains that, people's behaviour is greatly influenced by how they are labelled by others. This theory is an important approach for understanding delinquent behavioral patterns. Criminal act is designated as deviant in nature by the people who are in power and formulate Laws. These powerful group of people, formulate, execute & apply brands or labels on the subordinate group, as according to them they break the rules of the Society. Eg. Amongst the rich & affluent societies, the act of breaking window glasses, climbing up into neighbour's yard by children may be tagged as "Innocence" or "Naughty", However; if same act is done by children who belong to Socio-Economically poor Societies, they are branded or labelled as "Juvenile Delinquents."

Once an individual is labelled as deviant it becomes difficult to remove it. They are considered as criminals and are never trusted in the future. Even the individual accepts the fact as and acts that way.

Another point that may draw our attention, as being the students of Social Work, is that even if an individual who was in a correctional home for committing some crime, & gets released, is still labelled as "ex-criminal". They are not accepted by the Society even though they repent on what they did & does not commit any further criminal act.

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## 4.4 Exercises

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- [i] State the contribution of Dr. William Henry and the child guidance clinic in the context of emergence of crime in North America.
- [ii] Trace the growth and development of THE CHICAGO SCHOOL.
- [iii] State the proposition W. I. Thomas in connection with unadjusted girl/women for social control.
- [iv] Write short notes on social disorganisation theory & Labelling Theory.

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## **Unit-05 □ Concept and Importance of Correctional Service, Correctional Legislation—IPC, CR PC, Prison Act, Reformatory School, Probation of offenders Act.**

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### **Structure :**

- 5.1 Concept, and Importance of Correctional Service**
- 5.2 Importance of Correctional Service**
- 5.3 Correctional Legislation**
- 5.4 Prison Act**
- 5.5 Reformatory School**
- 5.6 Probation of Offenders Act 1958**
- 5.7 Reference**
- 5.8 Exercises**

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### **5.1 Concept and importance of correctional service**

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Corectional service has been widely accepted in all developing countries. Social psychologists, social scientists, criminologists led to the developments of the concept of correctional service. This concept got wide acceptance in the early part of 20th century. Cesare Lombroso (1836-1909) is regarded as the father of modern criminology. He was the first to employ scientific method in explaining criminal behaviour and he shifted the emphasis from criminal act to criminal man : He developed the idea of classification of criminals. He was quite confident in the belief that many of criminal may be transformed into ideal citizen if scientific correctional methods are applied.

The Indian administration of criminal justice system began to assume new form and dimension with the advent of British. The East India Company was interested in reforming the criminal justice system. Lord Macaulay drew the attention of the British Government towards terrible conditions of the jails and on his recommendation a jail committe was set up in 1836. The committee gave a number of recommendations but rejected any reformative programme. The 2nd jail committee was set-up in 1864 which also gave a number of recommendations, especially for the space of living, diet, clothing, bedding and insisted on regular medical inspection. The Indian Prison Act was passed in 1870. The 3rd and 4th All India Jail Committe were appointed in 1877

and 1889. The Reformatory School Act was passed in 1897. In India 'Probation' received statutory recognition for the first time in 1898 through section 562 of the code of criminal procedure 1898 (now section 360 of CR PC 1973). Under the provision of this section the offender convicted for the 1st time on charges of theft, dishonesty, misappropriation or, any other offence under the Indian Penal Code would be punishable with not more than 2 years imprisonment and could be released on probation of good conduct. The 6th ALL INDIA JAIL COMMITTEE 1919 observed that the aim of Penal administration is the Prevention of future crime and the restorations of the criminals to society as reformed character. The report has laid down the foundation stone of modern penal system in India. The enactment of Brostal Act, Probation Act and the Provisional release Act are the result of desire for reformation and bringing back the offenders to the main stream of the Society.

After Independence, the Constitution of India provides elaborate provisions for reformation of offenders as well prison to give effect of Article 21 of the Constitution of India.

In 1957 All India Jail Manual Committee was set up and National Institute of social Defence was set up in 1961-62. The Juvenile Justice Act enacted the Parliament provides for the laying down of the uniform legal frame for Juvenile Justice in the country so as to ensure that no child under any circumstances is lodged in jail or, police lock-up. With this end in view provisions have been made for establishing Juvenile Welfare Boards and Juvenile courts. Universal Declaration of Human Rights, and civil liberties movement further encroached the arena of criminal justice system to ensure human rights amongst offender and prisoners.

National Human Rights Commission has time to time made significant recommendations on all matters of Criminal Justice system including the (i) the investigating agency (ii) the prosecuting agency (iii) the justice delivery system in the court (iv) the correctional services or, the Jails. It has been revealed that the prosecution system, after separation of the executive from Judiciary in 1973 has remained unstructured and lacks accountability.

On receipt of recommendations, of the National Human Rights commission, the government has a recently appointed a 6 member committee headed by Justice Malimath to suggest measures to improve the criminal justice system. Major recommendation all above noted 4, segments of criminal justice system. It has been emphasised a paradigm shift of criminal justice system will be quest of truth and not just assessor of evidence. The Judge must play the significant role and the police as the investigative and law enforcing agency need to be insulated from political and other extraneous influence. Finally the recommendation stressed the need of main streaming the offers and the criminal and giving them the basic human rights.

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## **5.2 Importance of Correctional Service**

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Correctional service has gone tremendous change due to continuous research work of social psychologists, social scientists and criminologists. Correctional services include prevention

of criminal activities through government departments, police and voluntary organisations. Prevention can be punitive, corrective, reformatory or, rehabilitative in nature. This requires effective concerted effort of all the government department. It also includes probation. Co-ordination among all the department for correctional service has got tremendous bearing on criminal justice system.

Correctional service further reveals that justice is not to punish criminals or offenders only. It essentially aims to reasserting fundamental principal of a just society. Since crime involves not only criminals but the victims and the society as well. Effective correctional service takes a comprehensive view of the individuals involved as well the circumstance that provide backdrop for such a crime. Correctional service has imbibed the understanding of the causation of crime. Crime causation theories are now closely linked with Anthropology, Psychiatry, Sociology and Social Psychology. There has been systematic and purposive attempt to know the criminal and to regulate their behaviours for main streaming.

In this context the contribution of Barker ought to the remembered Barker defines corrections as the attempt to transform offenders into non-offenders through imprisonment, probation education programmes and social service. Thus the emphasis has been shifted from retribution of the offenders. It is also pertinent to mention that increasing awareness of civil liberties and human rights have led to the development of correctional services leading to institutional and non-institutional methods for reforming the offenders with a view to reinstate them to the main stream of the society.

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## **5.3 Correctional Legislation**

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History of correction legislation in India date back to British regime. English common law system and criminal law and procedure had direct penetration into Indian law and correctional laws. Exactly codification started from British rule. They strictly imposed criminal laws and procedure to all Indians regardless of their caste, colour, religion, race, language, etc. Reformers welcome these progressive measures.

The Indian Penal Code (IPC) was enacted in 1859 and criminal procedure code was enacted in 1860. These were later amended after independence. “The code of criminal procedure 1973 came into force on 1st April 1974. This legislation deals with legal procedures on investigation, bail, conviction, punishment etc. This code is applicable in all states of India except part of Assam, Nagaland, Jammu and Kashmir. It aims to punish offenders and administer justice.

Major provisions of section 125 of Cr PC, 1973 are complaint of wife if she is not maintained by her legally married husband. Section 125 also includes change of circumstances for wife for receiving or, maintenance and other remedial measures. The criminal procedure code distinguishes between cognizable and non-cognizable offence, bailable and non-bailable offences. Sec 493 to 497 of the IPC deals with rape which is a non-cognizable and non-bailable offences. In amended Cr PC 1973 probation has social ...recognition under 360. Under for provision of

the section, an offender convicted for the first time of theft, dishonesty, misappropriation or, any other offence under the IPC Punishable with not more than two years imprisonment could be released on probation of good conduct.

Amendment to IPC acts on prostitution. Prevention of Immoral Traffic Act 1988 provides that prostitution itself is not an offence but soliciting in public places is punishable. Rehabilitation facilities for the prostitutes are almost “non-existent” and life for rescued “women” often turn into a nightmare. The Supreme Court in Upendra Baxi Vs State of U.P. (1986) 4 (Scc 06) issued guidelines to enforce human rights of protective home inmates changes in IPC and Cr PC has brought about significant change in correction services as well as correctional administration.

**As the students of Social work we must know the following sections of IPC**

**Section 302 in The Indian Penal Code**

302. Punishment for murder.—Who ever commits murder shall be punished with death, or [imprisonment for life], and shall also be liable to fine

**Section 306 in The Indian Penal Code**

306. Abetment of suicide,—If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine

**Section 307 in The Indian Penal Code**

307. Attempt to murder.—Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to—(1) [imprisonment for life], or to such punishment as is here in before mentioned. Attempts by life convicts.—(2) [When any person offending under this section is under sentence of [imprisonment for life], he may, if hurt is caused, be punished with death.]

**Section 304B in The Indian Penal Code**

304B. Dowry death,—

Where the death of a women is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called “dowry death”, and such husband or relative shall be deemed to have caused her death. Explanation.—For the purpose of this sub-section, “dowry” shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.]

### **Section 313 in The Indian Penal Code**

313. Causing miscarriage without woman's consent.—Whoever commits the offence defined in the last preceding section without the consent of the woman, whether the woman is quick with child or not, shall be punished with i[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

### **Section 314 in The Indian Penal Code**

314. Death caused by act done with intent to cause miscarriage.—Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; If act done without woman's consent—And if the act is done without the consent of the woman, shall be punished either with I [imprisonment for life], or with the punishment above mentioned. Explanation—It is not essential to this offence that the offender should know that the act is likely to cause death.

### **Section 354 in The Indian Penal Code**

354. Assault or criminal force to woman with intent to outrage her modesty.—Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

### **Section 358 in The Indian Penal Code**

358. Assault or criminal force on grave provocation.—Whoever assaults or uses criminal force to any person on grave and sudden provocation given by that person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both. Explanation.—The last section is subject to the same.

### **Section 361 in The Indian Penal Code**

361. Kidnapping from from lawful guardianship.—Whoever takes or entices any minor under i[sixteen] years of age if a male, or under 2[eighteen] years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship. Explanation.—The words “lawful guardian” in this section include any person lawfully entrusted with the care or custody of such minor or other person.

### **Section 366 in The Indian Penal Code**

366. Kidnapping, abducting or inducing woman to compel her marriage, etc.—Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may

extend to ten years, and shall also be liable to fine; i[and whoever, by means of criminal intimidation as defined in this Code or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable as aforesaid

### **Section 366A in The Indian Penal Code**

366A. Procurement of Minor girl.—Who ever, by any means whatsoever, induces any minor girl under the age of eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years, and shall also be liable to fine.

### **Section 375 in The Indian Penal Code**

375. Rape.—A man is said to commit “rape” who, except in the case here in after excepted, has sexual intercourse with a woman under circumstances falling under any of the six following descriptions—

*(First)* : Against her will.

*(Secondly)* : Without her consent.

*(Thirdly)* : With her consent, when her consent has been obtained by putting her or any person in whom she is interested in fear of death or of hurt.

*(Fourthly)* : With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

*(Fifthly)* : With her consent, when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

*(Sixthly)* : With or without her consent, when she is under sixteen years of age.

**Explanation** : Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

**(Exception)** : Sexual intercourse by a man with his own wife, the wife not being under fifteen years of age, is not rape.

### **Section 376 in The Indian Penal Code**

1. Who ever, except in the cases provided for in sub-section for (2), commits rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than seven years, but which may extend to imprisonment for life, and shall also be liable to fine.

2. Who ever,—

- (a) being a police officer, commits rape—
  - (i) within the limits of the police station to which such police officer is appointed; or
  - (ii) in the premises of any station house; or
  - (iii) on a woman in such police officer's custody or in the custody of a police officer subordinate to such police officer; or
- (b) being a public servant, commits rape on a woman in such public servant's custody or in the custody of a public servant subordinate to such public servant; or
- (c) being a member of the armed forces deployed in an area by the Central or a State Government commits rape in such area; or
- (d) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution, commits rape on any inmate of such jail, remand home, place or institution; or
- (e) being on the management or on the staff of a hospital, commits rape on a woman in that hospital; or
- (f) being a relative, guardian or teacher or, or a person in a position of trust or authority towards the woman, commits rape on such woman; or
- (g) commits rape during communal or sectarian violence; or
- (h) commits rape on a woman knowing her to be pregnant; or
- (i) commits rape on a woman when she is under sixteen years of age; or
- (j) commits rape, on a woman incapable of giving consent; or
- (k) being in a position of control or dominance over a woman, commits rape on such woman; or
- (l) commits rape on a woman suffering from mental or physical disability; or
- (m) while committing rape causes grievous bodily harm or maims or disfigures or endangers the life of a woman; or
- (n) Commits rape repeatedly on the same woman, shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

**Section 405 in The Indian Penal Code**

405, Criminal breach of trust.—Who ever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing



the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits “criminal breach of trust”.

#### **Section 417 in The Indian Penal Code**

417. Punishment for cheating—Who ever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

#### **Section 420 in The Indian Penal Code**

420. Cheating and dishonestly inducing delivery of property.—Who ever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

#### **Section 441 in The Indian Penal Code**

441. Criminal trespass.—Who ever 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”.

#### **Section 494 in The Indian Penal Code**

494. Marrying again during lifetime of husband or wife.—Who ever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

#### **Section 497 in The Indian Penal Code**

497. Adultery.—Who ever has sexual intercourse with a person who is and whom he know or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punishable as an abettor.

#### **Section 498A in The Indian Penal Code**

498A. Husband or relative of husband of a woman subjecting her to cruelty,—Who ever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. Explanation—For the purpose of this section, “cruelty” means—

- (a) any willful conduct which is of such a nature as is likely to drive the woman to commit

suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

- (b) harassment of the woman where such harassment is with a view to coercing her or any person relate to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

## **Crpc**

**Under the code of criminal procedure Act the offences are categorized in the following way**

### **Cognizable and Non-cognizable Offences**

Cognisable offence refers to the kind of offence where a police officer has the authority to make an arrest without a warrant any may even start the investigation with or without the permission of a court. Usually the crime committed is of a serious nature and usually carry a sentence of 3 years or more.

On the other hand, in the case of a non-cognisable offence, a police officer does not have the authority to make an arrest without a warrant and an investigation cannot be initiated without a court order. The police can file a First Information Report (FIR) only for cognisable offences For non-cognizable cases the police officer may arrest only after being duly authorized by a warrant. Non-cognizable offences are, generally, relatively less serious offences than cognizable ones.

