

CORRECTIONAL SOCIAL WORK

Master of Social Work (M.S.W.)

Semester – IV, Paper-IV

Lesson Writers:

Prof. V. Venkateswarlu

Professor,
Dept. of Sociology & Social Work,
Acharya Nagarjuna University, Guntur

Prof. M. Trimurthi Rao

Professor,
Dept. of Sociology & Social Work
Acharya Nagarjuna University. Guntur.

Prof, Saraswati Raju Iyer

Professor,
Dept. of Sociology & Social Work,
Acharya Nagarjuna University
Guntur,

Prof. D. Sai Sujatha

Professor,
Dept. of Social Work & Population
Studies,
S. V . University, Tirupathi.

Dr. Anuradha

Asst.Professor
Ambedkar University,
Srikakulam.

Dr. Kavya Jostna

Asst.Professor
Ambedkar University,
Srikakulam.

Editor & Lesson Writer

Prof. K. Dhanalakshmi

Professor,
Dept. of Sociology & Social Work,
Acharya Nagarjuna University

Director

Dr. NAGARAJU BATTU

MBA., MHRM., LLM., M.Sc. (Psy), MA (Soc), M.Ed., M.Phil., Ph.D

CENTRE FOR DISTANCE EDUCATION

ACHARAYA NAGARJUNA UNIVERSITY

NAGARJUNANAGAR – 522510

Ph:0863-2346222,2346208,

0863-2346259(Study Material)

Website: www.anucde.info

e-mail:anucdedirector@gmail.com

M.S.W – Correctional Social Work

First Edition 2023

No. of Copies :

©Acharya Nagarjuna University

This book is exclusively prepared for the use of students of (M.S.W.) Centre for Distance Education, Acharya Nagarjuna University and this book is meant for limited Circulation only.

Published by:

**Dr. NAGARAJU BATTU,
Director
Centre for Distance Education,
Acharya Nagarjuna University**

Printed at:

FOREWORD

Since its establishment in 1976, Acharya Nagarjuna University has been forging ahead in the path of progress and dynamism, offering a variety of courses and research contributions. I am extremely happy that by gaining 'A' grade from the NAAC in the year 2016, Acharya Nagarjuna University is offering educational opportunities at the UG, PG levels apart from research degrees to students from over 443 affiliated colleges spread over the two districts of Guntur and Prakasam.

The University has also started the Centre for Distance Education in 2003-04 with the aim of taking higher education to the door step of all the sectors of the society. The centre will be a great help to those who cannot join in colleges, those who cannot afford the exorbitant fees as regular students, and even to housewives desirous of pursuing higher studies. Acharya Nagarjuna University has started offering B.A., and B.Com courses at the Degree level and M.A., M.Com., M.Sc., M.B.A., and L.L.M., courses at the PG level from the academic year 2003-2004 onwards.

To facilitate easier understanding by students studying through the distance mode, these self-instruction materials have been prepared by eminent and experienced teachers. The lessons have been drafted with great care and expertise in the stipulated time by these teachers. Constructive ideas and scholarly suggestions are welcome from students and teachers involved respectively. Such ideas will be incorporated for the greater efficacy of this distance mode of education. For clarification of doubts and feedback, weekly classes and contact classes will be arranged at the UG and PG levels respectively.

It is my aim that students getting higher education through the Centre for Distance Education should improve their qualification, have better employment opportunities and in turn be part of country's progress. It is my fond desire that in the years to come, the Centre for Distance Education will go from strength to strength in the form of new courses and by catering to larger number of people. My Congratulations to all the Directors, Academic Coordinators, Editors and Lesson-writers of the Centre who have helped in these endeavours.

*Prof. Raja Sekhar Patteti
Vice-Chancellor
Acharya Nagarjuna University*

Master of Social Work (M.S.W.)
Semester – IV, Paper-IV
404SW21: CORRECTIONAL SOCIAL WORK
SYLLABUS

Course Objective: The main objective of this paper is to understand the concept of crime, nature, theories of classical, biological, sociological, psychological and schools of criminology; concept and theories of punishment, juvenile delinquency, prison and problems of correctional services in India.

Course Outcome: To enlighten the students on concept of crime theories of crime and classification of crimes theories of punishments probation and parole problems of correctional services.

UNIT- 1

Crime – Concept, Definition and Nature – Theories: Classical, Biological, Sociological and Psychological.

UNIT-2

Punishment – Concept, Definition, Meaning and types – theories of Punishment – Limitations of Punishment.

Unit – 3

Correction – Concept, Definition, Meaning, Philosophy and Historical background.

Unit – 4

Correctional Institutions – Central Prison, Remand Homes, Borstal Schools, Juvenile Courts – Prison Reforms, Probation and Parole; After Care Services.

UNIT-5

Correctional Social Work – Concept, Meaning, Importance – Correctional Social Work with Criminals, Juvenile Delinquents, Beggars, drug Addicts, Alcoholics and Sex Workers – Application of Social Work Methods and Role of Social Worker.

REFERENCES:

1. Cavadino, Michael and Dingo, James, The penal system an Introduction, sage publication, New Delhi
2. Garland, David (1990). Punishment and Modern Society. A study in Social theory, Clarendon Press, Oxford.
3. Krishna Iyer, V.R.(1998), Law and Social Change Allied Publishing private Ltd.

4. Siddique .A, Criminology problems and Perspectives – Eastern Book Company, Lucknow.
5. Grillin and Grillin, Criminology and Penology.
6. E.H.Sutherland, Punishment and Social Structure Columbia University, New York.
7. Alexader J.P., The Philosophy of punishment.
8. Barlett, H.M, Analyzing Social Work Practice by fields.
9. Fink, A.E., The field of Social Work, Henry, Holt and company, Inc New York, 1949.
10. Government of India (1987), Encyclopedia of Social work in india ministry of Welfare Vol.1. New Delhi.
11. Moorthy, M.V.(1974), Social Work Philosophy, Methods and fields Karnataka University, Karnataka University Press.

CONTENTS

S.NO.	LESSON NAME	PAGES
1.	Crime	1.1 – 1.10
2.	Theories of Crime	2.1 – 2.10
3.	Concepts of Crime	3.1 – 3.10
4.	Punishment	4.1 – 4.11
5.	Theories of Punishment	5.1 – 5.11
6.	Limitation of Punishment	6.1 – 6.11
7.	Corrections – Concept, Meaning	7.1 – 7.10
8.	Corrections – Philosophy & Historical Back Ground	8.1 – 8.15
9.	Correctional Institutions	9.1 – 9.16
10.	Central Prisons	10.1 – 10.20
11.	Remand Homes, Borstal Schools, juvenile Courts	11.1 – 11.23
12.	Prison Reforms, Probation & Parole, after care Services	12.1 – 12.38
13.	Meaning, Definition, Importance and History of Correctional Social Work	13.1 – 13.16
14.	Methods of Social Work in Correctional Setting	14.1 – 14.15
15.	Role of Social Worker in Drug De - Addiction	15.1 – 15.14

LESSON 1

CRIME

OBJECTIVE

The objective of this lesson is to explain the concept meaning of Crime.

STRUCTURE

- 1.1 Introduction
- 1.2 Concept of Crime
- 1.3 Definition of Crime
- 1.4 Elements of Crime
- 1.5 Patterns of Crime
- 1.6 Functions of Deviationism and Criminalisation
- 1.7 Summary
- 1.8 Keywords
- 1.9 Self-Assessment Questions
- 1.10 Reference Books

1.1 INTRODUCTION

Crime is a social evil. Crime is a such act which is prohibited by law. It is a myth to think of a crimeless society. This is the fact that there can be no society without the problem of crime and criminals. The concept of crime is essentially concerned with the social order.

Everyone owes certain duties to his fellow men and at the same time has certain rights and privileges, which he expects others to ensure for him. Personal safety particularly security of life, liberty and property, is of utmost importance to any individual. State protects all human beings, and maintains law and order in the land, so that its subjects can lead a peaceful life with no fear of injury to their lives, limbs or property.