### **Summons-Case and Warrant-Case**

All criminal cases are divided into summons cases and warrant cases. “Warrant case” means a case relating to an offence punishable with death, imprisonment for life or imprisonment for a term exceeding two years.

“Summons case” means a case relating to an offence, and not being a warrant case a warrant case relates to a serious offences while a summons case relates to a comparatively less serious crime.

In a summons case a summon is to be issued to the accused and in a warrant case a warrant of arrest is normally to be issued for the arrest of the accused.

### **Bailable and Non-bailable**

According to Section 2(a), bailable offence are offences listed under the First Schedule as bailable or made bailable under any other law for the time being in force. All other offences are non-bailable.

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## **5.4 Prison Act**

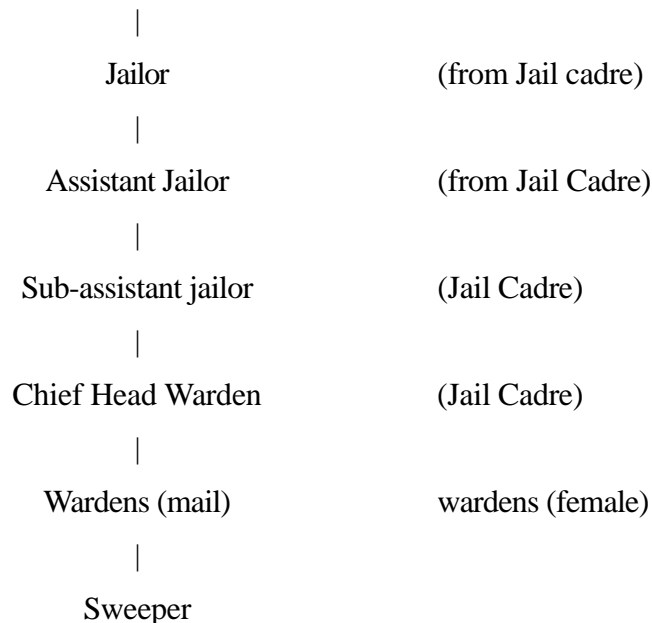
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A prison is a unisex world where every inmate is stigmatized and has to carry on tightly scheduled activities in the company of strangers. The inmates are deprived of liberty, privileges, emotional security and hetero-sexual relations. Formal code of prison can not always cope with the situation. The conditions in Indian jail were horrible upto 1919-20. 1st prison Act was

enacted in 1894. It could not provide sufficient remedial measures to the 80% of the Prisoners who are undertrials and a majority of them live in overcrowded prisons where medical facilities are poor and inadequate. There are many jails where prisoners are packed together with no space even to sleep and having no comfortable living with minimum standard of diet. The National Expert Committee on Women Prisoners with justice Krishna Iyer as its chairman in 1987 stated after visiting many women prisoners that both prisoners and the prison staff suffer from “a pathology of misinformation or, ignorance of their rights and limitation.” This often leads to callous disregard of human rights. Prison Act 1994 governs the administration of prisons. The All India committee of Jail Reforms 1980-83 has recommended, inter alia, the upgrading and updating, revision and consolidation of all prison laws. However action towards developing a uniform legal framework has been hampered, because the subject of prisons falls in the state list of the seventh schedule of the constitution and the central government was reluctant to intervene. After amending the constitution the subject prison has been brought to concurrent list. There after a national concensus on various aspect evolved through an active interaction with legislator, policy makers, administrators and experts and human right activists.

Prison Act also provides the policy formulation and principles of prison administration. While the police and judiciary play the major role of convicting and sentencing the offender, it is the prison where the prisoner is controlled and reformed. A prison today serves the purpose of being custodial, a deterrent, coercive, lurative, reformative, correctional, rehabilitative and for resocialization. It is not an independent system of power, but an instrument of the state shaped by its social milieu and by the stage of economic, social and political development. It is a structure of rulling caste and subordinate caste.

The casual executive staff ... superintendent (from administrative code)



Apart from aforesaid executive staff pattern there are several correctional staff who offer welfare services to prisoners or, perform routine clerical job at the prison following the Prisons Act. Yet maltreatment of prisoners is common through out India.

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## **5.5 Reformatory School**

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Reformatory schools are also known as certified school for rendering correctional service to the teenage offender and juvenile delinquents. Juveniles given detention order by court are kept in reformatory schools for a minimum period of 3 years and maximum period of seven years. Each school having a capacity of 80-100 inmates divided into 4-5 dormitories and each dormitory has 4-5 cells.

The executive staff pattern of the reformatory school includes a superintendent, deputy superintendent, deputy jailor, assistant jailor doctor, 3-4 constructions, 3-4 ... and some wardens. Training is given in tailoring, toy making, manufacturing leather goods and agriculture. Each training programme is of 2 years. Inmates were provided with the raw materials they require for their vocational training and production. Their produce is sold to the market. The profit so earned is deposited in the credit of the trainee. The inmates are given the share of profit and this is credited in their account. Recently initiative has been taken from the government to improve the conditions reformatory schools as well as inmates keeping in view of minimum standard set forth by the United Nations.

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## **5.6 Probation of Offenders Act 1958**

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### **History**

The first statutory expression to the penal system reflecting probation philosophy is to be found in section 562 of the Criminal Procedure Code 1898. Later the Children Act, 1908 also empowered the court to release certain offenders on probation of good conduct. The scope of provisions of probation law was extended further by legislation in 1923 consequent to the Indian Jails Committee's Report (1919-1920). In 1931 the Government of India prepared a Draft Probation of Offenders Bill and circulated it to the then provincial governments for their views. However, the Bill could not be processed due to pre-occupation of provincial governments. Later the Government of India in 1934, informed the provincial governments that there were no prospects of central legislation being enacted on probation and they were therefore free to enact suitable laws on the lines of the Drafted Bill. As a result of the recommendations of the Jail Committee the Government of India decided to have a comprehensive legislation on Probation law in India. To attain this objective, a Bill on Probation of Offenders was introduced in Lok Sabha on Nov. 18, 1957. On recommendation of the Joint Committee the Probation of Offenders Bill was introduced and subsequently passed in the Parliament in 1958.

## **Objects and Reasons**

Basic object of this Act is the release of offenders on probation of good conduct.

- [1] Instead of sentencing to imprisonment.
- [2] There has been an increasing emphasis on the reformation and rehabilitation of the offender as a useful and self-reliant member of society without subjecting him to the deleterious effect of jail life. In view of the wide spread interest in the probation system in the country, this question has been re-examined and necessity was felt to have a central law on the subject which should be uniformly applicable to all the states.
- [3] It has been proposed to empower courts to release an offender after admonition in respect of certain specified offences. It has also been proposed to courts to release on probation, in all suitable cases, an offender found guilty of having committed an offence not punishable with death or, imprisonment for life.
- [4] In respect of offender under 21 years of age, special provision has been made putting restrictions on their imprisonment. During the period of probation, of the probation officers in order that may be reformed and become useful members of society.

The Bill seeks to achieve these objects.

### **Power of the Court to release certain offenders after admonition.**

When any person found guilty of having committed an offence punishable under section 379 or, section 380 or, section 381 or, section. 404 or, sec 420 of Indian Penal Code or, any offence punishable with imprisonment for not more than two years or, with fine or, both, under Indian Penal Code or, any other law, and no previous conviction was proved against him and the court by which he is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence, and the character of the offender, it is expedient to do so, then, notwithstanding anything contained in any other law for the time being in force, the court may, instead of sentencing him to any punishment or, releasing him on probation of good conduct under section 4 release him after due admonition. Provided that the .. release of an offender unless it is satisfied that offender or, his surety, if any, has a fixed place of abode or, regular occupation in the place over which the court exercises jurisdiction or, in which the offender is likely to live during the period for which he enters into bond.

Before making any order under sub-section (1), the court shall take into consideration the report, if any of the probation officer concerned in relation to the case.

When an order under sub-section (1) is made, the court may, if it is of the opinion that in the interest of the offender and of public it is expedient so to do, in addition pass a supervision order directing that the offender shall remain under the supervision of a probation officer named in the order during such period, not being less than one year.

This is the power of court to require released offenders to pay compensation and costs.

A civil court trying any suit, arising out of the same matter for which the offender is prosecuted, shall take into account any amount paid or, recovered as compensation under sub-section (1) in awarding damages.

### **Probation Officer**

A Probation officer under this act shall be

- (a) a person appointed to be a probation officer by the state government or, recognised as such by the state government, or,
- (b) a person provided for this purpose by a society recognised in this behalf by the state government or,
- (1) In any except that case, any other person who, in the opinion of the court, is fit to act as a probation officer in the special circumstances of the case.
- (2) A court which passes an order under sec. 4 or, the District Magistrate of the District in which the offender for the time being resides may at any time, appoint any probation officer in the place of the person named in the supervision order.
- (3) A probation officer, in the exercise of his duties under this Act, shall be subject to the control of the District Magistrate of the district in which the offender for the time being resides.

### **Duties of Probation Officers**

A probation officer shall, subject to suit conditions and restrictions, as may be prescribed—

- (a) inquire, in accordance with the directions of the court, into the circumstances or, home surroundings of any person accused of an offence with a view to assist the court in determining the most suitable method of dealing with him and submit reports to the court.
- (b) Supervise probationers and other person placed under his supervision and where necessary endeavour to find them suitable employment.
- (c) advise and assist offenders in the payment of compensation or, costs ordered by the court.
- (d) advise and assist in such cases and in such manner as may be prescribed, persons who have been released under section 4, and
- (e) perform such other duties as may be prescribed.

Every probation officer is deemed to be public servant.

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## 5.7 Reference

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- (i) Bare Act of probation of offenders Act
- (ii) Any books of IPC and CrPC
- (iii) Correctional services in India—P. Ahuja

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## 5.6 Exercises

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- (i) State the importance of correctional services. What are the basic objects of correctional services.
- (ii) What are the basic objective of the prison act? What are its recent amendments
- (iii) Write short notes on Reformatory school.
- (iv) Trace the history and development of probation of offenders act.
- (v) State the duties of probation officer.

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## **Unit-06 □ Origin of Prison, Prison Reform Movement in India and Penal Reform in India**

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**Structure :**

- 6.1 Origin of Prison**
- 6.2 Prison Reforming Movement in India**
- 6.3 Penal Reform in India**
- 6.4 References**
- 6.5 Exercises**

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### **6.1. Origin of Prison**

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Prison has a long history. Right from primitive age to modern age confinement of any form was the only way to punish the offender or probable offender. Historically prisons have developed as a secured place for temporary detention and interim custody of undertrial prisoners. Incarceration, as a means of punishment or, any other form of detention by the authority was a popular method of temporary incapacitation. Imprisonment and confinement in prison is the oldest and most universal mode of dealing with offenders. The system of prisons clearly reflects society's reaction to crime. The early history of Prison could be traced from Pennsylvania system, the Auburn system (New York 1818). In India prison came into being from later part of 19th century with the introduction of Penal laws. In India, imprisonment of criminals, was a system followed from ancient times under various monarchies also. Kings threw traitors into dungeons usually without any prior trial. In 1920 the Indian Jail Committee laid the basis for rationalisation of the Prison system. Previously there was no system of classification of prisoners. Living condition in most of Prison was worse. There was no correctional services within prison. It was altogether a mess.

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### **6.2. Prison Reforming Movement in India**

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In India service the very inception, of prisons were perceived as a potential source of human rights violations. Thus there is certainly an urgent need for a fresh look on the role, efficiency and functioning of prisons. Historically, recalcitrants or, deviants were confined in solitary cells for even moral transgressions. People were even imprisoned for professing a different religious faith than the one propagated by the state Even minor thefts or, adultery were punishable by lifelong imprisonments under terrible conditions. Prisons were neither thought to be effective in achieving its proclaimed



goal of reformation and rehabilitation of offenders nor capable of coping with the newly emerging forms of criminality which are much more destructive than traditionally known crimes.

The Prison administration in the country even now is largely governed by the Prison Act of 1894. The Policies and objectives reflected in the legislation formulated during British regime become not only outdated and antiquated but have been obstructing development of prison administration on modern lines in this country.

After independence a number of jail reforms committees and commissions were set up in different states with a view to humanizing prisons. But the Prisons Act 1894, remains substantially unchanged. The Prison Administration in India thus, by and large, remains totally out of tune with modern criminological thinking and social philosophy. The All India Committee on Jail Reforms (1980-83) under the chairmanship of Justice A. N. Mulla made a thorough inquiry into prison conditions and concrete recommendations for jail reforms which have so far remained unimplemented to a great extent. In pursuance of the recommendations of the Reforms Committee, the central government initiated action for the updating revision and consolidation of prison laws and to prepare a new model Prison Manual laws and to prepare a new model prison manual for the states to adopt and administer prison. Such a course will also enable the central government to appropriately draw upon the principles enunciated in various International Instruments to which India is a Party, such as the universal Declaration of Human Rights, the international instruments to which India is a party. All these international instrument urge upto the signatory states to follow United Nations Standard Minimum Rules for the treatment of prisoner and the declaration in protection of all prisoners from being subjected to torture and other cruel inhuman and Degrading treatment of punishment.

Keeping in view of the recommendation of the Reforms Committee, Prisoners are classified according to the crimes into following groups.

- [1] Homocide including murder and manslaughter.
- [2] Offences against person including sex offences.
- [3] Offences against property including burglary, robbery etc.
- [4] Social disorganisation including drunkenness, disorderly conduct, petty larceny etc.

Each of crime requires a different remedial approach. The inadequacies of the penal system had led to the alternative concept “Conditional suspension” of punishment.... prison authority to a prisoners undergoing a prison sentence either as an amenity or, to test for release before his term is complete. ‘Probation’ is an alternative to prison. It is suspension of sentence of an offender by the court and releasing him on certain conditions to live in the community with or, without supervision of a probation officer. This system has been introduced in India since 1958 by passing the central probation Act. The greatest advantage of “probation” system is that no stigma is attached to the offender released on probation.

Attention has been given to the treatment of vulnerable categories of prisoners, women prisoners, Juvenile delinquents, non criminal lunatics. Women inmates in jails are raped by jail superintendents, police wardens etc. Regular inspection by independent bodies are monitored to check the notorious activities in jail. Public Interest litigation is a powerful instrument to move courts on behalf of disadvantaged people. Investigative journalism by a free press is another mechanism for human rights protection through exposures on executive excesses or, in action. The proposed National policy on prisons as recommended by Jail. Reforms committee, should spell out the immediate objectives and ultimate goals of prison administration to cater adequately to the differential requirements of custody and correction including basic needs of food, clothing, shelter and environment.