1.2 CONCEPT OF CRIME

The concept of crime is essentially concerned with the social order. Problem and crime are essential parts of human being. Commenting on this aspect of crime problem, Emile Durkheim in his treatise "crime as a normal phenomenon" says a society composed of persons with angelic qualities would not be free from violations of the norms of that society.

In fact crime is a dynamic concept changing with the social transformation. He argues that crime is a necessary feature of every society as it is a fundamental condition of social organization. During the 12th and 13th centuries included only those acts as crime which were committed against the state or the religion thus, treason, rape and blasphemy were treated as crime whereas "murder" was not crime.

1.3 DEFINITION OF CRIME

Sociologists define human behaviour in terms of infraction of some agreed upon rule. Thus, according to Cohen (1966) deviant behaviour is Behaviour which violates institutionalised expectations, that is, expectations, which are shared and recognised as legitimate within a social system. The same normative conceptualisation is followed by Clinard (1963) who describes deviant behaviour as: Behaviour in a disapproved direction from the norms and sufficient in degree to exceed the tolerance limit of the community, Sociologists, whose main concern is to capture the social reality as closely as possible, remain pre-occupied with an analysis of institutionalised expectations of normative standards of the community, which tends to bring an element of non-criticality in their approach. Unlike this the lawyer's concern with 'crime', a special form of deviation, has been subjected to much greater analysis that is reflected in the wideness of crime discourse itself.

The distinctively of crime type deviation lies in:

- a) involvement in acts or omissions which are proscribed by law, and
- b) infraction of norm entailed by imposition of penal sanction or punishment.

Thus, involvement in Crime leads triggering a set of consequences, ultimately leading to imposition of punishment. An authority on Criminal Law, Kenny (*Outlines of Criminal Law*), identifies the following three characteristics of Crime:

- i) that it is a harm brought about by human conduct which the sovereign power in the State desires to prevent;
- ii) that among the measures of prevention selected is the threat of punishment;
- iii) that legal proceedings of a special kind are employed to determine the guilt of the accused before being punished.

This way both the Sociologists' and Lawyers' conception of deviance and crime have two common features. First, both treat institutionalised expectations or community norms and Law as a "good thing" or a desirable social entity that is assumedly for the larger happiness of the society. However, while emphasizing the fact of normative fidelity one has to be aware of emerging, though held by a few, trend of those who perceive norms or law "neutrally" as a set of "power resource" that can be used for bad or repressive purposes as well. Second, deviance and crime are premised on an implicit subscription to a consensus model in regard to 'harmful' behaviour. The consensus model constitutes the strongest basis for legitimisation of the criminal justice systems in the modern societies. However, the consensus view is also critiqued by a few who subscribe to a conflict model that views deviance and crime in terms of conflictual relations between the dominant and subservient sections in the society. The conflict view is best reflected in the ideas of left wing sociologists and criminologists such as Chambliss (1975) Richard Quinney etc.

David Matza (1969) provides a reconciliation between consensus and conflict models by suggesting a dynamic frame for conceptualising deviance. He conceives deviance in terms of the problematic empirical complexity of the society; for their inevitably exists, particularly in industrial societies, not one commonly shared and consensually agreed-to-culture, but plurality of cultures, which do not co-exist without considerable tensions and conflict. The competing cultural entities constantly strive to *legalise* and transform their cultures into dominant culture. But despite legalisation of culture, legitimisation may still be lacking and non-dominant cultural groups may continue to follow their own cultural practices and standards. This makes the issue of *legitimation* a source of constant tension: because some

groups press for their cultural practices to be recognised by law and turned into crimes, while as other cultural groups press for abolition from the legal code certain behaviour patterns, thereby to resort to be decriminalisation. Certain interesting examples of positive and negative *legitimation* demands can be found in current Indian Social controversies as well. The first relates to legitimisation demands of fundamentalist religious groups that demand according primacy to religious sensibilities and press for creation of a stern law against blasphemy in India, (former Union Law Minister Mr. Arun Jetley and Mr. Chandan Mitra, a Rajya Sabha MP. subscribe to this view). In a recent 'test-run' this religious cultural group slapped five criminal cases against the veteran art icon Mr. M. F. Hussain for his surrealistic nude paintings of various Hindu Gods and goddesses. The Delhi High Court found no justification the criminal proceedings and quashed them by its Order in 2006. The Supreme Court recently dismissed the appeal of the petitioner; finding that the artist is fully within freedom of artistic creativity and there is no justification to accord primacy to religious sensibility as espoused by the particular religious group.

As against this the legislative and judicial initiatives to abolish out dated crimes of attempt to commit suicide (Section 309) and sex against natural order (Section 377) are instances of certain progressive groups pressing for decriminalisation in these areas. In respect of suicide offence both the Law Commission of India (42nd Law Commission Report) and the Supreme Court of India (*Rathinam v. Union of India* (1994) 3SCC 394) have categorically opined for a change in the law. But some-how the conservative views underlying the otiose law continues to prevail. Somewhat similar trend is visible in respect to a crime that criminalises all forms of homosexuality and bestiality mainly with a view to enforcing the Victorian morality of recognising only heterosexual relationship and limited sexual freedom. The constitutionality of S. 377 is under challenge and the Court has still to lay down the law on the point.

Under the codified criminal law system crime means an act punishable by the Indian Penal Code, 1860 or other penal statutes. We shall now, endeavour to explain the elementary ideas involved in the concept of Crime and its peculiarities that distinguish it from other civil wrongs. Austin distinguishes civil injury from crimes in terms of the party that initiates action and has the discretion in the matter. In civil injury the injured party has the privilege and discretion to pursue action while as in crimes the action against wrongs is pursued by the sovereign or his subordinates. According to Blackstone crimes are public wrongs that affect the whole community. But in fact public and private wrongs are not exclusive of one another.

In civil wrongs the normative transgressions are visited by restitutive compensation to the victim party. But in cases of crimes, punishment alone is considered as the adequate restoration of transgressions. In these cases full restitution to the wronged individual and to the society is often impossible and the law instead of proceeding on remedial lines punishes the offender partly as a measure of prevention and partly out of retribution. Punishment, however, to be effective as a measure of prevention deals with deliberate acts directed by an evil mind and thereby aims at eradication of evil will.

Therefore, crimes are comparatively graver wrongs than civil injuries. They are graver because they constitute greater interference with the happiness of others and affect the well being not only of a particular individual but of the whole community. They are graver because the impulse to commit them is often very strong or because the advantage to be gained by the wrongful act and the facility with which it can be accomplished are often great.

They are also grave because they are ordinarily deliberate act directed by an evil mind and hurtful to society by the bad example they set. Thus crime is an act done with malice or criminal intent. This is called the condition of criminality or the state of immutability, which may include both positive and negative states of mind such as intention, knowledge, likelihood, rashness or heedlessness and even negligence.

1.4 ESSENTIAL ELEMENTS OF CRIME

After understanding the exclusion of many forms of injuries from the ambit of crime, it may be useful to identify the peculiarities of crimes in terms of its basic elements such as:

- a) A willed human action that results in evil consequences that is known as *actus-reus* element.
- b) Guilty mind on the part of the wrong doer to indulge in a proscribed act or omission leading to harmful consequence to an individual or to the society that is known as *mens-rea* element.
- c) Requirement of prohibited act being done with the proscribed guilty mind that is known as the *concurrence* element.

The elements of each specific crime are elaborately provided for in the codified law of crime, the Indian Penal Code, 1860 and other special and Local Laws relating to crimes. The Penal Code spells out the exact nature of *actus-reus* (prohibited act or omission) and *mens-rea* of each offence as the positive requirement to establish criminality. There is also an enumeration of liability exempting conditions by virtue of Section 6 of the Penal Code. In this way the dominant judgment relating to crime is subject to pre-determined elemental framework that ensures uniformity and minimum moral content in the law of crimes.

Crime, “Offence” and its Variants:

The Penal Code and the Code of Criminal Procedure, 1973 have used the term offence instead of crime. The rationale for such a change of terms is that: First, crime is a generic term and “Offence” relates to specific prescribed conduct covered by each offence, and Second, establishment of the elemental requirement of a specific offence leads to justifications for imposing the prescribed punishment. Section 40 Penal Code lays down: Except in the [chapters] and sections mentioned in clauses 2 and 3 of this section the word “offence” denotes a thing made punishable by this code. In a similar vein Section 2 (n) of the code of criminal procedure lays down: “Offence” means “an act or omission made punishable by any law for the time being in force and includes any act in respect of which a complaint may be made under Section 20 of the Cattle-Trespars Act 1871”. The Criminal Procedure Code further classifies offences for the purposes of different criminal justice processes, as follows:

- a) For the purposes of arrest and investigation “cognisable-offence” (Section 2 (c) Cr.P.C.) and “non-cognisable offence” (Section 2 (b) Cr.P.C.)- cognisable offence are generally more serious offences as per the First Schedule of the Cr.P.C. In view of their seriousness the Code provides for distinct first information, investigation and arrest procedure in regard to them. Non cognisable offences are less serious and therefore investigation and arrest in regard to them requires a direction from the appropriate judicial authority.

- b) For the purposes of Bail “bailable offence” and “non-bailable offence” (Section 2(a) like cognisable offence and non-cognisable offence, use the categorisation conveying the seriousness of the offence in terms of the scheme of the First Schedule of the Code. In bailable offence bail is a matter of right, but in cases of non-bailable offence it is a matter of judicial discretion.
- c) For the purposes of “compounding” Proceedings Section 320 of the Code provides an elaborate scheme for the compoundable offence, which are treated more like civil wrongs that can be compromised with the permission of the court.
- d) For the purposes of Plea-bargaining and sentencing Though the Code does not explicitly use the terms “Petty offence” and “Serious offence”, but there are several provisions in the Code which implicitly categories offences into two these categories, namely (a) offences punishable with less than seven years imprisonment, and (b) those that are punishable with more than seven years imprisonment. Such a classification is relevant for the purposes of claiming Plea-Bargaining (Section 365A) and reformatory sentencing (Section 360 and the Probation of Offenders Act, 1958) benefits.

1.5 TYPOLOGIES AND PATTERNS OF CRIME

Deviance and crime are broad categorisations to demarcate the ‘right’ from ‘wrong’ or normal from sub-standard behaviour at a macro level but within these broad categorisation are sub-summed a wide range and diverse types of specific deviant behaviours, which are described as specific crimes or offences by diverse criminal statutes. The principal criminal code in India is the Indian Penal Code, 1860 that serves as an omnibus code for different categories of offences. The Penal Code provides for offences grouped into twenty-two clusters classified on the basis of invasion of a cherished social interest that are titled as ‘Offences Against the State’, ‘Offences Relating to Army, Navy and Air Force’, ‘Offences Against the Public Tranquillity’, ‘Offences by and Relating to Public Servants’, ‘Offences Relating to Elections’, ‘Contempt of Lawful Authority of Public Servants’, ‘False Evidence and Offences Against Public Justice’, ‘Offences Relating to Weight and Measures’, ‘Offences Affecting Public Health, Safety, Convenience, Decency and Morals’ ‘Offences Relating to Religion’ ‘Offences Affecting the Human Body’, ‘Offences Against Property’, ‘Offences Relating to Documents and Property Marks’, ‘Offences Relating to Marriage’, ‘Defamation’, ‘Criminal Intimidation, Insult and Annoyance’, ‘Abetment’, ‘Conspiracy’ and ‘Attempt to Commit Offence’. Within these broad clusters are grouped individual offences that are directed to protect a particular type of interest. For example, ‘Offences Affecting the Human Body’ (Ch. XII Penal Code) envisages eight diverse ways of invasion of human broadly interest such as ‘Affecting Human Life’, ‘Causing Miscarriage etc’, ‘Causing Hurt’, ‘Wrongful Restraint and Confinement’, ‘Using Criminal Force and Assault’, ‘Kidnapping, Abduction, and Forced Labour’, ‘Sexual Offences and Unnatural Offences’.

These eight sub-heads comprise individual offences like Murder, Culpable Homicide causing Death by Rash and Negligent act etc. At the operational level the lawyer has to be concerned with each specific offence or the has to smallest denominator of deviance. Apart from the Penal Code there are several other special and local criminal law statutes for dealing with proscribed behaviour on the basis of special interest group like the SC or ST, women and children etc. Also, at times, special crimes are created for the protection of vital economic interests of the society. There are also some special category of strict liability statutes that create crimes which do not require explicit proof of guilty mind element for the creation of liability.

Apart from the traditional crimes Offences classification provided by the Penal Code and special and Local Laws, deviance or crime are also identified by nontraditional labels such as 'Organised Crimes', 'White Collar Crimes', 'Privileged Class Deviance', 'Cyber Crimes', 'Terrorism' and 'Extremism' etc. These nontraditional patterns of criminality are posing greater threat to the individual and community interest in the contemporary societies.

The incidence of crime is measured through official and non-official statistics about crimes in the society. In India the National Crime Records Bureau has been coming out with an annual *Crime in India* report for over three decades now. The *Crime in India* categories the individual offence statistics under two broad heads, namely (a) IPC Crimes, and (b) Special and Local Law Crimes. The IPC crimes are further sub-classified into Violent Crime, Property Crime, Economic crime and other miscellaneous crimes.

However, the official crime statistics often under states the actual magnitude of crime reality in a society, therefore, the true crime reality can be understood only by taking into account the hidden figure of crime that are contained in individual researchers and media crime surveys.

1.6 FUNCTIONS OF DEVIATIONISM AND CRIMINALISATION

Social contract thinkers such as Thomas Hobbes had envisaged long back that toget away from the state of nature in which men lived a life that 'was nasty, short, brutish, solitary and poor', the *Leviathan* had to enact strict rules of behaviour for its members. The same kind of unquestioning faith in rules is reflected in the writings of later thinkers like Beccaria and Jermy Bentham for whom behavioural rule making' became an essential attribute of a good sovereign. Sociologists and researchers on deviance have analysed the diverse functions/dysfunctions of rule making or 'deviationism' and criminalization in the contemporary societies as follows:

i)As a measure of Solidarity and Stability

Durkheim in his work *Division of Labor in Society* (1893) considered the social integrative abilities of crime in these terms:

Crime brings together upright consciences and concentrates them. We have only to notice what happens, particularly in a small town, when some moral scandal has been committed. They stop each other on the street, they visit each other, they seek to come together to talk of the event and wax indignant in common.

Writing in the same vein Durkheim (1938) advocated the idea of normality of crime by showing its presence in every society and by underscoring the functions it performed for the society in these words:

Crime, we have shown elsewhere, consists of an act that offends certain very strong collective sentiments. In a society in which criminal acts are no longer committed the sentiments they offend would have to be found without exception in all individual consciences and they must be found to exist with the same degree as sentiments contrary to them. Crime is then, necessary; it is bound up with the fundamental conditions of all social life, and by that very fact it is useful, because these conditions of which it is a part are themselves indispensable to the normal evolution of morality and law.

Like Durkheim, Karl Marx also subscribed to the functionalist view of crime and deviance. But for Marx crime aroused the pro-capitalist society moral and aesthetic sentiments of the public.

ii) As a measure of Social Defence

According to those who subscribe to the views of Hobbes that emphasize the disfunctions of deviance and crime, individual who break the law need to be controlled and punished for they threaten the security and stability of the society. There is a whole school of new-classicalist or conservative revivalist thinkers who emphasise on a more law-and-order society. Wilson (1975) prefers to clearly demarcate between wicked and non-wicked people this way:

Some persons will shun crime even if we do nothing to deter them, while others will seek it out even if we do everything to reform them. Wicked people exist. Nothing avails except to set them apart from innocent people. And many people, neither wicked nor innocent, but watchful dissembling and calculating of their opportunities ponder our reaction to wickedness as a cue to what they might profitably do. We have trifled with the wicked, made sport of the innocent and encouraged the calculators. Justice suffers, and so do we all.