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### **6.3. Penal Reform in India**

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Imprisonment is the oldest and most universal mode of dealing with criminals and offender and wrong doers. So Prison have developed as a secured place for temporary detention and interim custody of undertrial prisoners. Incarnation as a mode of punishment came to be known at a later stage. In course of gradual development prison administration, there had been gradual evolution of penology. Presently reformation is the primary object of penology. The system of prisons clearly reflects society's reaction to crime and penal measures.

Sociologists and criminologists have been broadly concerned with locating the causes of crime and analysing the effectiveness of criminal justice system and penal provisions. Recently, some scholars have moved beyond these narrow Twin-concerns and have raised cusion about the enactment of laws improving the penal provisions, police system, judicial activism, protecting the interest of the victims, improving the condition in prisons and humanizing the divient.

The criminal procedure code has also been amended in India from time to time keeping space with Indian Penal Law. After independence and after establishment of law commission in 1955, there has been significant changes of the criminal procedure code of 1898. The law commission keeping in view of..... to the Government for revision of code and penal justice system in September 1969. The recommendations of the commission were examined carefully by the government keeping in view of the following basic considerations :—

- [I] I am accused person should get a fair trial in accordance with the accepted principles of natural justice.
- [II] Every effort should be made to avoid delay in investigation and trial which is harmful not only to the individuals involved but also to the society and,
- [III] The procedure should not be complicated and should to the utmost extent possible, ensure fair deal to the poorer section of the community.

The Lok Sabha held its sitting on Dec. 12, 1973 and passed the criminal procedure code Bill with 125 amendments. Finally the bill got the President's assent and the enactment came into being on the 1st day of April 1974. The working of the new code of 1974 has been carefully watched and in the light of the experience, it has been found necessary to make few changes for removing certain difficulties and doubts. There has been a simultaneous procedure code in 2000 and finally through the Mallinath Committee Report 2005.

Human Rights and the dignity of the individual offenders can be best protected by suitable reforms in the penal system. Barbara Wootton recommends that a more rational policy with a scientific approach to the problem of crime and punishment should be adopted. If we accept that crime is due to a complex interplay of various socio-economic factors then a rational penal policy should address the most fundamental issues of crime and reformation than mere prison reforms here and there. The primary object of punishment is to socialise an offender and inculcate the commonly accepted norms and values of the society so that he can rehabilitate himself as a socially useful person. In modern penology, punishment is invariably individualised. This means punishment should commensurate with the individual requirements of an offender. The individual offender is to be assessed and judged by expert sociologists and psychologists, probation officers and others who will study the socio-economic background of an offender and accordingly recommend punishment. Quantum of punishment should always be indeterminate. Different offenders will respond to punishment differently. In our penal code, however, the period of punishment is rigidly laid down and the judges have no scope to go beyond the law.

Human dignity and the worth of a human person enshrined in Article 12 read with Article 14 and 19 obligates the states to provide fair, just and reasonable procedural essence to convicts and offenders.... the constitution and the Trial court is duty-bound to inform the accused who can't afford a lawyer that he is entitled to get free legal aid. The system of imprisonment should be a regular course of judicial scrutiny so that offenders are given a fair, rational and human treatment.

The recommendations of the Law Commission of India for effective penal reform should also be incorporated and particularly the following recommendations :

- [1] An uniform set of Criminal courts be established throughout the country.
- [2] The process of Speedy Trial be emphasised so that delay and procrastination in justice delivery system be carefully remedied.
- [3] The procedure for trial of summary cases shall be the same as that for summons cases except with few variations as stated in section 262 of the code.
- [4] The court of session also be given power to exercise revisional jurisdiction in addition to High Courts.
- [5] The provision should be duly made for service of summons by registered post in certain cases and it is to be seen that the accused can plead guilty by post in petty cases and remit the fund specified in the summons.

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## 6.4. Reference

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1. The Criminal procedure code 1973 by H. P. Tripathi
2. Ram Ahuja — Social problems in India—Rawat Publication New Delhi.

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## 6.5 Exercises

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- [1] What is meant by Prison? State the origin of Prison in India.
- [2] What do you mean by the term prison reform? Narrate the prison reform movement in India before and Independent.
- [3] Do you find any nexus between prison reform and penal reform? If so, how and to what direction.
- [4] State the penal reform in India service 1898. Do find any implication of universal Declaration of Human Rights 1948 in the Penal Reform in India.

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## **Unit-07 □ Administration and Functions of Correctional Institution with reference to Presidency Jail and Alipore Jail**

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**Structure :**

- 7.1 The Concept**
- 7.2 Administration of Correctional Institutions**
- 7.3 Human Right Approach**
- 7.4 Functions of Correctional Institution Major function of Correctional Administration includes the following**
- 7.5 Correctional homes in West Bengal**
- 7.6 Correctional homes for women in West Bengal**
- 7.7 Open Prison**
- 7.8 Presidency Jail**
- 7.9 Alipore Central Jail**
- 7.10 Books Recommended**
- 7.11 Exercises**

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### **7.1 The Concept**

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Concept of correctional service is not of much old. It started evolving since the later part of Nineteenth century which led to the development of the idea that justice is not to punish criminals only. It essentially aims at reasserting the fundamental principles for a just society. Since crime involves not only criminals but the victims and society as well to be really effective justice has to take a comprehensive view of the individuals involved as well as the circumstances that provides the backdrop for such a crime. The newly emerging concept of Restorative looks at inter relationship not only between criminality and offenders, but also at the communities that provides the broad context to the crime. With the greater understanding of the causation of crime, the concept of correctional services too have undergone a change. Crime causation theories are now closely linked with Anthropology, Psychiatry, Sociology and Social Psychology. There has been a systematic effort to understand the offender. The noted sociologist Barker defines corrections as the attempt transform the offenders into non-offenders through imprisonment, Probation, education programmes and social service. Thus the emphasis has been shifted from

retributive which is motivated by vengeance and hatred and revenge. Instead the emphasis is on modifying the offender's behaviour in order to make it socially acceptable. Probation and Parole officers, social workers, psychologists and counsellors must work together to reintegrate the offender into society. The increasing awareness of civil liberties and human rights have influenced the institutional and non-institutional methods for the reformation and the rehabilitation of the offender. Correctional services include Prevention of Criminal activities through Government departments which are planned and systematically organized. This requires a good co-ordinated work of all the connected departments of the government and criminal Justice system.

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## **7.2 Administration of Correctional Institutions**

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Prison is a major organisation for rendering correctional services to the imprisoned persons and offenders and criminals. Prison administration is one of the three major elements of criminal Justice system. The two other elements are the police and judiciary while the police and judiciary play major role of convicting and sentencing the offender, it is in the Prison where the Prisoner is controlled and reformed and given correctional services. The Prison today serves the purpose of being custodial, a deterrent, coercive, curative, correctional, and rehabilitative and for resocialisation. It is not an independent system of power, but an instrument of the state shaped by its social milieu and by the stage of social and political development. It is a structure of ruling class and subordinate class. Various national forces (e.g. N.G.O's) as well as international ones (e.g. i.e. N. Standard on Human Rights) influence its working. The Home department deals with prison affairs. It is usually placed under an independent Ministry both in the Central Cabinet as well in the State Cabinet.

The Jailor is the chief executive officer of the Jail. He works directly under the superintendent. He is assisted by the assistant and sub-assistant jailors. The jailor is responsible for providing basic services like food, clothing, medical, vocational and recreational facilities to the Prison inmates. Each jail also has a male and female warden for the male and female section of the jail. The Home Ministry of each state as well as the central government has a minister in charge of prison. He is the political head of Penal Administration. The secretary of this Ministry is the administrative head. The Director General of prison or, the Director General of correctional services is the executive head of the executive staff pattern of the state. The superintendent of each District level jail discharges administrative executive, financial and other miscellaneous functions. This involves the day to day management of the jails, that is of the Prisoners, the jail staff, the jail-budget etc.

In addition to these staff there are several correction staff who offer welfare services to prisoners or, perform routine clerical jobs at the Prison, these are Medical Officers, Probation officer, Social welfare officer are also among prison staff. Usually the jail has a hospital with medical instruments and medicines. Both outdoor and indoor facilities are available here. The welfare officers try to establish rapport with the offender. The prisoners are also provided with

free legal aid if necessary. This is specially for undertrials who may be too poor to afford a lawyer. The prisoner and his family are given guidance in the use of community resources and services. If the prisoner is the sole bread earner of the family, may require financial from any NGO etc or, alternative employment. The basic needs and medicals expenses of the prisoners family need to be met by other sources during the offenders from of imprisonment. The prisoner also need to undertake educational and vocational training so that he can find livelihood after his release. Psychological counselling is also essential for the prisoners-both adults and juvenile delinquents other branded offenders.

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### **7.3 Human Right Approach**

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An action towards developing a uniform legal frame work has been suggested long before by various commissions and committees time to time appointed for the purpose of scrutinising the activities in various prisons in India. The All India jail reform committee 1980-83 has recommended inter alia, the updating, revision and consolidation of all prison law so that prisons in India could function uniformly keeping in view of the U.N Declaration 1948 and 1st and 2nd covenants of 1976. The most important factor to be aware of, with regard to prison reforms, is that prisons constitute a critical area for the protection of human rights of the prisoners. The right of freedom of a person should not be taken away a day longer than absolutely necessary to protect society or, in the offender's interest. The state is duty-bound to ensure a timely return of the offender to a free society. Thus keeping under trials in prison without trial is a violation of this rights. Similarly imprisoning lunatics or, confining minor children in jail also constitute illegal and wrongful-confinement. The state has to spell out the basis for providing minimum standards of care, maintenance and opportunities for growth and development of the prisoner.

The correctional programme for the treatment of adult offenders being undertaken in this country are classified into following heads :—

(a) Prison administration and reformation (b) Probation (c) Poyrole (c) other alternatives to punishment and (d) After-care of prisoners.

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### **7.4 Functions of Correctional Institution Major functions of Correctional Administration includes the Following**

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- [1] To take due care of the prisoner strictly in terms of legal provisions provided in the prison act.
- [2] To ensure implementation of policies and directions time to time enunciated and pronounced by the National Human Rights Commissions.
- [3] To render educational and vocational training.

- [4] To render correctional and welfare services.
- [5] To provide legal aid services to the under trial and convicted offenders in case of need.
- [6] To maintain United Nations minimum standard norms for the prisoners.
- [7] To check undue imprisonment and confinement and detention causing human harassment.
- [8] To provide civil and political rights to the prisoner.
- [9] To develop scope of income generation of the inmates thereby broadening avenue to show good conduct by the prisoner as well improving earning capacity.
- [10] To provide rehabilitative assistance for their future better living and main streaming.
- [11] Providing compensation in case of unlawful arrest, confinement and detention as it tantamounts to violation of fundamental right.

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## **7.5 Correctional Homes in West Bengal**

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All jails have been designated as “Correctional Homes” in the state and are now governed by the West Bengal Correctional Services Act, 1992.

Eminent Persons in Charge of Correctional Homes in West Bengal :

**Mr. Abani Mohan Joardar**

MIC, Dept. of Correctional Administration

**Mr. Sivaji Ghosh, IPS**

Principal Secretary, Dept. of Correctional Administration

**Mr. Arun Kumar Gupta, IPS**

Director General & Inspector General of Correctional Services, West Bengal

**At Present West Bengal has about 59 correctional Homes and 1 Training Institute**

Central Correctional Homes	7
Open Air Correctional Home	3
District Correctional Homes	12
Special Correctional Homes	5
Women’s Correctional Homes	5
Sub-Correctional Homes	31
<b>Total</b>	<b>59</b>



### **The Major Objectives of the Correctional Home are :**

- Speedy trial
- Free & competent legal aid
- Legal literacy
- Timely release
- Training programmes for correctional staff

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## **7.6 Correctional Homes for Women in West Bengal**

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The first correctional Homes exclusively for women inmates came up in 1995, in Purulia district to accommodate 100 inmates.

The number of such children varies from 2-3% of the total prison population. In order to maintain, privacy and dignity of women inmates, the State has separate correctional homes for them. It may be noted that, there is no female ward in Alipore Central Correctional Home and in a few more Sub-correctional homes within the state. According to the statistics of West Bengal Correctional Service, on an average there are about 8-10% women inmates in the correctional homes of the West Bengal. Children up to the age of 6 years are allowed to accompany their parents/mothers. These children stay with their mothers within the enclosure of the correctional homes.

Most of the Correctional homes have wide range of facilities for its women inmates which include scope for education along with library and vocational training. There are also facilities for medical care, recreational activities, cultural events etc. The correctional home has also initiated HIV/AIDS awareness activities. The state has also sanctioned an ICDS Centre by the Dept. of Child Development & Social Welfare. To bring about a qualitative change there are following facilities available—

- Vocational training is provided to them through NGOs. There are arrangements for training in cooking, sewing, wool knitting, embroidery, garment making, jute handloom etc. in different correctional homes. Computer training for women has also been introduced.
- Legal aid is provided to them through Legal Aid Clinics.
- Complaints representations received are redressed as far as possible within the framework of law.
- There are 'Anganwari Centres' under ICDS programme for welfare of the children of women inmates.
- There are also Lady Welfare Officers who attend to different problems of the women inmates.

- There is no congestion in the Correctional Home as the capacity far exceeds the total number of inmates.
- TV sets, Newspapers, Magazines are also provided.
- There are arrangements for indoor games for the women inmates.

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## 7.7 Open Prison

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An open prison also called minimum-security prison, open camp, or prison without bars, IS a part of the rehabilitation programme, where the convicted persons due to their good behaviour, are trusted to serve their sentences with minimal supervision and perimeter security and are not locked up in prison cells. They are also entitled to take up employment while serving their sentence, however their freedom is restricted and they are only allowed to leave the premises for doing jobs.

Open Prison in India-Perhaps the idea of Open Prison has been initiated keeping in mind the two concepts of Parole and Probation, which are based on the idea of reforming and rehabilitating the inmates within a community setting. Open Prison may be considered as a fruitful method in the correctional services.

In this system of mainstreaming and rehabilitation, the inmates are helped to re-socialize themselves, by becoming self-reliant, dependable, better persons, disciplined, attentive, aware and responsible towards their family and society as a whole and Prevent frustration.

The concept of **Open Prison may be applied** for inmates of correctional home who are considered a low risk to the public. This is a system where inmates with good behaviour and satisfying certain norms prescribed by the correctional setting are allowed to serve their sentences with minimal supervision and perimeter security and are not locked up in **prison** cells. They are permitted to take up employment, while serving their sentence.

The first open prison was started in 1905 in Bombay Presidency. Rajasthan has highest number open jails while there were no Open Jails in any of the UTs till the end of 2014.