According to those who argue for social defence the rise of crime beyond historically recorded levels, can create a break-down of community ties, and a rise in informal, vigilante-type protective responses which further tear a community apart (this is almost opposite of what Durkheim or Marx thought about crime). Such functional measure assumes special significance in the wake of rise in crime of terrorism that demands that the society needs to be protected and secured at any cost, both by stringent anti-terror laws and rigorous implementation of interrogation, arrest and preventive detention measures.

iii) As a measure of Social Ranking and Exclusion

Deviance and crime often serve the function of stigmatizing and social exclusion of the lower caste, low-ranked professional groups. During British rule the labeling of certain tribal population as criminal tribes and depriving them from land and other property rights is a case on point. Garland (1985) has made the following observation in the context of special section of population for penalty as follows:

When we talk of the population of criminals dealt with by penalty, we should not mistake for a drivers amalgam of individuals randomly distributed throughout the general population. *Penalty deals, and has always dealt, with a population overwhelmingly drawn from the working classes.*

Foucault (1979) has expressed similar function performed by the disciplinary rules within prisons. Alan Norrie (1993) has rationalised the function performed by prisons this way:

They cannot be deterred but they can be removed from circulation for a period of time. The prison thereby acts as a *cordan sanitaire*, between the relatively law abiding and the rest. While containing the one group it acts as a symbol to the other of the dangers of crossing the line between criminality and respectability,

Steven Box (1983) views the 'problem population' comprising of able bodied unemployed and unemployable as those who can create a legitimacy crisis by distancing themselves from consent to be governed.

iv) As a measure to preserve ideological and social hegemony

According to Steven Box: "For too long too many people have been socialised to see crime and criminals through the eyes of the state, the crime problem defined by the state is not the only crime problem, or that criminals are not only those processed by the state. There is more to crime and criminals than what the state reveals. But most people cannot see it."

The aforesaid makes it abundantly clear that deviance and crime are meant to convey a particular ideology or to maintain the hegemony of the dominant sections of the society. This explains why the concept of crime undergoes changes with the ideological positioning of the state itself.

With the advent of the British era the administrative structure in India began to assume a new form. The Regulating Act of 1773 saw the establishment of Supreme Court at Calcutta to exercise all civil and criminal jurisdiction. In 1790, the criminal courts in Bengal introduced imprisonment in lieu of mutilation. It was only after 1858, a uniform system of legal justice was initiated in India. The Indian penal code defined each and every offence and prescribed punishment for the same. Imprisonment was the most commonly used instrument for penal treatment. On 14th December, 1935, Lord Macaulay, a member of Indian Law Commission opined, "Imprisonment is the punishment to which we must chiefly trust. It will probably be restored to 99 cases in a 100". It is therefore of great importance to establish such regulations as shall make imprisonment a terror to wrong doers and at the same time shall prevent it from being attended by any circumstance shocking to humanity.

Thus the deterrent philosophy for the management of prisons in India got a fair treatment in his hand. He recommended the appointment of a committee, for the purpose of collecting information's as to the state of Indian prisons and of preparing an improved plan of prison discipline. The report was published in the early part of 1838. The committee went through various aspects like housing of prisoners, discipline, health, diet, remunerative rewards, punishments, education and labour in details. The committee was somewhat influenced by contemporary ideas in England. Sir John Lawrence, Governor General of India, reviewed the position in 1864 and appointed a Second Prison Commission to minimize high death rate in prisons and to consider other aspects of jail management.

The committee of 1864 observed that during the preceding ten years not less than 46,309 deaths had occurred within the walls of Indian prisons. The Prison Committee concluded that sickness and mortality was attributable to overcrowding, lack of ventilation, bad conservancy, bad drainage, insufficient clothing and deficiency of personal cleanliness and inadequate medical facilities. The committee also took into consideration the aspects of juvenile delinquency, female prisoners, diet, jail discipline and a series of suggestions regarding the prison system.

- This unit elaborates the concept of "deviance" and "crime", the various elements of crime, typologies and patterns of crime and functions of rule making.
- What constitutes "deviant behaviour" and "crime" in any particular society depends on various underlying factors in any given society like nature of society, stages of its

development, evolution of system for dealing with deviations etc. Crime and deviance are multifaceted and multiissuediscipline. Sociologists have defined these two concepts in term of infractions of some agreed upon rule. Sociologists as well as lawyers' conception depend on two basic premises that firstly law is desirably social entity that is assumed for the larger happiness of the society and secondly, deviance and crime are impliedly based on consensus model in respect of "harmful" behaviour.

- David Matza envisages deviance in term of legitimisation demand of competing cultural entities e.g. the case in India, cultural clashes occurred between the religious sentiment of a particular group of people and artistic expression (M.F. Hussain case) more progressive cultural clash can be traced in the whole debate relating to Section 377IPC (sex against natural order), Section 309 (attempt to commit suicide)

The basic elements have been discussed in this unit, which are as:

- Human being who is under legal obligation
 - Mensrea or guilty mind on the part of the wrong doer
 - Act committed or omitted in accordance of intention
 - Injury to one man or to society
- Further light has been thrown on the classification of crime depending on the various purposes it serves, e.g. for the purpose of arrest and investigation, for the purpose of bial, for the purpose of compounding proceedings etc.
 - Various sociologists like bentham, Durkheim, and Hobbes have studied the diverse functions/dysfunctions of rule making or "deviationism". Durkheim commented on the social integrative abilities of crime. Some other social thinkers had observed that deviance and crime often serve the functions of stigmatizing and social exclusion of the lower caste, lower ranked professional groups this aspect has been discussed at the last part of the unit.

1.7 SUMMARY

These thinkers tried to understand the relationship between behaviour and freewill or behaviour and determinism, to establish which of the 2 types of cause effect relationship was true. Lombroso considered the offenders to be throwbacks to Neanderthal man, and considered them to possess "atavistic" criminal tendencies. This approach, influenced by the earlier theory of phrenology and by Charles Darwin and his theory of evolution, has been superseded. Enrico Ferri, a student of Lombroso, believed that social as well as biological factors played a role, and held the view that criminals should not be held responsible when factors causing their criminality were beyond their control. Criminologists have since rejected Lombroso's biological theories.

1.8 KEYWORDS

- A) Crime
- B) Criminology
- C) Offence
- D) Deviance

1.9 SELF-ASSESSMENT QUESTIONS

1. Explain the concept of crime.
2. Discuss the importance of crime.
3. Discuss the concept and the implications of crime.

1.10 REFERENCE BOOKS

1. Box, Steven, (1983), *Power, Crime and Mystification*, Tavistock Studies in Sociology, N.Y.
2. Chamibless, W. J., (1995), *Whose Law? What Order?*, Wiley, N. Y.
3. Clinard, M. B., (1963), *Sociology of Deviant Behavior*, Holt, Rinehart and Winston N. Y.
4. Cohen, A. K., (1966), *Deviance and Control*, Prentice Hall, New Jersey.
5. Durkheim, E., (1947), *Division of Labour in Society*, Free Press, N. Y.
6. Foucault, M., (1949), *Discipline and Punish*, Harmondsworth, Peregrine.
7. Garland, D., (1985), *Punishment and Welfare*, Aldershot, Gover.
8. Matza, D., (1969), *Becoming Deviant*, Prentice Hall, New Jersey.
9. Norrie, Alan, (1973), *Crime, Reason and History*, Weidenteld and Nicholson, London.
10. Wilson, J. Q., (1975), *Thinking About Crime*, Basic Books, N. Y.
11. Reckless, W.C., (1967). *The Crime Problem*, Vakils, Feffner and Simens P.Ltd.,Bombay.
12. Mulla Committee Report on Prison Reforms, 1983. Govt, of India.
13. Paranjpe, N.V., (2002). *Criminology and Penology*, Central Law Publications,Allahabad.

Prof. K. Dhanalakshmi

LESSON 2

THEORIES OF CRIME

OBJECTIVE

The objective of this lesson is to explain the concept meaning of Crime theories.

STRUCTURE

- 2.1 Introduction
- 2.2 Definition of Crime
- 2.3 Theories of Crime
- 2.4 Complexity of Crime
- 2.5 Summary
- 2.6 Keywords
- 2.7 Self-Assessment Questions
- 2.8 Reference Books

2.1 INTRODUCTION

Crime is an anti-social behaviour which a society rejects and to which it attaches penalties. In this way all those activities for which the state lays down punishments are Crimes. We will present a detailed study of crime in this unit. It will include the definition of crime in accordance with various viewpoints of renowned criminologists. It will present the typical characteristic features of crime. The unit will also deal with the various schools of thought which have explained crime in society. Finally the theories of crime are being presented in detail.

2.2 DEFINITION OF CRIME

A normative definition views crime as deviant behaviour that violates prevailing norms – cultural standards prescribing how humans ought to behave normally. This approach considers the complex realities surrounding the concept of crime and seeks to understand how changing social, political, psychological, and economic conditions may affect changing definitions of crime and the form of the legal, law-enforcement, and penal responses made by society.

In other words “Crime is the breach of rules or laws for which some governing authority (via mechanisms such as legal systems) can ultimately prescribe a conviction. Individual human societies may each define crime and crimes differently. While every crime violates the law, not every violation of the law counts as a crime; for example: breaches of contract and of other civil law may rank as “offences” or as “infractions”. Modern societies generally regard crimes as offences against the public or the state, distinguished from *torts* (offences against private parties that can give rise to a civil cause of action).

According to C. Darrow, “Crime is an act forbidden by the law of the land and for which penalty is prescribed “.This constitutes a definition of a crime from the social viewpoint. From the legal viewpoint, violation of law constitutes crime. In other words of

Branes and Teeters ,“ The term “Crime “ technically means a form of anti-social behaviour that has violated public sentiment to such an extent as to be forbidden by statute”.

Garofalo developed a concept of the “natural crime” and defined it as a violation of the prevailing sentiments of pity and probity. Radcliff Brown defined crime as the violation of usage which gives rise to the exercise of a sanction. The crime any act which causes harm to man’s social interests. The criminal is a person who commits crime. According to law a criminal is one who has intentionally violated a criminal law. Sometimes a criminal is not treated as such until his criminal acts are proved in court.

2.3 THEORIES OF CRIME

Historically crime is general rather than exception. Crime is a very complex social issue to be dealt with. However, the insights from sociological theories offer some hope to minimize crime in any society whether they are traditional or modern. In addition, affluence alone will not minimize crime because crime occurs in modern affluent societies due to many complex factors.

In any society the benefits or affluence is not equally distributed and there are individual differences in personality profile and different groups are able to cope with strain and therefore psychological, social environmental factors, official crime control methods, values and beliefs, as well psychological factors, biological factors and social factors interact in different degrees on individuals and groups and therefore give birth to the commitment of crime.

Theoretical perspectives used in criminology include psychoanalysis, functionalism, interactionism, Marxism, econometrics, systems theory, postmodernism, etc

Social Structure Theories:

This theory is applied to a variety of approaches within criminology in particular and in sociology more generally as a conflict theory or structural conflict perspective in sociology and sociology of crime. This perspective is itself broad enough and has within it a diversity of positions.

Social Disorganisation (Neighborhoods)

Social disorganisation theory is based on the work of Henry McKay and Clifford R. Shaw of the Chicago School. Social disorganisation theory postulates that neighbourhoods plagued with poverty and economic deprivation tend to experience high rates of population turnover. These neighbourhoods also tend to have high population heterogeneity. With high turnover, informal social structure often fails to develop, which in turn makes it difficult to maintain social order in a community. Thus crime flourishes.

Social Ecology

Since the 1950s, social ecology studies have built on the social disorganisation theories. Many studies have found that crime rates are associated with poverty,⁵⁴ disorder, high numbers of abandoned buildings, and other signs of community deterioration. As working and middle class people leave deteriorating neighbourhoods, the most disadvantaged

portions of the population may remain. William Julius Wilson suggested a poverty “concentration effect”, which may cause neighbourhoods to be isolated from the mainstream of society and become prone to violence.

Strain Theory (Social Class)

Strain theory, (also known as Mertonian Anomie), advanced by American sociologist Robert Merton, suggests that mainstream culture, especially in the United States, is saturated with dreams of opportunity, freedom and prosperity. Most people buy into this dream and it becomes a powerful cultural and psychological motivation. Merton also used the term *anomie*, but it meant something slightly different for him than it did for Durkheim. Merton saw the term as meaning a dichotomy between what society expected of its citizens, and what those citizens could actually achieve. Therefore, if the social structure of opportunities is unequal and prevents the majority from realising the dream, some of them will turn to illegitimate means (crime) in order to realise it. Others will retreat into or become part of deviant subcultures (gang members, “hobos”: urban homeless drunks and drug abusers).

Sub Cultural Theory

Following on from the Chicago school and Strain Theory, and also drawing on Edwin Sutherland’s idea of differential association, sub cultural theorists focused on small cultural groups fragmenting away from the mainstream to form their own values and meanings about life.

Albert K. Cohen tied anomie theory with Freud’s reaction formation idea, suggesting that delinquency among lower class youths is a reaction against the social norms of the middle class. Some youths, especially from poorer areas where opportunities are scarce, might adopt social norms specific to those places which may include “toughness” and disrespect for authority. Criminal acts may result when youths conform to norms of the deviant subculture.

Richard Cloward and Lloyd Ohlin suggested that delinquency can result from differential opportunity for lower class youth. Such youths may be tempted to take up criminal activities, choosing an illegitimate path that provides them more lucrative economic benefits than conventional, over legal options such as minimum wage paying jobs available to them.

British sub cultural theorists focused more heavily on the issue of class, where some criminal activities were seen as ‘imaginary solutions’ to the problem of belonging to a subordinate class. A further study by the Chicago school looked at gangs and the influence of the interaction of gang leaders under the observation of adults.

INDIVIDUAL THEORIES

Trait Theories

At the other side of the spectrum, criminologist Lonnie Athens developed a theory about how a process of brutalisation by parents or peers that usually occurs in childhood results in violent crimes in adulthood. Richard Rhodes’ *Why They Kill* describes Athens’

observations about domestic and societal violence in the criminals' backgrounds. Both Athens and Rhodes reject the genetic inheritance theories.

Control Theories

Another approach is made by the social bond or social control theory. Instead of looking for factors that make people become criminal, those theories try to explain why people do *not* become criminal.

Travis Hirschi identified four main characteristics: (i) attachment to others (ii) belief in moral validity of rules (iii) commitment to achievement and (iv) involvement in conventional activities. The more a person features those characteristics, the less are the chances that he or she becomes deviant (or criminal).

On the other hand, if those factors are not present in a person, it is more likely that he or she might become criminal. Hirschi expanded on this theory, with the idea that a person with low self-control is more likely to become a criminal.

A simple example: someone wants to have a big yacht, but does not have the means to buy one. If the person cannot exert self-control, he or she might try to get the yacht (or the means for it) in an illegal way. On the other hand, someone with high self-control will more likely either wait or deny themselves that need.

Social bonds, through peers, parents, and others, can have a countering effect on one's low self-control. For families of low socio-economic status, a factor that distinguishes families with delinquent children from those who are not delinquent is the control exerted by parents or chaperonage.

In addition, theorists such as Matza and Sykes argued that criminals are able to temporarily neutralise internal moral and social behavioural constraints through techniques of neutralisation.

Symbolic Interactionism

Symbolic interactionism draws on the phenomenology of Edmund Husserl and George Herbert Mead, as well as subcultural theory and conflict theory. This school of thought focused on the relationship between the powerful state, media and conservative ruling elite on the one hand, and the less powerful groups on the other.

The powerful groups had the ability to become the 'significant other' in the less powerful groups' processes of generating meaning. The former could to some extent impose their meanings on the latter, and therefore they were able to 'label' minor delinquent youngsters as criminal. These youngsters would often take on board the label, indulge in crime more readily and become actors in the 'selffulfilling prophecy' of the powerful groups.