The objectives of establishing open prisons are—

- To reduce overcrowding in Correctional Homes.
- To reward and acknowledge good behaviour.
- To prepare them for resocialization, mainstreaming and be a part of the community life.
- To provide them opportunities for jobs and economic empowerment.
- To give them a family life.
- Help them to realize their capabilities and decide what they want to do in future.
- Learn to be Self dependent and work with confidence.

The Open Prison Are Open from four perspectives :

- (i) Open to prisoners—inmates may go out during the day but have to return back in the evening.
- (ii) Open in security—there is are no precautionary measures against escape, such as walls, bars, locks and armed guards.
- (iii) Open in organisation—working is based on inmates sense of self-responsibility, self-discipline, and self-confidence.
- (iv) Open to public—people from outside may come to visit the inmates.

● **Eligibility conditions for admission to open prisons vary from state to state. The main conditions are :**

- (1) Prisoners should be willing to abide by the rules of open prisons;
- (2) They should be physically and mentally fit to work;
- (3) They should have been sentenced for terms of one year or more and must have spent at least one-fourth of the total term of imprisonment in jail;
- (4) They should have record of good behaviour in prisons;
- (5) They should not be below 21 years or above 50 years as prescribed by the state;
- (6) They should not have been convicted for certain types of crimes (like dacoity, forgery, etc.);
- (7) They should not have any case pending in the courts;
- (8) They should not be habitual offenders; and (9) they should not be class I (one) prisoners or women prisoners.

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## 7.8 Presidency Jail

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Presidency jail may established by the British Administration in the early nineteenth century to imprison classified offenders. This was established in the Presidency Town, Calcutta under the direct supervision and control of Presidency Jailer and indirect supervision of Inspector General of Police. Presidency jail is one of biggest jails in India having been established to accommodate atleast & 1800 offenders of various categories. This was a central jail or, prison that prisoners that have been sentenced for over 3 years and has some adjoining but separate area for female under trials. In course of time, especially after independence, the Presidency jail has been gradually changed. It has a pioneer role in championing the cause for rendering effective correctional services to prisoners as provided in the Amended Prison Act. Most of prisons of the Presidency Jail come from various courts situated in the Presidency jurisdiction of Calcutta, special provisions have been made after 1950 to accommodate political prisoners also. It has sufficient arrangement for recreational activities like football ground and other playing fields, indoor games, music and prayer hall. It has separate educational and vocational school for imparting due training to the prisoners.

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## 7.9 Alipore Central Jail

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This jail was also established long before of independence. This was a central jail of Bengal jurisdiction. The prison from different districts of undivided Bengal used to accommodate here. It is also a very big jail training capacity of accommodating more than 2000 prisoner. The those prisoners are accommodated who have been sentenced over 3 years. The specialty of the Alipore central jail is that it is very much attached to the Alipur Court. Male and female wards are completely, separated. There is also measure to apply correctional and welfare service to the inmates. Special courts are arranged within the jail compound to give trial to specified cases like, terrorists, hard-core criminal or, political case having terrible influence on people. The compound of jail is very vast. It has sufficient recreational arrangement both for male and female inmates including sufficient arrangement for games and sports. Keeping in view of the correctional and welfare services thus provides all amenities as sanctioned by the Prison Act. To offer income generation scope of the inmates this jail has a big and renowned printing press. Mostly government order of printing are given so that the inmates can have sufficient scope for earning and vocational training. This jail has a very good hospital to render medical services to the prisoner. Apart from these, this jail has a counselling centre to give the criminal and offender due Psychological, counselling for their resocialisation and mainstreaming. The government proposes this jail to make an ideal correction service centre. The top executive of this jail special jailor who works under Director of Inspects General of Prisons.

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## 7.10 Reference

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- (i) The Indian Prison Act 1980-83 (Govt. of India Publication).
- (ii) Indian Social Problems by G. R. Madan.
- (iii) Indian Jail by — Kanoongo.

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## 7.11 Exercises

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- (i) What is meant by Correctional Service. Describe the Pattern of Correctional Service given in Indian Prisons.
- (ii) Discuss the executive Pattern of Correctional Service System.
- (iii) State the Special features of the Presidency jail and Alipur jail.
- (iv) Estimate the intervention of National Human Rights Commission on Prison in light of protecting fundamental rights.

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## **Unit-08 □ Probation, Parole, Statutory Provision and after care Principles and Practice, Role in Control and Management of Crime**

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**Structure :**

- 8.1 Probation**
- 8.2 Parole**
- 8.3 After Care of Prisoners**
- 8.4 Prevention of Crime**
- 8.5 Reference**
- 8.6 Exercises**

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### **8.1. Probation**

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Provision of probation was introduced in India in 1958 by passing the Central Probation Act. Though section 562 in 1898 criminal procedure code permitted release of an offender on probation but it applied only to Juvenile delinquents and first offenders. There was no provision for supervision and only 1st class magistrates were empowered to grant probation. British Government permitted states (provincial Governments) in 1934 to enact their own laws permitting probational release. Madras and Madhya Pradesh acted such an Act in 1936. Bombay and Uttarpradesh in 1938, Hyderabad in 1953 and West Bengal in 1954. But all these Acts were meant only for the probational release of Juvenile delinquents.

Probation is an alternative to prison. It is suspension of sentence of an offender by the court and releasing him on certain conditions to live in the community with or, without supervision of a probation officer. Probation is granted by the court considering amongst others the nature of the committance of crime and behaviour of the offender and probability to bring him to normal social life. The idea of granting probation was the innovative thought of social Psychiatrists, criminologists and legal philosopher to bring to criminal into social control and changing motive of committing crime and thereby distabilising social norms.

The 1958 Act applies to all offenders. It permits the release on probation for a mximum period of 3 years and also has a provision for revoking the term. Some states like have linked it with Law Department while some states like have linked it with Law Department while some states have separate Directorate. The probation officer have been assigned two functions : Social Investigation and supervision of probationers. There are about 550 probationer officer through out the country on an average, one probation officer investigates 20 cases and supervises 10 cases in a year.

Provision of releasing offenders on probation is now practiced in all civilized democratic country considering its advantages over prison. The main advantage is that, no stigma is attached to the offender release on probation, unlike prisoner who find it difficult to get social acceptance. Women prisoners are especially disadvantaged as they are disowned by their families and communities and in this way probation helps in social reintegration. Another significant point is that there is no break in a probationer's economic life. A prisoner loses his job on imprisonment and even on bring released finds it difficult to find employment. But a probationer can continue working for his livelihood without suffering financial loses. The probationer's family does not suffer and he does not feel frustrated since he is not separated from them for long periods of time.

The probation system is of course not free from disadvantage. The offender is put in the same enviromnet in which he committed the crime. There is a chance that the offender may repeat the crime, either voluntarily or, due to circumstances as being provoked by others. Apart from that a probationer has no fear of punishment. The victim and the society may feel deprived of justice and a sense of terror may prevail in society.

But the advantages of probation are far more than the disadvantages. The probation gives the offender a chance to reform under controlled circumstances. He is prevented from repeating his offences and gradually converted to a non-offender. Reformists have countered criticism against probation by suggesting new measures to make it more effective by breating probation as genuinely an alternative to imprisonment. The major emphasis has given on the rehabilitation of the offender and not just retribution. Quick and hassle-free probation leads to easier rehabilitation for probationers. It also saves time, money and man power for their families.

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## **8.2. Parole**

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Parole is another method of individualized treatment. Parole is a conditional release granted to a prisoner who has served a part of his sentence in a Penal Institution. While that is also a community treatment conditionally applied and the methods of supervision closely resemble there employed in Probation, there is still a distinction between the two. In the case of the Parole there has been a period of institutional treatment. Parole is an adjunct to institutional treatment where as probation is an alternative to it. Another significant point is that the future conduct of the parole is adjudged whereas in the case of probation it is the court that orders further disposition. In the words of Barnes and Teeters, "It is a form of release, but it always presupposes some sort of supervision, for it is not freedom. There can be no parole without a previons sentence following a conviction by a court or, jury or, without an institutional experience. The parole must have been released from some sort of institution under some sort of supervision. Hence it must never be confused with probation with pardon. Thus the granting of Parole is merely permission to a prisoner to serve a portion of his sentence outside the walls of prison. As against probation he continues to be in the custody of the authorities, both legally and actually, and is still under restraint. Parole, wisely and efficiently administered, gurantees to the community that the released prisoner is a potentially asset because of his institutional training, and it is one of the bulmarks of a progressive penology.

Closely correlated in function and usage parole is the system of indeterminate sentence, though it is not in vogue in country.

It is in the light of this parole system or, indeterminate sentence introduced in some other advanced countries that release of prisoners for good conduct Acts were passed in most of the states of our country. Under these Acts, a provincial government may release a prisoner on licence subject to conditions, if from his antecedents or, conducts in prison he is likely to abstain from crime and lead useful and industrious life. He will be placed under the supervision of an officer of the state or, a secular institution or, a person willing to take charge of him. A licence is revocable. On revocation the prisoner shall be recommitted and shall serve the unexpired term of the original sentence. He also forfeits any remission earned before his release.

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### **8.3. After Care of Prisoners**

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“The concept of after care of prisoners is derived from penological thought that regards reformation and rehabilitation as the ultimate aim of penal administration.” [Report of the advisory committee on after care programmes, Central Social Welfare Board 1954]. This after care aspect of prisoners on release for the proper rehabilitation of prisoners has received much attention in these days. Generally, a convict loses some of his civil rights, he is stigmatized by society and finds difficult to get a Government or, private job and ready himself in the society. As Barnes and Teeters point out, an ex-prisoner is ill prepared for life after prison because of various handicaps from which he suffers as loss of civil rights, stigma if conviction, follow-up by police etc. They observe, “The prisoner returning to society is seriously handicapped under the most favourable conditions. This is especially true in so far as obtaining work is concerned.” No doubt some welfare agencies in some advanced countries provide after care services for ex-prisoners and help them in providing jobs, but very little attention has been paid to this aspect in our country. The Indian Jails Reform Committee (1918-1919) emphasized for help to the released prisoners. It was on the recommendation of this committee that fresh stimulus was given to this work. In order to provide such services on a large scale and on scientific lines, the Central Social Welfare Board appointed an Advisory Committee on After Care Programmes in 1954 to look into the conditions of present services and suggest certain measures for their improvement. Again a Committee was appointed in 1990 to look into the after care service. The after reviewing the work of various agencies has suggested a comprehensive plan for the after care services including after care services for delinquent juveniles and the widows. The committee has discussed two aspect, of after care programme, i.e. vocational rehabilitation and social rehabilitation which are mutually interdependent. No doubt some after care homes have been set up for various types of person in various states of the country. But true and proper service to ex-prison is still a far-cry. The study team on social welfare rightly remarks, “It is a matter of regret that voluntary efforts of these, agencies have not been effectively utilised in the execution of the after care programme”.

It is the felt reality that the prevention and control of crime, treatment of offenders and after care of prisoners should be treated as a unified programme of social defence. The Department of prisons and correctional services should exercise jurisdiction over prisons, Juvenile delinquency, probation and after care services.

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## 8.4 Prevention of Crime

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The General Assembly of United Nations in their resolution in December 1950 provided for the convening every five years of an International Congress on the prevention of crime and treatment of offenders. The first Congress was held in Geneva in 1955, the Second in 1960 in London and the 3rd in 1964 in Felkets Hais (Stockholm). The third Congress discussed two programmes (a) Prevention in the Predelinquent stage through family education, protective programmes, police service etc (b) prevention of recidivism. This last required four measures : (i) control of criminogenic factors conducive to recidivism such as detention pending trial, inequality in the administration of justice etc. (2) adult probation and other non-institutional measures (3) special prevention and treatment measures for young offenders (e) prevention of criminality by abnormal offenders and their treatment.

In spite of some efforts made by central and state governments in the prevention and control of crime and reformation of prisoners in the last few years, many more steps are still needed to reach desirable standards. The following few suggestions may be put forward.

- [1] Adoption of the principle which shifts from punishment to treatment.
- [2] To reduce number of undertrials.
- [3] Short sentences to be discouraged.
- [4] Fines and default imprisonment to be reduced.
- [5] Premature releases.

Last but not least, there should be full time after care services for prisoners released before due date or, after completion of their sentences. Without it the prisoner who has no place to go will be forced to seek his old haunts and his old friends and all the efforts made over him will have been wasted. A programme of after-care must address itself to the problem of the prisoner's social and vocational rehabilitation and set him on his own feet to an honest and independent living. Considering the prevailing prejudices against an ex-prisoner the state should give the lead in facilitating his rehabilitation by a preparedness to re-employ him if he has earned a good chit from the probation and after care agency unless this is done jails will continue to be places which foster at public expense future criminals who, embittered by the society's refusal to give him a chance to live as honest citizens even after they have paid their dues in the hard coinage of punishment, will be driven to further antisocial behaviour.



There should be psychological clinics attached to jail hospitals as is done in U.S.A. The field workers attached to these clinics should collect data from thier family, homes, and about the past history of prisoners so that individual treatment can be rendered.

It is hoped that if the suggestions made above are put into practice they will go a long way in the reduction of crime though the country.

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## **8.5 Reference**

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- [i] Indian Social Problems—G. R. Madan
- [ii] Probation and Parole—C. R. Jaccob.

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## **8.6. Exercises**

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- (i) What is meant by Probation? What are its advantages.
- (ii) Do you consider Parole is a jutifiable means to reform the prisoners.
- (iii) Write explanatory notes on after care service in the Prevention and Control of crime.

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## **Unit-09 □ Structure and Function of Correctional Institution, State Organisation, Observation Homes, Children Homes and Shelter Homes.**

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**Structure :**

- 9.1 Structure and Function of Correctional Institution**
- 9.2 State Organisation**
- 9.3 Observation Homes**
- 9.4 Children Home**
- 9.5 Special homes and shelter homes**
- 9.6 References**
- 9.7 Exercises**

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### **9.1 Structure and Function of Correctional Institution**

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Correctional Institutes provide correctional services to the various categories of offenders. Correctional services include prevention of criminal activities through government departments which are planned and systematically organized and voluntary organisations whose activities are less co-ordinated. Prevention can be punitive (e.g. prison), (e.g. probation) in nature. This requires co-ordination between all departments of the criminal justice system.

Criminal Justice System (CJS) as a matter of fact comprising of :-

- (a) The Investigating agency
- (b) The Prosecuting agency.
- (c) The Justice delivery system through courts
- (d) The correctional services or, the jails.