Later developments in this set of theories were by Howard Becker and Edwin Lemert, in the mid 20th century. Stanley Cohen who developed the concept of "moral panic" in which he considered societal reaction to spectacular, alarming social phenomena such as post-World War Two youth cultures AIDS and football hooliganism.

Rational Choice Theory

Rational choice theory is based on the utilitarian, classical school philosophies of Cesare Beccaria, which were popularised by Jeremy Bentham. They argued that punishment, if certain, swift, and proportionate to the crime, was a deterrent for crime, with risks outweighing possible benefits to the offender. Beccaria advocated a rational penology and conceived of punishment as the necessary application of the law for a crime. Thus the judge was simply to conform his sentence to the law. Beccaria also distinguished between crime and sin, and advocated against the death penalty, as well as torture and inhumane treatments, as he did not consider them as rational deterrents.

This philosophy was replaced by the Positivist and Chicago Schools, and not revived until the 1970s with the writings of James Q. Wilson. The argument here is that criminals, like other people, weigh costs/risks and benefits when deciding whether or not to commit crime and think in economic terms. They will also try to minimize risks of crime by considering the time, place, and other situational factors.

Gary Becker, for example, acknowledged that many people operate under a high moral and ethical constraint, but considered that criminals rationally see that the benefits of their crime outweigh the cost such as the probability of apprehension, conviction, punishment, as well as their current set of opportunities. From the public policy perspective, since the cost of increasing the fine is marginal to that of the cost of increasing surveillance, one can conclude that the best policy is to maximize the fine and minimize surveillance.

With this perspective, crime prevention or reduction measures can be devised that increase effort required committing the crime, as for example, added surveillance, police or security guard presence, added street lighting, and other measures, are effective in reducing crime.

One of the main differences between this theory and Jeremy Bentham's rational choice theory, which had been abandoned in criminology, is that if Bentham considered it possible to completely annihilate crime (through the panopticon), Becker's theory acknowledged that a society could not eradicate crime beneath a certain level.

For example, if 25% of a supermarket's products were stolen, it would be very easy to reduce this rate to 15%, quite easy to reduce it until 5%, difficult to reduce it under 3% and nearly impossible to reduce it to zero (a feat which would cost the supermarket so much in surveillance, etc., that it would outweigh the benefits).

Such rational choice theories, linked to neoliberalism, have been at the basics of crime prevention through environmental design.

Routine Activity Theory

Routine activity theory, developed by Marcus Felson and Lawrence Cohen, draws upon control theories and explains crime in terms of crime opportunities that occur in everyday life. A crime opportunity requires that elements converge in time and place including

- 1) a motivated offender
- 2) suitable target or victim

3) lack of a capable guardian.

A guardian at a place, such as a street, could include security guards or even ordinary pedestrians who would witness the criminal act and possibly intervene or report it to police. Routine activity theory was expanded by John Eck, who added a fourth element of “place manager” such as rental property managers who can take nuisance abatement measures.

In criminology, the Neo-Classical School continues the traditions of the Classical School within the framework of Right Realism. Hence, the utilitarianism of Jeremy Bentham and Cesare Beccaria remains a relevant social philosophy in policy term for using punishment as a deterrent through law enforcement, the courts, and imprisonment. When crime and recidivism are perceived to be a problem, the first political reaction is to call for increased policing, stiffer penalties, and increased monitoring and surveillance for those released on parole. Intuitively, politicians see a correlation between the certainty and severity of punishment, and the choice whether to commit crime. The practical intention has always been to deter and, if that failed, to keep society safer for the longest possible period of time by locking the habitual offenders away in prisons (see Wilson). From the earliest theorists, the arguments were based on morality and social utility, and it was not until comparatively recently that there has been empirical research to determine whether punishment is an effective deterrent.

Social Control Theory

As represented in the work of Travis Hirschi, the Social Control Theory proposes that the process of socialisation and Social Learning Theory builds self-control and reduces the inclination to indulge in behaviour recognised as antisocial. It is based on Functionalist theories of crime and proposes that there are three types of control:

Direct: by which punishment is threatened or applied for wrongful behaviour, and compliance is rewarded by parents, family, and authority figures.

Indirect: by which a youth refrains from delinquency because his or her delinquent act might cause pain and disappointment to parents and others with whom he or she has close relationships.

Internal: by which a person’s conscience or sense of guilt prevents him or her from engaging in delinquent acts.

Drift Theory

Although it was not presented as a Social Control Theory, David Matza (1964) also adopted the concept of emphasised frustration and rebelliousness against normative social values by delinquent youth. Matza did not identify any specific constraints or controls that would keep youth from drifting, but drifters were depicted as youth who have few stakes in conformity and are free to drift into delinquency.

The word crime is applied to those acts that go against social order and are worthy of serious condemnation. Garafalo was an eminent criminologist, He defines crime in terms of immoral and anti-social acts. He says: Crime is an immoral and harmful act that is regarded as criminal by public opinion because it is an injury to so much of the moral sense as is

possessed by a community -a measure which is indispensable for the adaptation of the individual to society.No doubt immoral acts like murder, stealing or destroying another `property, kidnapping a child,raping woman, etc. have been traditionally considered as crimes.Andother immoral acts like ingratitude, hard -heartedness, callous disregard for the sufferings of others etc , have never been crime law for obvious reasons of their triviality, or the impracticability of using criminal law as the means to correct such behaviour. Instead, they are to be corrected by social, educational and religious institutions.

As with Hirschi, Matza was skeptical that deviancy could be explained in terms of distinct subcultural or contra cultural value systems.. Delinquent youth were neither compelled nor committed to their delinquent actions, but were simply less receptive to other more conventional traditions. Thus, delinquent youth were “drifting” between criminal and non-criminal behaviour, and were relatively free to choose whether to take part in delinquency.

Rational Choice Theory

This grew out of the expected utility principle in economic theory, that is people will make rational decisions based on their expectations for profit maximisation and the minimisation of losses. To that extent, it fits the model of utilitarianism as proposed by the Classical School, but its implications are doubted by the Neo-Classical School.

Criminal behaviour is behaviour in violation of the criminal law. No matter what the degree of immorality, reprehensibility, or indecency of an act ,it is not a crime unless it is prohibited by the Criminal law .The criminal law ,in turn is defined conventionally as a body of specific rules regarding human conduct which have been promulgated by political authority ,which apply uniformly to all members of the classes to which the rules refer ,and which are enforced by punishment administered by the state .Characteristics ,which distinguish this body of rules regarding human conduct from other rules ,are therefore, polytonality, specificity ,uniformity and penal sanction. He says that crime is a violation of the criminal law.

WHEN AN ACT IS CONSIDERED A CRIME

There are seven interrelated but over lapping criteria to call an act as a crime. Ideally behaviour would not be a crime unless all the seven conditions are present.

1. Harm

Before a behaviour can be called crime there must be certain external consequences or ‘harm’. A crime has a harmful impact on social interests.

2. Illegal

The harm must be legally forbidden, must have been prescribed in penal law. Anti-social behaviour is not crime unless it is prohibited by law.

3. Malafide Intention

There must be the criminal conduct i.e.: there must be an intentional or recklessaction or inaction which brings about the harmful consequences e.g.: Doctor’snegligence.

4. Criminal Intention

Criminal intent must be present. Hall suggests that legal scholars have confused between intention and motive. The motives for a crime may be good but the intention is criminal. Thus if a man kills his starving children his motive is good but killing is legally forbidden and so his intention is criminal.

5. Concurrence of Intention and Conduct

There must be a concurrence of criminal intention and conduct.e.g: if a policeman, who goes into a house to make an arrest goes into a house to make an arrest is not a trespasser from the beginning.

6.CasualRelationship

There must be a casual relationship between the legally forbidden harm andthevoluntary misconduct.e.g: if a man dies of suffocation after being shotat,therelationship between conduct and the harm is not clear cut.

7. Prescription of Punishment

There must be legally prescribed punishment. The voluntary misconduct must be punishable by law.

2.4 COMPLEXITY OF CRIME

Initial studies compared homicide statistics between states using and not using capital punishment, and found no evidence of deterrence (Bailey & Peterson). Studies then tested certainty as against severity of punishment, e.g. Erickson (1977). The research methodologies used are either the analysis of Official Statistics for objective indicators of correlations, and attitudinal interviews and questionnaires for subjective indicators (potential criminals will not be deterred unless they understand how the criminal justice system works). The research finds that the majority conform to the law because they subscribe to the social and moral values represented by the law (i.e. the process of socialisation is effective).

Criminal law and moral law are different with each other and different orbits of human conduct. Criminal law is narrower than morality. Criminal law then must be confined within narrow limit, and can be applied only to definite overt acts or omission. capable of being distinctly proved,which acts or omissions inflict definite evils, either on specific persons or on the community at large. It is within these limits only, that there can be any relation at all between criminal law and morality.Someoffence like murder, rape robbery, theft etc there is common in criminal law and moral law. According to sir James Fitzjames Stephen “The sentence of the law is to the moral sentiments of the public in relation to any offence what a seal is to hot wax. It converts into a permanent final judgment what might otherwise be a transient sentiment.

The mere general suspicion or knowledge that a man has done something dishonest may never be brought to a point and the disapprobation excited by it may in time pass away ,but the fact that he has been convicted and punished as a thief ,stamps a mark upon him for life .In short the infliction of punishment by law gives definite expression and solemn ratification and justification to the hatred which is excited by the commission of offence ,and which constitutes the moral and popular sanction of morality, which is also sanctioned by criminal law. The criminal law thus proceeds upon the principle that it is morally right to hate criminals, and it confirms and justifies that sentiment by inflicting upon criminals’

punishment which express it The standard of morality may differ from society to society Certain morals are universal in character and common to all societies, It is the duty of legislators to protect these morals by providing necessary safeguards. The law should in any case continue to support a minimum morality because roots of both systems are lying in society itself.

Hence, at best, the threat of punishment has a not statistically insignificant effect on reported crime and the empirical evidence in support of deterrence is very limited. Raymond Paternoster's work demonstrates that the only statistically significant data emerges from experiential studies among those who have been through the criminal justice system (i.e. specific deterrence), but that this data on its own cannot validate general deterrence.

He also finds no evidence that formal social controls are effective. Some informal social negative consequences such as the disapproval of family, loss of reputation, possible loss of employment, etc., are more significant. There is also strong evidence that increasing the rewards of conformity by providing better employment opportunities at realistic rates of pay can achieve comparable deterrent effect by giving potential offenders more to lose (Tierney: 1996, 277)

2.5 SUMMARY

In this unit we have learnt about the definition and description of crime and the various factors that go to make an act a crime. As for example we talked about harm, maladaptive intention etc. We then dealt with in detail the various schools of thought explaining crime and criminal behaviour. Starting from the demonological school of thought to free will school, geographical school, and the Chicago school of thought etc. We then took up the traditional and modern schools of thought in regard to crime and criminal behaviour.

In this we talked about the social structure theory, social disorganisation, social ecology, strain theory and subcultural theory. We also pointed out how each school of thought had some defect and could not fully explain crime and criminal behaviour. Then we dealt with individual theories of crime and criminal behaviour and pointed out the trait theories, symbolic interactionism, neo classical, social control theory and the drift theory and the rational choice theory. Then we discussed the complexity of crime in modern times.

2.6 KEYWORDS

- A. Conviction
- B. Deviant behaviour
- C. Breach
- D. Infractions

2.7 SELF-ASSESSMENT QUESTIONS

1. Explain the concept of theories of crime.
2. Discuss the importance of theories of crime.
3. Discuss the concept and the implications of theories crime.

2.8 REFERENCE BOOKS

1. Ahuja , Ram (2000). *Criminology*. Rawat Publications, New Delhi
2. Sharma, Rajender Kumar (1999) *Criminology and Penology*. H B Books, New Delhi
3. Cohen, A. K., (1966), *Deviance and Control*, Prentice Hall, New Jersey.
4. Durkheim, E., (1947), *Division of Labour in Society*, Free Press, N. Y.
5. Foucault, M., (1949), *Discipline and Punish*, Harmondsworth, Peregrine.
6. Garland, D., (1985), *Punishment and Welfare*, Aldershot, Gover.
7. Matza, D., (1969), *Becoming Deviant*, Prentice Hall, New Jersey.
8. Norrie, Alan, (1973), *Crime, Reason and History*, Weidenteld and Nicholson, London.
9. Wilson, J. Q., (1975), *Thinking About Crime*, Basic Books, N. Y.
10. Reckless, W.C., (1967). *The Crime Problem*, Vakils, Feffner and Simens P.Ltd., Bombay.
11. Mulla Committee Report on Prison Reforms, 1983. Govt, of India.
12. Paranjpe, N.V., (2002). *Criminology and Penology*, Central Law Publications,
13. Allahabad.

Prof. Saraswathi Raju Iyer

LESSON 3

CONCEPTS OF CRIME

OBJECTIVE

The objective of this lesson is to explain the concepts of Crime.

STRUCTURE

- 3.1 Introduction
- 3.2 What is Crime
- 3.3 Elements of Crime
- 3.4 Causes of Crime
- 3.5 Types of Crime
- 3.6 Summary
- 3.7 Keywords
- 3.8 Self-Assessment Questions
- 3.9 Reference Books

3.1 INTRODUCTION

Man is believed to have evolved from an ape-like ancestor. With the evolution of man has evolved his mind and thinking. Man started using the raw leaves, insects and animals as his food. Later, on discovery of fire, he learnt that food was tastier when cooked. He used animal skin to cover his body. He stayed in caves to protect himself from the extremities of the climatic conditions.

From raw leaves to pizzas and burgers, from fire to microwave ovens, from animal skins to pepe jeans, reebok shoes, etc and from caves to skyscrapers, we can see how human mind and thinking has evolved and led to the modern day comfortable and luxurious living.

The thinking has evolved in both the positive as well as negative perspectives. Though the human mind created luxuries, due to simultaneous increase in population, many people were deprived of the basic necessities which led to the development of the negative thinking. People wanted to fulfil their basic necessities at any cost and hence they started resorting to crime.

Crime is an offense which violates the law of state and is disapproved by the society. In olden days, the crime rate was not very high. But as time progressed, the crime rate has increased alarmingly. This increase in crime rate may be due to various causes and social problems.

3.2 WHAT IS CRIME?

Crime is a public wrong. It is an act of offense which violates the law of the state and is strongly disapproved by the society. Crime is defined as acts or omissions forbidden by law that can be punished by imprisonment or fine. Murder, robbery, burglary, rape, drunken

driving, child neglect and failure to pay taxes are examples of crimes. The term crime is derived from the Latin word “crimen” meaning offence and also a wrong-doer. Crime is considered as an anti-social behaviour.

Each society may define crime in a different perspective. A crime may be legal or illegal. Illegal and punishable crime is the violation of any rule of administration or law of the state or practice of any wrongdoing and harmful to self or against third parties, provided in criminal law. Legal and not punishable crime is all acts of self-defense.

3.3 ELEMENTS OF CRIME

For an act of crime to be accomplished, the following four elements are needed:

- **Individual:** The first and the most important element for commission of a crime is an individual who has an intention and is prepared to commit a crime.
- **Mens rea:** Mens rea in Latin means “guilty mind”. For a crime to be committed, a criminal intention is an essential element.
- **Actus rea:** Actus rea in Latin means “guilty act”. For a crime to be committed, along with a criminal intention there should also be an external act.
- **Injury/hurt:** The criminal act should be accompanied by an injury or hurt which is physical, mental or monetary which violates a law of state.