All these 4 components of CJS has been recommended by the expert committee for improvement. Firstly a paradigm shift of the criminal. Justice system will be quest for truth and not just assessor of evidence. The judge will play a more active role. The police as the investigative and law enforcing agency need to be insulated from political and other extraneous influences. And correctional institutions or, jail will render both preventive and curative service to the offender with the basic purpose of converting an offender to an non-offender. The increasing awareness of civil liberties and human rights have influenced the institutional and non-institutional method for the reformation and the rehabilitation of the offenders. Fundamental rights, Human rights concept

and protocols form the basis of India's criminal Justice system and influence its correctional services. It has been observed by many that accountable correctional services are the best safeguards of human rights. A more humane approach to correctional services to offenders is non the professed goal of India. With the greater understanding of the causation of crime, the concept of correctional services too have undergone a sea-change. The newly emerging concept of Restorative justice looks at inter relationship not only between criminality and offenders, but also at the communities that provides the broad context to the crime.

Correctional Institution or, jail or, prison is a unisex world where every inmate is stigmatised and has to carry on tightly scheduled activities in the company of strangers. The inmates are deprived of liberty, privileges, emotional security and hetero-sexual relations. Considering all prevailing occurred situation in Indian correctional institutions, following major functions of correctional Institutions are suggested :—

- [1] Keeping in view of recommendations time to time made by National Human Rights Commission, the offender ought to be provided adequate emotional support as well as human treatment.
- [2] A balanced policy of liberalization and strictness regarding the inmates be adopted for punishing/treating the offenders through imprisonment.
- [3] The prison system's needed to make more effective in correcting the deviants. Undertrial should not be kept with convicts in the same prison.
- [4] Inmates should be provided access to their files.
- [5] The Correctional Institutions must make proper diagnosis before assigning barrack or, work to prisoners. Then should be given freedom of choosing the work of their choice.
- [6] Release on parole should be made easier and more effective.
- [7] Private industries should be encouraged to come to prison for providing variegated needs of the prisoner.
- [8] Correctional Institutions should provides ...channels to inmates for expressing that grievances.
- [9] A constant vigil should be maintained to look after the dress, food, shelter, hospital facilities of the inmates so that minimum standard of United Nation's norms are maintained.
- [10] Keeping it in mind that there is no connection between severity of prison conditions and incidence of crime, the correctional institutions should endeavour to devise programmes which may induce prisoners to turn over a new leaf.
- [11] Probation officers and other welfare officers must discharge their obligations properly so offenders get probation in accordance with the expressed provisions of the criminal procedure code 1973 (Amended). The probation officers should carry their two

assigned tasks or, function, Social investigation and supervision and relate the investigation for curative measure of the offender. Last but not least prisoners shall not be neglected, humiliated or, deprived for their humanity through cruel and degrading treatment at any stage of their confinement.

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## 9.2 State Organisation

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Each and every state is equipped with sufficient number of prisons or, correctional institutions for imprisonment, confinement of offenders. In the state of West Bengal there are central jails, district jails and subdivisional jails and special jails. Imprisonment as a form of punishment came to be applied on uniform basis through out India in 1860. The Prison Act 1894 governs the administration of prisons in the country. However action towards developing a uniform legal frame work has been hampered, because the subject of Prison falls in the state list of seventh schedule of the constitution and the central government is reluctant to intervene. However, the position now seems to have drastic change with the new interpretation given by the Supreme Court of India regarding matters relating to the handling and .. of prisoners. It has been clearly laid down that the manner in which offenders are treated in jails in an extension of judicial process itself and the rights of the prisoners are to be protected by the court. It should therefore responsible for the central government initiate action for the updating revision and consolidation of prison laws and to prepare a new Model Prison Manual for the states adopt and to administer Prisons. The exercise will also help in generating public opinion to serve as the springboard for political will and executive action on progressive lines.

A prison today serves the purpose of being custodial, a deterrent, coercive, curative, reformatory, correctional, rehabilitative and for resocialisation. It is not an independent system of power, but an instrument of the state shaped by its social milieu and by the stage of economic social and political development.

The Inspector General of prison is the executive head of all prisoner correctional Institutions of the state. The home department deals with prison affairs. Each state has a central jail and various district jails and some special jails. The district jails are headed by Superintendent. The Superintendent discharges administrative, executive, financial and other miscellaneous functions. This involves day to day management of the jails, that is of prisoners, the jail staff, the jail—budget etc.

The Jailor is the chief executive officer of the jail. He works directly under superintendent. He is assisted by assistant and sub-assistant jailors. The jailor is responsible for providing basic services like food, clothing, medical, vocational and recreational facilities to the prison inmates. Each jail also has a male and female warden sections of the jail. They look after prisoner's need on daily basis. There are also chief modern read .... day to day activities of various ....

Apart from administrative setup, there are medical officers, Probation officer, social welfare officer for rendering correctional services. Central jail or, prison are those that house prisoners

that have been sentenced for over 3 years and some have adjoining but separate areas for female under trials. District jails house prisoners sent to less than 3 years detention.

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### **9.3 Observation Homes**

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Observation homes are also known as Remand Homes. These homes are meant for children during the pendency of their trial in the courts, but they are also used for keeping the homeless, destitute and neglected children. The stay here is used for evaluating their personality traits and behaviour. As such, these homes are viewed more as observation homes than as places of detention. The important characteristics of good Remand Homes are segregation, education, training, recreation facility, health care, controlled discipline and effective supervision. Since the child in the Remand Home comes into contact with the law for the first time, if the environment is not kept conducive, the child might become suspicious and defiant towards the courts.

In India Remand/observation homes do not exist in all states. Remand/observation homes are managed by Government funds as well as voluntary agencies. These are separate homes for boys and girls of the total inmates, two thirds belong to the 7-14 years age groups while the remaining one-third are either below seven years or, between 14 and 18 years. Doctors are appointed for health care on both fulltime and parttime basis. The average expenditure per inmate per month in a Remand Home or, observation home was Rs. 60/- in 1973 and Rs. 310/- in 1993, Rs. 526 in 2002. The amount allotted is not adequate to meet all the needs of the child and cases of runaways are commonly heard in these homes. The National Human Rights Commission recommendations to improve the condition of these homes are under active consideration of the Government to ameliorate the conditions of the inmates.

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### **9.4 Children Home**

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These homes are established for reformation of the children offender and maladjusted children. Children given detention order by the court are kept in children home for a minimum period of 3 years and a maximum period of seven years. Inmates of about 18 years of age are transferred to Borstal Schools. These schools, meant only for boys, remain under the supervision of prison departments. Each school having a capacity of 80-100 inmates is divided into 4-5 dormitories and each dormitory has 4-5 cells. Each school has a Superintendent, deputy superintendent, deputy jailor, assistant jailor, doctor, 3-4 instructors, 2-3 teachers and some wardens. Training is given in tailoring, toy making, manufacturing leather goods and agriculture. Each training programme is of 2 years. The inmate gets the raw material from the school and things manufactured by them are sold in the market and profit is deposited in their account. The inmate even gets basic education up to 5th standard and has to appear in the examination conducted by the Inspector of schools. If the inmate wants to study beyond the 5th standard, he is admitted in the outside school. Since no work is forced upon the inmates here, they live like family

members. However, no follow-up records are maintained by the schools after the release of the inmates. The training programme are too old and traditional. The homes face usual problems of inadequate funds and ill-trained staff and lack of basic amenities. Cases of physical and even sexual abuse of children by the Staff and older children are also common. Frequently the children escape from these reformatories and return to the streets to a life of crime. Counselling is essential in these homes for improving the mental health of the children and inmates.

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## 9.5 Special homes and shelter homes

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These special homes and shelter homes are established for providing shelter and specialised training to young offender for their reformation. Reformation is the modern concept of punishment developed in the era of widespread use of prison sentences. These homes were established to accommodate maladjusted children Juvenile delinquent and violent and virulent and sex violence offender. These homes used to serve the purposes of reformatories. These ..... a programme of .... work, educations, recreation and religious services in order. To assist in rehabilitating the offender and preparing him for his entrance back into law-abiding society. These homes are meant to foster quick reformation of the offender. The cost of these Homes for maintenance are mostly borne by the state governments. Probation officer, welfare officer, medical officer, teacher and instructors run these homes. Counselling services are also provided for improving and restoring their mental health. Protection is another feature of these homes which provide security of living to the inmates. Base-level and primary education is also provided in these homes. Vocational training occupational training is also provided to make them employable. This also helps in their rehabilitation task in later course of life and their mainstreaming. In level ... are established at the ... of the state government. Special homes are established by Central Govt. particularly after 1990 in main states for providing shelter and as well as training during the period confinement of the offender.

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## 9.6 References

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- (i) Correctional Administration—P. L. Nanda
- (ii) Indian Social Problem—G. R. Madan
- (iii) Govt. of India Publication—New Delhi on Reformation of Correctional Institution.

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## 9.7 Exercises

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- (i) What is meant by Correctional Institutions? Narrate the structure and function of Correctional institution.
- (ii) Write explanatory notes on—(a) observation home (b) children homes.
- (iii) What are the basic reason for establishing special homes and shelter homes?

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## **Unit-10 □ Correctional Institutions**

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**Structure :**

**10.1 Correctional Institutions**

**10.2 Social Work Intervention in Correctional Setting**

**10.3 Role**

**10.4 Reference**

**10.5 Exercises**

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### **10.1 Correctional Institutions**

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Social work intervention and methodology is keenly required in correctional institutions to reform the offender and helping their entrance-back of to the law abiding society. The social worker try to establish rapport with the offender. The can help the offenders to help free legal aid for undertrials who may be too poor to afford a lawyer. Social workers provide guidance for use of the community resources and services. If the prisoner is the sole bread earner than the family may require financial support or, alternative employment with the quidence of social worker. The Basic need and medical expenses of Prisoner family need to be met by other sources by the social worker, during the offender's term of imprisonment. The legal .... concern the needs of the offenders. The social worker can provide remedial measure to the offender with the help of external agencies or N. G. Os.

Social Workers may find it a challenging task to work with the inmater of correctional home. The central theme of Social Work Prefession in connected with Social Justice and the Social Workers must be dedicated to enhance social order, Social Security and restore a peaceful environment by giving due respect and dignity to the individual. According to the activities of Social Work; its function may be categorized as—

- (i) Restoration of impaired capacity.
- (ii) Provision of individual and Social resources.
- (iii) Prevention of Social dysfunction.

These functions are inter-related to each other. They majorly deal with curative and rehabilitative, activitier by eradication of deviant activities. Which may aducrely affect the Social functioning. The Secondary Methods Particularly Social Welfare.

Despite legislation protecting Juvenile prisoners children committed to prison in India experience extreme cruelty and neglect. In most cases, juvenile prisoners are put together with hardened criminals. They are often sexually abused and compelled to do hard work. Older detainees make them do the heavy work allotted to them, usually in connivance with jail officials. This takes place in most of the situations. The social worker try to pursue Supreme Court ruling stating that care be taken to ensure such practices do not occur at the detriment of the under trial or, sentenced offender.

Delinquent children need empathy and provision of therapeutic environment in order... have forgotten how to trust others, remmebr destructive behaviour and assume responsibility for themselves. They need help in finding legitimate means of seeking satisfaction of their basic urges. In most cases the parents and family members also need counselling services so that they can provide whole some training and a more adequate home climate for children.

Thus parents and other family members need to be re-oriented and helped in the matters of their own behaviour—control for the purpose of effective socialisation of children. it is axiomatic that if a change is desired in the behaviour of the children the persons in immediate contract with them should change the way they behave to achieve this end, aspects of social field education, institution and control should continue to be essential in bringing changes to the ... of diverse individual beliefs, conventions and idiosyncrasies which are in opposition to the social development of the children. Definite and positive guidance to the parents, teachers and guardians is the need of theday suggesting, minimization of the increasing inconsistency between the ‘adult work’ & ‘the world of children’. The adults are parent, teachers, guardians, scientists, social workers, administrators etc. are all required to respond in radical ways, to cultivate environmental perception & to nurure self-constructive behaviour. Environmental education is required to reduced and eliminate self-destructive trends. It can be stressed that the mental health of children depends more than anything else on the love received from their parents and harmonious relationship between the father and the mother, phycho-therapy is required to diminish marital disharmony.

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## **10.2 Social Work Intervention in Correctional Setting**

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We know that the Professionals of Social Work is committed to improve human and social conditions and alleviating human distress and social problems and lead a life with dignity. So the central idea of Social Work is to promote Social Justice. The core idea of the correctional service is to reorient and re-socialise the deviant behaviour traits of an individuals’s personality by providing helpful and educative facilities and services which may help in increasing a feeling of repentance and a strong desire to correct oneself. Social Work tries toreshape one’s behaviour through control and socialization. Social Worker requires to develop skills to understand crime and the criminal bhaviour of the inmates, and accordingly chalk out the problem-solving method to deal with them.



Social Work aims to enhance the social functioning of individuals, groups, and communities by improving their social relationships. For achieving this aim Social Work performs following functions—

**Resources :** The Social Worker will have to look for enough resources to enhance capabilities of the inmates of the correctional homes by introducing new developmental programmes and interactive activities within the correctional setting and thus improve the social interaction within the inmates.

**Restoration :** Under this, a social worker may carry out both curative as well as rehabilitative functions, by identifying and eliminating the causes which resulted into the disruption of the social functioning, while its rehabilitative aspects deals with re-establishing the interaction process. The profession of Social Work is problem solving in and hence, it's methods can effectively be applied in the treatment and rehabilitation of the inmates of the correctional home.

**Prevention :** Much of the emphasis is given on elimination of such situations which may lead to the commission of delinquent or deviant activities. Thus prevention and control of the criminal activities for checking the rate of crime is a crucial part of social work. A social worker must carefully examine the cause and effect of the problem which results in social dysfunction, and then chalk out remedial measure to deal with it.

Social workers play a vital role in the criminal justice settings. They have to study deeply the mental, social and emotional condition of the new inmates who come to the correctional home, and think of suitable strategies for treating and supporting them. They may work with the individual inmate or groups of inmates with same problems, or may also provide referrals to medical or mental-health services.

Enough scope must be given to the inmates to ventilate their inner frustration, regrets agony fear and anger so that they feel better emotionally. Their hopes, desires and aspirations must be noted down, so that the social worker may plan out accordingly. Another challenging job that the social worker has to perform is to initiate effective communication and interaction within the inmates of the correctional setting. The inmates are from different background and have their own perceptions, but the social worker must ensure that the difference of opinion does not lead to hostility.

They must constantly monitor and record the progress and compliance of inmates within the correctional setting. They must closely observe their needs and requirements and also recommend for probation and parole. They are responsible to plan out programmes for the overall development of the inmates by providing integrated services which may include education, counselling, cultural therapy, introducing income generation programmes, fixing up meetings with the family members and also looking after the welfare activities of the inmate as well as their families. In the community setting also the Social Worker has an important role to play, which may be both rehabilitative and preventive in nature. They have to take initiative to settle down the inmates, once they are back to the community life after getting released from the correctional home. They must be helped to

regain their lost self-esteem and be motivated to start a new life with dignity and self-respect. The community members on the other hand be encouraged to accept them as a part of their society. They are also the agents for social control along with police and legal personnel. They may carry our programmes related to Anti-trafficking. Anti-dowry, domestic violence, child marriage, and also organize camps on legal Aid to raise awareness within the community.

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### **10.3 Role of Social Worker**

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Social workers have positive role for the prevention of crime, rendering due and effective service in correctional institutions, in probation and parole applying suitable methodology.

Studies reveal that if social planning and economic development go hand in hand then there is no increase in juvenile delinquency. Social workers stress the needs to be amended to cover the minimum preconditions like welfare facilities, formal education or, training etc to ensure a good category of living to all children including those with delinquent tendencies.

In case of correction institutions and various categories of Homes, the social worker establishes a close nexus between the offender and the authorities and hereby ... The social worker also provide effective counselling to the offenders to improve their mental health so that could be made prepared for future eventualities in social re-orientation after the completion of the term of the sentence.

During probation the social worker maintains close rapport with the probation so that he can maintain good conduct record by abiding the rules for conditional release. During probation the social worker can provide effective counselling to the offender so that his mental health becomes sound and can easily overcome the stigma of imprisonment and confinement.

During the release on parole the detainee be given Psychoanalytic treatment by the social worker. He will help the offender to unfold his unconscious motives and repressive.. social worker for his effective mainstreaming

It is also the task of the social worker to explain the necessity of comprise between individual needs and social need to the offenders, so that they can make better adjustment to his environment overcoming the pent-up feelings of inadequacy and deprivations.

It both the cases of probation and parole the social worker should maintain a keen vigil to the offenders, watch their every moment for inflicting socialization process on them. Socialization process are considered to be vital through which elements of personality gain determining forces. The wide array of forces which act on the individuals during their life process seem equally responsible for producing social as well as anti-social.. such interactions are dynamic in characters. Social workers in course of giving counselling to the offenders assert on perceptual and behavioural patterns so that offenders understand that future days can bring some good prospects for them and their social living will be purposive meaningful and pleasant social worker thus provides individualised treatment.

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### **10.3 Reference**

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- (i) Social Defence in Indian Society — Joshi + Bhatiya
- (ii) Crime and Delinquency by Haskell and L. Yablonsky-Chikago.

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### **10.4 Exercises**

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- (i) State the process of application of social work method in correctional Institutions.
- (ii) Trace the role of the Social worker in Homes and Probation and Parole for effective socialization.

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## **Unit-11 □ Human Rights and the Law, Enforcement Agencies— Role of Police Judiciary and Statutory Agencies**

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**Structure :**

**11.1 Human Rights and the Law**

**11.2 Enforcement Agencies**

**11.3 References**

**11.4 Exercises**

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### **11.1 Human Rights and the Law**

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The concept of human right tells a detailed story of the attempts made to define basic dignity and worth of the human beings and his or, her most fundamental entitlement. The denial of human rights and fundamental freedoms not only is an individual and personal tragedy but also creates conditions of social and political unrest showing the seeds of violence and conflict within and between societies and nations. Just to avoid these problems various international agencies including League of Nations, UNO, laid stress for the protection of human rights permanently, although the idea of Human Rights predates the United Nations.

It can be easily appreciated that human rights and fundamental freedoms allow us to develop fully and use our human qualities, our intelligence, our talents and our conscience and to satisfy our spiritual and other needs. They are based on mankind's increasing demand for a life in which the inherent dignity and worth of each human being will receive respect and protection. In the language of United Nation's Center for humanr rights—human rights could be generally defined and those rights which are inherent in our nature and without which we can not live as human beings.

The basic principle and ideas of Human Rights has stemed from 3 world famous events which reverberated the corridors of world history. They are (i) American war of Independence 1776, from which bill of right idea generated which led to the development of fundamental right (ii) The French Revolution 1789 and (iii) Russian Revolution and socialist movement of 1915-17. The colossal wastages of wealth and proper, anihilation of millions of people and uprooting millions and millions of people making them evacuee in the 1st and 2nd world war also led to development of idea of Human rights and fundamental freedom to protect the human civilisation and the mankind from fear of war, tyranny, exploitation and deprivation. The worst kind of

brutalization of human rights in the First and Second World war the main motivating factor in pursuing the goals of protection of human rights in the post-war period.

Article 55(1) of the charter of the United Nations embodies the theme of Human Rights. The Declaration known as Universal Declaration of Human Rights was adopted on December 10, 1948 by the General Assembly of United Nations with the hope that ultimately nations will embody these human rights in the constitutional documents. The General Assembly proclaimed :

This Universal Declaration of Human Rights as a common standard of achievement for all people of all nations, to the end that every individual and every organ of society, keeping this declaration constantly in mind, shall strive by teaching and education to promote respect for these freedoms and by progressive measure, national and international, to secure universal and effective recognition and observance, both among the people of member states themselves and among the people of territories under their jurisdiction.

It was hoped that the Declaration would be embodied into a covenant of human rights creating international norm. It took 28 years for achieving that goal. In the year 1976 two covenants (i) The International Covenant on Economic, Social and Cultural rights, (ii) The International covenant on civil and political rights.

There is optional protocol to the second covenant.

### **The Protection of Human Rights Act 1993 (Act 10 of 1994)**

To implement the principles enunciated through the universal declaration of Human Right 1948 and subsequents of 1976 i.e. economic cultural and social right and civil and political right, the Government of India enacted an Act in 1993 in the name, Protection of Human Rights to provide for the constitution of National Human Rights Commission and State Human Rights Commission in states and Human Rights Courts for better protection of Human Rights and for matters connected therewith and incidental thereto.

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## **11.2 Human Right Agencies**

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### **(i) National Human Rights Commission**

The Central Government shall constitute a body to be known as the National Human Rights Commission. The Commission shall consist of :

- (a) A chair-person who has been a chief justice of the Supreme Court of India.
- (b) One member who is or, has been, a judge of the Supreme Court.
- (c) One member who is or, has been the chief justice of a High Court.

(d) Two members to be appointed from amongst persons having knowledge of or, practical experience in, matters relating to human rights.

The chair persons of National Commission for Minorities, the National Commission of scheduled castes and scheduled tribes, the National Commission for women shall be deemed to be members of the commission for discharge of functions.

There shall be a Secretary General who shall be the chief executive officer of the commission and shall exercise such powers, and discharge such functions of the commission as it may delegate to him.

The head quarters of the Commission shall be at Delhi and the Commission with previous approval of the Central Government establish office at other places in India. The chair person shall hold office for a term of five years from this date. On which he enters upon his office or, if he attains the age of seventy years, whichever is earlier.

The President of India, by notification in official gazettee appoint the chairperson on recommendation of a committee headed by the Prime Minister of India.

**Functions :**

The commission shall perform all or any of the following functions, namely :-

- (a) inquire, suo motu or, on a petition to it by a victim or, any person on his behalf into the complaint of (i) violation of human Rights (ii) abatement thereof ; or, (ii) negligence in the prevention of such violation by a public servant.
- (b) intervene in any proceeding involving any allegation of violation of Human Rights pending before a court with the approval of such court.
- (c) Visit under intimation to the state government, any jail or, any other institution under the control of the state government, where persons are detained or, lodged for purpose of treatment, reformation or, protection to study the living conditions of the inmates and make recommendations there on.
- (d) review the safeguards provided by or, under the constitution or, any law for the time being enforced for the protection of Human Rights.
- (e) review the factors, including acts of terrorism, that inhibit the enjoyment of human rights and recommend appropriate remedial measures.
- (f) study treaties and other international instruments on human rights and make recommendation for their effective implementation
- (g) undertake and promote research in the field of human rights.
- (h) encourage efforts of non-governmental organisations and institutions working in the field of human rights.

### **Powers relating inquiries :**

The Commission shall have all power of a civil court trying a suit under the code of civil procedure 1908 and in particular in respect of the following matters :-

- (a) Summoning and enforcing the attendance of witness and examining them on oath :
- (b) discovery and production of any document
- (c) receiving evidence of affidavit
- (d) requisitioning any public record or, copy there of from any court or, office :

The Commission shall be deemed to be a civil court and when any offence is described in section 175, section 178, section 179, section 180 or, section 228 of the Indian Penal code is committed in view of presence of the commission, the commission may after recording the facts constituting the offence and the statement of the accused as provided in the criminal procedure code 1973 forward the case to a magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under section 346 of the code of criminal procedure code 1973.

The High Court, the Supreme Court and other court are supposed to provide necessary help assistance and cooperation of the Human Rights Commission in all matters of inquiry. The public records demanded by National Commission or the State Commission of Human Rights from any court ought to be provided for necessary discharge if functions of the Commission in compliance with the protection of Human Rights Act 1993.

Every proceedings before the commission shall be deemed to be a judicial proceeding within the meaning of sections 193, 228, 196 of the Indian penal code.

### **Investigation**

The commission may for the purpose of conducting any investigation pertaining to the inquiry, utilise the services of any officer! Police officer or, investigating agency of central government or, any state government with the concurrence of the central government or the state government as the case may be. And for this purpose the commission may

- (a) summon and enforce attendance of any person and examine him;
- (b) require the discovery and production of any document and
- (c) requisition any public record or, copy there of from any office.

The police has got responsibility to assist on any matter the commission so require and carry out the order of the both state and national commission of human rights for the purpose of the following :-

- (a) issuing summons to the respective person, persons or, institutions

- (b) carrying out order of the commission with regard to the enforcement of attendance of witness
- (c) must not show negligence on matters pertaining to the Human Rights Act 1993.
- (d) Must not allow abatement in case of violence of human rights.
- (e) must carryout the order of the commission state or, national for the purpose if effective investigation on complaints lodged before the commission.
- (f) must help the commission by the providing necessary protection as sought by the State or National Commission of Human Rights.

The State or, National Commission after inquiry approach the Supreme Court or, the High Court concerned for such directions, orders or, writs as that court may deem necessary. The commission, state or, national, after inquiry may recommend to the concerned government or, authority for the grant of such immediate interim relief to the victims or, victim or, the members of his family as the commission may consider necessary.

Formation of the constitution of State Human Rights Commission is not obligatory under the law. The State Commission of Human Rights to perform assigned to at by the law.

The State Commission shall consist of a chairperson who has been a chief justice of High Court and hence other four members. A state commission may inquire into violation of human rights only in respect of matters relatable to any of the entries enumerated in List II and List III in the seventh schedule to the Constitution. The chairperson shall held office for a term of five years from the date of his joining or, until he attains the age 70 years.

### **(ii) Human Rights Courts**

For the purpose of providing speedy trial of offences arising out of violation of human rights, the state government may, with the concurrence of the chief justice of the High Court, by notification, specify for each district a court of sessions to be a Human Rights Courts to try the said offences :

Provided that nothing in this section shall apply if :—

- (a) a court of session is already specified as a speical court, or,
- (b) a special court is already constituted.

### **Special Public Prosecutor**

For every Human Rights courts, the state government shall, by notification, specify a public prosecutor or, appoint an advocate who has been in practice as an advocate for not less than 7 years as a special public prosecutor for the purpose of conducting cases in that court.

The commission may also solicit the help of any N.G.O (non-Governmental organization) for the purpose of inquiry and investigation any complain of violation of human rights. They may also be appoint for other purposes as the commission deem for and proper.



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### **11.3 References**

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2. Human Rights and the Law—Paras Dewan & Peeyush Diwan
3. Human Rights and the Law—Justice V. R. Krishna Iyer

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### **11.4 Exercises**

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- (i) State the importance and significance of the Universal Declaration of the Human Rights on 10th December 1948.
- (ii) State the Constitution of the National Human Rights Commission vide the Protection of Human Rights Act 1993.
- (iii) State the major functions of the states and the National Human Rights Commission.
- (iv) State the role of police and other courts in implementation of Human Rights as proclaimed by the protection of Human Rights Act 1993.
- (v) State the constitution of National and State Human Rights Commission.
- (vi) State the functioning pattern of National and State Human Rights Commission.
- (vii) Give examples of some of the Human Right Violation Cases.

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### **Some Relevant IPC Section**

#### **Offences affecting the Public Health, Safety, Convenience, Decency and Morals.**

268 - Public nuisance

269 - Negligent act likely to spread infection of disease dangerous to life

270 - Malignant act likely to spread infection of disease dangerous to life

271 - Disobedience to quarantine rule

272 - Adulteration of food or drink intended for sale

273 - Sale of noxious food or drink

274 - Adulteration of drugs

275 - Sale of adulterated drugs

276 - Sale of drug as a different drug or preparation

277 - Fouling water of public spring or reservoir

278 - Making atmosphere noxious to health

279 - Rash driving or riding on a public

280 - Rash navigation of vessel

281 - Exhibition of false light, mark or buoy

282 - Conveying person by water for hire in unsafe or overloaded vessel

283 - Danger or obstruction in public way or line of navigation

284 - Negligent conduct with respect to poisonous substance

285 - Negligent conduct with respect to fire or combustible matter

286 - Negligent conduct with respect to explosive substance

287 - Negligent conduct with respect to machinery

288 - Negligent conduct with respect to pulling down or repairing buildings

289 - Negligent conduct with respect to animal

290 - Punishment for public nuisance in cases not otherwise provided for

291 - Continuance of nuisance after injunction to discontinue

292 - Sale, etc., of obscene books, etc.

293 - Sale, etc., of obscene objects to young person

294 - Obscene acts and songs, 294A - Keeping lottery office **Offences relating to Religion**

295 - Injuri or defiling place of worship with intent to insult the religion of any class.

295A - Deliberate and malicious acts, intended to outrage religious feelings or any class by insulting its religion or religious beliefs

296 - Disturbing religious assembly

297 - Trespassing on burial places, etc.

298 - Uttering, words, etc., with deliberate intent to wound the religious feelings of any person.

### **Offences affecting the Human Body**

299 - Culpable homicide

300 - Murder

301 - Culpable homicide by causing death of person other than person whose death was intended

302 - Punishment for murder

303 - Punishment for murder by life convict

304 - Punishment for culpable homicide not amounting to murder,

304 A - Causing death by negligence,

304B - Doubtful death

305 - Abetment of suicide of child or insane person

306 - Abetment of suicide

307 - Attempt to murder

308 - Attempt to commit culpable homicide

309 - Not Applicable as per latest hearing

310 - Thug

311 - Punishment

312 - Causing miscarriage; Causing for adopting threat, stress, strain

313 - Causing miscarriage without woman's consent

314 - Death caused by act done with intent to cause miscarriage

315 - Act done with intent to prevent child being born alive or to cause it to die after birth

316 - Causing death of quick unborn child by act amounting to culpable homicide

317 - Exposure and abandonment of child under twelve years, by parent or person having care of it

318 - Concealment of birth by secret disposal of dead body

- 319 - Hurt
- 320 - Grievous hurt
- 321 - Voluntarily causing hurt
- 322 - Voluntarily causing grievous hurt
- 323 - Punishment for voluntarily causing hurt
- 324 - Voluntarily causing hurt by dangerous weapons or means .
- 325 - Punishment for voluntarily causing grievous hurt
- 326 - Voluntarily causing grievous hurt by dangerous weapons or means 326A - Voluntarily causing hurt by use of acid,etc. 326B - Voluntarily throwing or attempting to throw acid
- 327 - Voluntarily causing hurt to extort property, or to constrain to an illegal act
- 328 - Causing hurt by means of poison, etc. with intent to commit an offence
- 329 - Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act
- 330 - Voluntarily causing hurt to extort confession, or to compel restoration of property
- 331 - Voluntarily causing grievous hurt to extort confession, or to compel restoration of property
- 332 - Voluntarily causing hurt to deter public servant from his duty
- 333 - Voluntarily causing grievous hurt to deter public servant from his duty
- 334 - Voluntarily causing hurt on pro vocation
- 335 - Voluntarily causing grievous hurt on provocation
- 336 - Act endangering life or personal safety of others
- 337 - Causing hurt by act endangering life or personal safety of others
- 338 - Causing grievous hurt by act endangering life or personal safety of others 339-Wrongful restraint
- 340 - Wrongful confinement, wrongful detention
- 341 - Punishment for wrongful restraint
- 342 - Punishment for wrongful confinement
- 343 - Wrongful confinement for three or more days
- 344 - Wrongful confinement for ten or more days
- 345 - Wrongful confinement of person for whose liberation writ has been issued
- 346 - Wrongful confinement in secret
- 347 - Wrongful confinement to extort property, or constrain to illegal act

348 - Wrongful confinement to extort confession, or compel restoration of property  
349 - Force  
350 - Criminal force  
351 - Assault  
352 - Punishment for assault or criminal force otherwise than on grave provocation  
353 - Assault or criminal force to deter public servant from discharge of his duty  
354 - Assault or criminal force to woman with intent to outrage her modesty,  
354A - Sexual Harassment and punishment for sexual harassment, 354B - Assault or use of  
Criminal force to woman with intent to disrobe, 354C - Voyeurism, 354D - Stalking  
355 - Assault or criminal force with intent to dishonour person, otherwise than on grave provocation  
356 - Assault or criminal force in attempt to commit theft of property carried by a person  
357 - Assault or criminal force in attempt wrongfully to confine a person  
358 - Assault or criminal force on grave provocation  
359 - Kidnapping  
360 - Kidnapping from India  
361 - Kidnapping from lawful guardianship  
362 - Abduction  
363 - Punishment for kidnapping, 363A - Kidnapping or maiming a minor for purposes of  
begging  
364 - Kidnapping or abducting in order to murder, 364A - Kidnapping for ransom, etc.  
365 - Kidnapping or abducting with intent secretly and wrongfully to confine person  
366 - Kidnapping, abducting or inducing woman to compel her marriage, etc.,  
366A - Procuration of minor girl, 366B - Importation of girl from foreign country  
367 - Kidnapping or abducting in order to subject person to grievous hurt, slavery, etc.  
368 - Wrongfully concealing or keeping in confinement, kidnapped or abducted person  
369 - Kidnapping or abducting child under ten years with intent to steal from its person  
370 - Buying or disposing of any person as slave, 370A - Exploitation of a trafficked person  
371 - Habitual dealing in slave  
372 - Selling minor for purposes of prostitution, etc.  
373 - Buying minor for purposes of prostitution, etc.  
374 - Unlawful compulsory labour

375 -Rape

376 - Punishment for rape, 376A - Punishment for causing death or resulting in persistent vegetative state of victim, 376B - Sexual Intercourse by a man with his wife during separation, 376C - Sexual Intercourse by a person in authority, 376D - Gang Rape, Intercourse by any member of the management or staff of a hospital with any woman in that hospital, 376E - Punishment for repeat offenders

377 - Unnatural offences

### **Offences Against Property**

378 - Theft

379 - Punishment for theft.—Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

380 - Theft in dwelling house, etc,

381 -Theft by clerk or servant of property in possession of master

382 - Theft after preparation made for causing death, hurt or restraint in order to the committing of the theft

383 - Extortion

384 - Punishment for extortion

385 - Putting person in fear of injury in order to commit extortion

386 - Extortion by putting a person in fear of death or grievous hurt

387 - Putting person in fear of death or of grievous hurt, in order to commit extortion

388 - Extortion by threat of accusation of an offence punishable with death or imprisonment for life, etc.

389 - Putting person in fear of accusation of offence, in order to commit extortion

390 - Robbery, burglary

391 - Dacoity

392 - Punishment for robbery

393 - Attempt to commit robbery

394 - Voluntarily causing hurt in committing robbery

395 - Punishment for Dacoity

396 - Dacoity with murder

397 - Robbery, or dacoity, with attempt to cause death or grievous hurt



- 398 - Attempt to commit robbery or dacoity when armed with deadly weapon
- 399 - Making preparation to commit dacoity
- 400 - Punishment for belonging to gang of dacoits
- 401 - Punishment for belonging to gang of thieves
- 402 - Assembling for purpose of committing dacoity
- 403 - Dishonest misappropriation of property
- 404 - Dishonest misappropriation of property possessed by deceased person at the time of his death
- 405 - Criminal breach of trust
- 406 - Punishment for criminal breach of trust
- 407 - Criminal breach of trust by carrier, etc.
- 408 - Criminal breach of trust by clerk or servant
- 409 - Criminal breach of trust by public servant, or by banker, merchant or agent
- 410 - Stolen Property
- 411 - Dishonestly receiving stolen property
- 412 - Dishonestly receiving property stolen in the commission of a dacoity
- 413 - Habitually dealing in stolen property, occupant of illegal goods
- 414 - Assisting in concealment of stolen property
- 415 - Cheating
- 416 - Cheating by personation
- 417 - Punishment for cheating
- 418 - Cheating with know ledge that wrongful loss may ensue to person whose interest offender is bound to protect
- 419 - Punishment for cheating by personation
- 420 - Cheating and dishonestly inducing delivery of property
- 421 - Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors
- 422 - Dishonestly or fraudulently preventing debt being available for creditors
- 423 - Dishonest or fraudulent execution of deed of transfer containing false statement of consideration
- 424 - Dishonest-or fraudulent removal or concealment of property

- 425 - Mischief
- 426 - Punished for mischief
- 427 - Mischief causing damage to the amount of fifty rupees
- 428 - Mischief by killing or maiming animal of the value of ten rupees
- 429 - Mischief by killing or maiming cattle, etc., of any value or any animal of the value of fifty rupees
- 430 - Mischief by injury to works of irrigation or by wrongfully diverting water
- 431 - Mischief by injury to public road, bridge, river or channel
- 432 - Mischief by causing inundation or obstruction to public drainage attended with damage
- 433 - Mischief by destroying, moving or rendering less useful a light-house or sea-mark
- 434 - Mischief by destroying or moving, etc., a land- mark fixed by public authority
- 435 - Mischief by destroying or moving, etc., a land- mark fixed by public authority Mischief by fire or explosive substance with intent to cause damage to amount of one hundred or (in case of agricultural produce) ten rupees
- 436 - Mischief by fire or explosive substance with intent to destroy house, etc.
- 437 - Mischief with intent to destroy or make unsafe a decked vessel or one of twenty tons burden
- 438 - Punishment for the mischief described in section 437 committed by fire or explosive substance
- 439 - Punishment for intentionally running vessel aground or ashore with intent to commit theft, etc.
- 440 - Mischief committed after preparation made for causing death or hurt
- 441 - Criminal trespass
- 442 - House trespass as forcible occupation for use
- 443 - Lurking house-trespass
- 444 - Lurking house-trespass by night
- 445 - House-breaking
- 446 - House-breaking by night
- 447 - Punishment for criminal trespass
- 448 - Punishment for house-trespass
- 449 - House-trespass in order to commit offence punishable with death
- 450 - House-trespass in order to commit offence punishable with imprisonment for life

- 451 - House-trespass in order to commit offence punishable with imprisonment
- 452 - House-trespass after preparation for hurt, assault or wrongful restraint
- 453 - Punishment for lurking house-trespass or house-breaking
- 454 - Lurking house-trespass or house-breaking in order to commit offence punishable with imprisonment
- 455 - Lurking house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint
- 456 - Punishment for lurking house-trespass or house-breaking by night
- 457 - Lurking house trespass or house-breaking by night in order to commit offence punishable with imprisonment
- 458 - Lurking house-trespass or house-breaking by night after preparation for hurt, assault, or wrongful restraint
- 459 - Grievous hurt caused whilst committing lurking house trespass or house-breaking
- 460 - All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them
- 461 - Dishonestly breaking open receptacle contain
- 462 - Punishment for same offence when committed by person entrusted with custody

**Offences relating to Documents and Property Marks**

- 463 - Forgery also runs with section 468 for cheating
- 464 - Making a false document
- 465 - Punishment for forgery
- 466 - Forgery of record of court or of public register, etc.
- 467 - Forgery of valuable security, will, etc.
- 468 - Forgery for purpose of cheating
- 469 - Forgery for purpose of harming reputation
- 470 - Forged document or electronic record
- 471 - Using as genuine a forged document or electronic record
- 472 - Making or possessing counterfeit seal, etc., with intent to commit forgery punishable under section 467
- 473 - Making or possessing counterfeit seal, etc., with intent to commit forgery punishable otherwise

474 - Having possession of document described in Section 466 or 467, knowing it to be forged and intending to use it as genuine

475 - Counterfeiting device or mark used for authenticating documents described in Section 467, or possessing counterfeit marked material

476 - Counterfeiting device or mark used for authenticating documents or electronic record other than those described in Section 467, or possessing counterfeit marked material

477 - Fraudulent cancellation, destruction, etc., of will, authority to adopt, or valuable security, 477A-Falsification of accounts

478 - *Omitted*

479 - Property mark

480 - *Omitted*

481 - Using a false property mark

482 - Punishment for using a false property mark

483 - Counterfeiting a property mark used by another

484 - Counterfeiting a mark used by a public servant

485 - Making or possession of any instrument for counterfeiting a property mark

486 - Selling goods marked with a counterfeit property mark

487 - Making a false mark upon any receptacle containing goods

488 - Punishment for making use of any such false mark

489 - Tempering with property mark with intent to cause injury, 489A - Counterfeiting currency- notes or bank-notes, 489B - Using as genuine, forged or counterfeit currency-notes or bank-notes, 489C - Possession of forged or counterfeit currency-notes or bank-notes, 489D - Making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes, 489] - Making or using documents resembling currency-notes or banknotes

### **Criminal Breach of Contracts of Service**

490 -*Repealed*

491 - Breach of contract to attend on and supply wants of helpless person, particularly daily huminities

492 - *Repealed*

### **Offences Relating to Marriage**

493 - Cohabitation caused by a man deceitfully inducing a belief of lawful marriage

494 - Marrying again during lifetime of husband or wife

495 - Same offence with concealment of former marriage from person with whom subsequent marriage is contracted

496 - Marriage ceremony fraudulently gone through without lawful marriage

497 - Adultery

498 - Enticing or taking away or detaining with criminal intent a married woman

### **Cruelty by Husband**

498 A - Husband of a woman subjecting her to cruelty

### **Defamation**

499 - Defamation

500 - Punishment for defamation

501 - Printing or engraving matter known to be defamatory

502 - Sale of printed or engraved substance containing defamatory matter

### **Criminal intimidation, Insult and Annoyance**

503 - Criminal intimidation, threat coercion

504 - Intentional insult with intent to provoke breach of the peace

505 - Statements conducing to public mischief

506 - Punishment for criminal intimidation

507 - Criminal intimidation by an anonymous communication

508 - Act caused by inducing person to believe that he will be rendered an object of the Divine displeasure

509 - Word, gesture or act intended to insult the modesty of a woman

510 - Misconduct in public by a drunken person

### **Attempts to Commit Offences**

511 - Punishment for attempting to commit offences, punishable with imprisonment for life or other implementations or, imprisonment with fine.

All offences under the Indian Penal code shall be investigated inquired into, tried and otherwise dealt with according to the provisions of law.

## **CRPC-A QUICK GLANCE**

**CRPC ACT was enacted in 1973 and came into force on 1 April 1974. Chapters.**

1. Short title, extent and commencement
2. Definitions.
3. Construction of references.
4. Trial of offences under the Indian Penal Code and other laws
5. Saving.
6. Classes of Criminal Courts.
7. Territorial divisions. (based on political and administrative divisions)
8. Metropolitan areas.
9. Court of Session. (where serious criminal cases are tried continuously)
10. Subordination of assistant Sessions Judges.
11. Courts of Judicial Magistrates.
12. Chief Judicial Magistrate and Additional Chief Judicial Magistrate, etc.
13. Special Judicial Magistrates.
14. Local Jurisdiction of Judicial Magistrates.
15. Subordination of Judicial Magistrates,
16. Courts of Metropolitan Magistrates.
17. Chief Metropolitan Magistrate and Additional Chief Metropolitan Magistrate
18. Special Metropolitan Magistrates.
19. Subordination of Metropolitan Magistrates.
20. Executive Magistrates.
21. Special Executive Magistrates.
22. Jurisdiction of Executive Magistrates.
23. Subordination of Executive Magistrates.
24. Public Prosecutors.
25. Assistant Public Prosecutors. 2s A. Directorate of Prosecution.
26. Courts by which offences are triable.

27. Jurisdiction in the case of juveniles.
28. Sentences which High Courts and Sessions Judges may pass.
29. Sentences, which Magistrates may pass.
30. Sentence of imprisonment in default of fine.
31. Sentence in cases of conviction of several offences at one trial.
32. Mode of conferring powers.
33. Powers of officers appointed.
34. Withdrawal of Powers.
35. Powers of Judge and Magistrates exercisable by their successors-in-office,
36. Powers of superior officers of police.
37. Public when to assist Magistrates and police.
38. Aid to person other than police officer, executing warrant.
39. Public to give information of certain offences.
40. Duty of officers employed in connection with the affairs of a village to make certain report.
41. When police may arrest without warrant.
42. Arrest on refusal to give name and residence.
43. Arrest by private person and procedure on such arrest.
44. Arrests by Magistrate.
45. Protection of members of the Armed Forces from arrest.
46. Arrest how made.
47. Search of place entered by person sought to be arrested.
48. Pursuit of offenders into other jurisdictions.
49. No unnecessary restraint beyond sanctionable limit.
50. Person arrested to be informed of grounds of arrest and of right to bail.
- 50A. Obligation of person making arrest to inform about the arrest, etc. to a nominated person.
51. Search of arrested persons.
52. Power to seize offensive weapons.
53. Examination of accused by medical practitioner at the request of police officer. 53A. Examination of person accused of rape by medical practitioner.

54. Examination of arrested person by medical practitioner at the request of the arrested person. 54A. Identification of person arrested
55. Procedure when police officer deposes subordinate to arrest without warrant
56. Person arrested to be taken before Magistrate or officer in charge of police station.
57. Person arrested not to be detained more than twenty-four hours.
58. Police to report apprehensions.
59. Discharge of person apprehended.
60. Powers, on escape, to pursue and re-take.
61. Form of summons.
62. Summons how served.
63. Service of summons on corporate bodies and societies,
64. Service when persons summoned cannot be found.
65. Procedure when service cannot be effected as before provided.
66. Service on Government servant.
67. Service of summons outside local limits.
68. Proof of service in such cases and when serving officer not present.
69. Service of summons on witness by post.
70. Form of warrant of arrest and duration.
71. Power to direct security to be taken.
72. Warrants to whom directed with specific direction.
73. Warrant may be directed to stay persons,
74. Warrant directed to police officer.
75. Notification of substance of warrant.
76. Person arrested to be brought before court without delay.
77. Where warrant may be executed with subsequent help.
78. Warrant forwarded for execution outside jurisdictions.
79. Warrant directed to police officer for execution outside jurisdiction.
80. Procedure of arrest of person against whom warrant issued.



81. Procedure by Magistrate before whom such person arrested is brought.
82. Proclamation for person absconding.
83. Attachment of property of person absconding,
84. Claims and objections to attachment.
85. Release, sale and restoration of attached property.
86. Appeal from order rejecting application for restoration of attached property.
87. Issue of warrant in lieu of, or in addition to, summons.
88. Power to take bond for appearance.
89. Arrest on breach of bond for appearance.
90. Provisions of this Chapter generally applicable to summons and warrants of arrest
91. Summons to produce document or other thing.
92. Produce as to letters and telegrams.
93. When search warrant may be issued, under order of Magistrate.
94. Search of place suspected to contain stolen property, forged, documents, etc.
95. Power to declare certain publications forfeited and to issue search warrants for the same.
96. Application to High Court to set aside declaration of forfeiture.
97. Search for persons wrongfully confined.
98. Power to compel restoration of abducted females.
99. Direction, etc., of search warrants.
100. Persons in charge of closed place to allow search.
101. Disposal of things found in search beyond jurisdiction.
102. Power of police officer to seize certain property.
103. Magistrate may direct search in his presence.
104. Power to impound document, etc., produced.
105. Reciprocal arrangements regarding processes.
- 105A. CHAPTER II-A
- 105B. Assistance in securing transfer of persons
- 105C. Assistance in relation to orders of attachment or forfeiture of property.

- 105D. Identifying unlawfully acquired property.
- 105E. Seizure or attachment of property
- 105F. Management of properties seized or forfeited under this Chapter.
- 105G. Notice of forfeiture of property.
- 105H. Forfeiture of property in certain cases
- 105I. Fine in lieu of forfeiture, may be passed by judicial Magistrate.
- 105J. Certain transfers to be null and void.
- 105K. Procedure in respect of letter of request.
- 105L. Application of this Chapter.
- 106. Security for keeping the peace on conviction
- 107. Security for keeping the peace in other cases.
- 108. Security for good behaviour from persons disseminating seditious matters.
- 109. Security for good behaviour from suspected persons,
- 110. Security for good behaviour from habitual offenders.
- 111. Order to be made.
- 112. Procedure in respect of person present in court.
- 113. Summons or warrant in case of person not so present.
- 114. Copy of order to accompany summons or warrant.
- 115. Power to dispense with personal attendance.
- 116. Inquiry as to truth of information.
- 117. Order to give security.
- 118. Discharge of person informed against.
- 119. Commencement of period for which security is required.
- 120. Contents of bond.
- 121. Power to reject sureties.
- 122. Imprisonment in default of security.
- 123. Power to release persons imprisoned for failing to give security.
- 124. Security for unexpired period of bond.

125. Order for maintenance of wives, children and parents.
126. Procedure.
127. Alteration in allowance.
128. Enforcement of order of maintenance.
129. Dispersal of assembly by use of civil force.
130. Use of armed forces to disperse assembly.
131. Power of certain armed force officers to disperse assembly.
132. Protection against prosecution for acts done under preceding sections.
133. Conditional order for removal of nuisance.
134. Service or notification of order.
135. Person to whom order is addressed to obey or show cause.
136. Consequences of his failing to do so.
137. Procedure where existence of public right is denied.
138. Procedure where he appears to show cause.
139. Power of Magistrate to direct local investigation, examination, and examination of an expert.
140. Power of Magistrate to furnish written instructions, etc. or, local investigation.
141. Procedure on order being made absolute and consequences of disobedience.
142. Injunction pending inquiry.
143. Magistrate may prohibit repetition or continuance of public nuisance.
144. Power to issue order in urgent, cases of nuisance or apprehended danger.
- 144A. Power to prohibit carrying arms in procession or mass drill or mass training with arms.
145. Procedure where dispute concerning land or water is likely to cause breach of peace.
146. Power to attach subject of dispute and to appoint receiver.
147. Dispute concerning right of use of land or water.
148. Local inquiry.
149. Police to prevent cognizable offences.
150. Information of design to commit cognizable offences.

151. Arrest to prevent the commission of cognizable offences.
152. Prevention of injury to public property.
153. Inspection of weights and measures.
154. Information in cognizable cases.
155. Information as to non-cognizable cases and investigation of such cases.
156. Police officer's power to investigate cognizable cases.
157. Procedure for investigations.
158. Report how submitted.
159. Power to hold investigation or preliminary inquiry.
160. Police Officer's power to require attendance of witnesses.
161. Examination of witnesses by police.
162. Statements to police not to be signed: Use of statements in evidence.
163. No inducement to be offered.
164. Recording of confessions and statements. 164A. Medical examination of the victim of rape.
165. Search by police officer, under search warrant.
166. When officer in charge of police station may require another to issue search warrant.
- 166A. Letter of request to competent authority for investigation in a country or place outside India.
- 166B. Letter of request from a country or place outside India to a court or an authority for investigation in India.
167. Procedure when investigation cannot be completed in twenty-four hours.
168. Report of investigation by subordinate police officer.
169. Release of accused when evidence deficient.
170. Cases to be sent to Magistrate when evidence is sufficient.
171. Complainant and witnesses not to be required to accompany police officer and not to be subject to restraint.
172. Diary of proceeding in investigation,
173. Report of police officer on completion of investigation,
174. Police to inquire and report on suicide, etc.

175. Power to summon persons.
176. Inquiry by Magistrate into cause of death.
177. Ordinary' place of inquiry- and trial.
178. Place of inquiry or trial.
179. Offence triable where act is done or consequence ensues.
180. Place of trial where act is an offence by reason of relation to other offence.
181. Place of trial in case of certain offences. Where act is committed.
182. Offences committed by letters, etc.
183. Offence committed on journey or voyage.
184. Place of trial for offences triable together.
185. Power to order cases to be tried in different sessions divisions.
186. High Court to decide, in case of doubt, district v. where inquiry or trial shall take place.
187. Power to issue summons or warrant for offence committed beyond local jurisdiction.
188. Offence committed outside India.
189. Receipt of evidence relating to offences committed outside India.
190. Cognizance of offences by Magistrates.
191. Transfer on application of the accused.
192. Making over of cases to Magistrates.
193. Cognizance of offences by Courts of Session.
194. Additional and Assistant Sessions Judges to try cases made over to them.
195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.
196. Prosecution for offences against the State and for criminal conspiracy to commit such offence.
197. Prosecution of Judges and public servants.
198. Prosecution for offences against marriage.
- 198A. Prosecution of offences under section 498 A of the Indian Penal Code.
199. Prosecution for defamation.
200. Examination of complainant.

201. Procedure by Magistrate not competent to take cognizance of the case.
202. Postponement of issue of process.
203. Dismissal of complaint.
204. Issue of process.
205. Magistrate may dispense with personal attendance of accused.
206. Special summons in cases of petty offence.
207. Supply to the accused of copy of police report and other documents.
208. Supply of copies of statements and documents to accused in other cases triable by court of Session.
209. Commitment of case to Court of Session when offence is triable exclusively by it.
210. Procedure to be followed when there is a complaint case and police investigation in respect of the same offence.
211. Contents of charge, details of place of occurrence.
212. Particulars as to time, place and person.
213. When manner of committing offence must be stated.
214. Words in charge taken in sense of law under which offence is punishable.
215. Effect of errors.
216. Court may alter charge.
217. Recall of witnesses when charge altered.
218. Separate charges for distinct offences.
219. Three offences of same kind within year may be charged together.
220. Trial for more than one offence.
221. Where it is doubtful what offence has been committed.
222. When offence proved included in offence charged.
223. What persons may be charged jointly.
224. Withdrawal of remaining charges on conviction, on one of several charges.
225. Trial to be conducted by Public Prosecutor.
226. Opening case for prosecution.
227. Discharge.

- 228. Framing of charge.
- 229. Conviction on plea of guilty.
- 230. Date prosecution evidence.
- 231. Evidence for prosecution.
- 232. Acquittal.
- 233. Entering upon defence.
- 234. Arguments.
- 235. Judgment of acquittal or conviction.
- 236. Previous conviction.
- 237. Procedure in cases instituted under section 199 (2).
- 238. Compliance with section 207.
- 239. When accused shall be discharged.
- 240. Framing of charge.
- 241. Conviction on plea of guilty.
- 242. Evidence for prosecution.
- 243. Evidence for defence.
- 244. Evidence for prosecution.
- 245. When accused shall be discharged.
- 246. Procedure where accused is not discharged.
- 247. Evidence for defence.
- 248. Acquittal or conviction.
- 249. Absence of complainant.
- 250. Compensation for accusation without reasonable cause.
- 251. Substance of accusation to be stated.
- 252. Conviction on plea of guilty.
- 253. Conviction on plea of guilty in absence of accused in petty cases.
- 254. Procedure when not convicted.
- 255. Acquittal or Conviction.

- 256. Non-appearance or death of complainant.
- 257. Withdrawal of complaint.
- 258. Power to stop proceedings in certain cases.
- 259. Power of court to convert summons-cases into warrant cases.
- 260. Power to try summarily.
- 261. Summary trial by Magistrate of the second class.
- 262. Procedure for summary trials.
- 263. Record in summary trials.
- 264. Judgment in cases tried summarily.
- 265. Language of record and judgment.
- 265 A. Application of the Chapter.
- 265 B. Application for plea bargaining.
- 265C. Guidelines for mutually satisfactory disposition.
- 265D. Report of the mutually satisfactory disposition to be submitted before the Court.
- 265E. Disposal of the case.
- 265F. Judgment of the Court.
- 265G. Finality of the judgment.
- 265H. Power of the Court in plea bargaining.
- 265I. Period of detention undergone by the accused to be set off against the sentence imprisonment.
- 265J. Savings.
- 265K. Statements of accused not to be used.
- 265L. Non-application of the Chapter.
- 266. Definitions.
- 267. Power to require attendance of prisoners.
- 268. Power of State Government to exclude certain persons from operation of section 267.
- 269. Officer in charge of prison to abstain from carrying out order in certain contingencies.
- 270. Prisoner to be brought to court in custody.



271. Power to issue commission for examination of witness in prison.
272. Language of Courts.
273. Evidence to be taken in presence of accused.
274. Record in summons cases and inquiries.
275. Record in warrant oases.
276. Record in trial before Court of Session.
277. Language of record of evidence.
278. Procedure in regard to such evidence when completed.
279. Interpretation of evidence to accused or his pleader.
280. Remarks respecting demeanour of witness.
281. Record of examination of accused.
282. Interpreter to be bound to interpret truthfully.
283. Record in High Court.
284. When attendance of witness may be dispensed with and commission issued.
285. Commission to whom to be issued.
286. Execution of commissions.
287. Parties may examine witnesses.
288. Return of commissions.
289. Adjournment of proceeding.
290. Execution of foreign Commissions.
291. Deposition of medical witness.
- 291A. Identification report of Magistrate.
292. Evidence of officers of the Mint.
293. Reports of certain Government scientific experts.
294. No formal proof of certain documents.
295. Affidavit in proof of conduct of public servants.
296. Evidence of formal character on affidavit.
297. Authorities before whom affidavits maybe sworn.

298. Previous conviction of acquittal how proved.

299. Record of evidence in absence of accused.

300. Person once convicted or acquitted not to be tried for same offence.

### **Key Words**

**Adjudication**-The process by which a court arrives at a final decision in a case.

**Arraignment**-An appearance in court prior to trial in a criminal proceeding.

**Crime**-A violation of a criminal law.

**Criminal Justice**-The process of achieving justice through the application of the criminal law and through the workings of the criminal justice system. Also, the study of the field of criminal justice.

**Criminal Justice System**-The collection of all the agencies that perform criminal justice functions, whether these are operations or administration or technical support. The basic divisions of the criminal justice system are police, courts, and corrections.

**Crime Index**-An annual statistical tally of major crimes known to law enforcement agencies.

**Crime Rate**-The number of major crimes reported for each unit of population.

**Corrections**-All the various aspects of the pre-trial and post-conviction management of individuals accused or convicted of crimes.

**Correctional Clients**-Prison inmates, probationers, parolees, offenders assigned to alternative sentencing programs, and those held in jails.

**Felony**-A serious criminal offense; special one punishable by death or by incarceration in a prison facility for more than a year.

**Infraction**-A minor violation of state statute or local ordinance punishable by a fine or other penalty, but not incarceration, or by a specified, usually very short term of incarceration.

**Institutional Corrections**-That aspect of the correctional enterprise that involves the incarceration and rehabilitation of adults and juveniles convicted of offenses against the law, and the confinement of persons suspected of a crime awaiting trial and adjudication.

**Misdemeanour**-A relatively minor violation of the criminal law, such as petty theft or simple assault, punishable by confinement for one year or less

**Non institutional corrections (Also Community Corrections)**

That aspect of the correctional enterprise that includes pardon, probation, and parole activities, correctional administration not directly connectable to institutions, and miscellaneous [activities] not directly related to institutional care.

**Property Crime**-Burglary, larceny, theft, motor vehicle theft.

**Prison**-A state or federal confinement facility that has custodial authority over adults sentenced to confinement.

**Violent Crime**-Interpersonal crime that involves the use of force by offenders, or results in injury or death to victims, which is acute and coercive in nature.

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## NOTES

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