Stages of committing a crime:

The commission of crime involves four stages:

- **Intention:** For the commission of crime, the first important stage is criminal. However, just having a criminal intention is not punishable until it is conveyed to someone else in words or by acts. Example: An intention to kill someone.
- **Groundwork:** To commit a crime, prior preparation is necessary if the crime is intentional. It is difficult for the court to punish an individual purely based on a preparation plan until and unless it is executed. For example, murder, dacoity, etc.
- **Preliminary crime:** An attempt to commit a crime is considered as preliminary crime. An attempt should include a criminal intention, an act towards committing a crime and an act of crime which is not completely accomplished. Example: Attempt to murder.
- **Completion of crime:** This is the last stage in commission of crime. The criminal completes the crime. A suspect is guilty of an offence only if he succeeds in his criminal activity. Example: Successful accomplishment of murder.

3.4 CAUSES OF CRIME

No individual is a born criminal, it is the situations and the conditions around the individual which make him act as a criminal. There are several causes which make an individual turn into a criminal. The main causes of crime are:

- a. Social causes
- b. Economic causes
- c. Psychological causes
- d. Biological causes
- e. Geographical causes

Social Causes of Crime

The social causes of crime include the following:

i. Family disorganization: Family plays the most important role in an individual's life. In olden days, there were joint families and there was always a family control on the children. In urban areas today, each member of the family is busy pursuing their own paths. The children are neglected and family control is lifted up and hence there are no restrictions. Individuals who are a part of nuclear families and broken families resort to crimes due to lack of love, affection and proper attention.

ii. Upbringing of the individual: Too much strictness causes heavy influence on minds of the children. Scolding and abusing children causes humiliation and irritation in children and they become delinquents. Moral values are imported to children by their parents. It is the duty of the parents to nourish their children in healthy circumstances. If the parents resort to illegal acts, the children will also do the same. A child is first influenced by his parents and then by his own brothers and sisters. If they resort to illegal acts such as selling block tickets at cinema theatres, the younger ones also tend to do the same acts.

iii. Defective education: Lack of proper education results in poor judgement and the individual will fail to distinguish between right and wrong. Ethical and religious education has no place in the modern education system. Even after completing education, many individuals remain unemployed. Late employment leads to late marriage increasing criminal activity.

iv. Hype created by media: Cinemas and newspapers have led to an increase in criminal activity. The hype created by the media relating to different crimes, modus operandi and the consequences motivate young individuals to resort to crimes.

v. Drinking and drug use: The consumption of alcohol and use of drugs of abuse are the most important causes of crime. Under the influence of alcohol and drugs, the person loses his sense of discrimination between good and bad and right and wrong and hence commits crime. This not only affects the individual but also his entire family.

vi. Unhappy marriages and dowry system: A marriage where a girl or boy dislikes his partner & remains unhappy and may force individuals to commit suicides. Dowry system is also a main cause of crime.

vii. Family planning: In poorer sections of society, parents do not follow family planning and they have a large number of children. But they are unable to fulfil the basic necessities of children due to their meagre income. To fulfil their basic necessities, these children become preys of pick-pocketing, smuggling, prostitution, etc.

viii. War and post-war conditions: Wars in different countries create unbearable social and economic circumstances. The individuals who lose their parents and loved ones during war become prey to bad habits.

ix. Social disorganization: Disorganization in the society or country may affect badly upon the people's living. For example, prior to Britishers, Indian villages were very peaceful and

self-sufficient. Due to the British rule in India, rapid changes such as industrialization, urbanization, etc. occurred. Joint families disappeared and nuclear families came in.

Unemployment increased. India was split into 3 countries, i.e., India, Pakistan and Bangladesh. During the partition, immigrants flew from one country to another. The immigrants had no food, livelihood. To earn livelihood, these immigrants started illegal acts such as smuggling, weapon selling, etc. Social disorganization causes decline in the effectiveness of institutional and informal forces and weakens the social control in communities or neighbourhoods. This results in crime.

Economic causes of crime:

The economic causes of crime include:

i. Poverty: Money is the centre of life. Everything and every relation in this world is dependent on money. Poverty is the mother of crime. The poor people are unable to fulfil their basic necessities. To fulfil the basic necessities, they resort to crimes like burglaries, murders, suicides, etc.

ii. Unemployment: Many young individuals who are continually unemployed resort to suicides due to frustration. Some others resort to thefts, pick-pocketing, robberies, etc. Hence, unemployment is a major cause of crime.

iii. Industrialization and urbanization: Urbanization is the result of industrialization. The long working hours and the petite amount of money they get, results in individuals resorting to crime.

Psychological causes of crime:

The psychological causes of crime include:

i. Intellectual weakness: Weak minded persons tend to criminal activities very easily. Intellectual weakness is a cause of crime.

ii. Mental diseases: The person who suffers from mental disorders tends to do illegal and violent activities. Such individuals become unsocialized, irritable, cruel, obstinate, suspicious, self-centred, lonely, full of feelings of revenge, backward and hypersexual or uncontrolled in their behaviour. Such individual does not repent for his violent acts.

iii. Characteristics of personality: Due to social, economic or psychopathic reasons, an individual may turn into a psychic. An abnormal person possesses degree of freedom, irresponsibility, revolt, homicidal tendency, suspicion, lack of control, sadism, emotions, social maladjustment ill-behaviour, immaturity, etc. He tends to do violent acts. He becomes naughty, explosive, disobedient and unsocial. He indulges in gambling, cigarette smoking, narcotic drug consuming, breaking things, absconding from house, prostitution, thieving, etc.

iv. Emotional instability: An abnormal individual possesses emotional instability. He does not like discipline. He suffers with inferiority complex. He indulges in criminal behaviour. He does violent acts with emotions. If his hero steals a diamond from Government treasury, he sees the picture several times and repeats the same act.

Biological causes of crime:

Many biological factors like age, gender, hormones, etc. act as causes of crime.

- i. **Age:** Crime is more prominently committed by individuals in the second and third decades of life.
- ii. **Gender:** On a whole, males commit more crimes when compared to females.
- iii. **Body type:** Muscular body type individuals are found to commit more crimes.
- iv. **Hormonal causes:** Testosterone hormone is the hormone which is correlated to criminality.

Geographical causes of crime:

Cities or counties with larger populations have higher crime rates. Poorly maintained neighbourhoods correlate with higher crime rates. High residential mobility is associated with a higher crime rate. More taverns and alcohol stores, as well as more gambling and tourist establishments, in an area are positively related to criminality. There appears to be higher crime rates in the geographic regions of a country that are closer to the equator.

3.5. TYPES OF CRIME

Based on the medium which is being affected, crimes are of the following types:

• Personal crimes:

Personal crimes are those crimes which target an individual person. These include murder, assault, sexual assault, etc.

- **Assault:** Illegally attacking an individual with weapons like gun, knife, etc. in a severe manner is called assault. Assault results in severe injury. Domestic or family violence also involves assault.
- **Homicide:** Unlawfully killing an individual is called homicide or murder.
- **Sexual assault:** Sexual assault involves rape.
- **Property crimes:** Property crimes are those crimes in which the target is a materialistic property.
- **Burglary:** Illegally entering into a property and committing theft is called burglary.
- **Theft:** Illegally taking away one's property without force and without the notice of the owner. Example: Pick pocketing, Shoplifting, Stealing bicycles, etc.
- **Arson fires:** Deliberately putting one's property such a building, motor vehicle, etc. on fire is called arson fires.
- **Automobile theft:** Unlawful theft or attempted theft of a motor vehicle.
- **Vandalism:** Damaging public or private property without permission is referred to as vandalism

• Victimless crimes:

These are acts against moral values of an individual. Commissions of crime like prostitution, illegal gambling, illegal drug use, etc. are examples of victimless crimes. Since these crimes do not have an identifiable victim, they are called victimless crimes.

- **White-collar crimes:**

Crimes committed by individuals belonging to high society. The crimes are committed to a large extent in their work place.

- **Embezzlement:** Misusing money or property of an organization for an individual's personal use.
 - **Identity theft:** Unlawfully using a person's social security number, credit card number, etc. for financial gain is termed as identity theft.
 - **Fraud:** Deception of one party by another party for personal or financial gain is called fraud.
 - **Corruption:** is the use of power by government officials for illegal private gain. It includes bribery, embezzlement, etc.
- **Organized crimes:** are defined as acts which are committed by two or more criminals as a joint venture in an organized manner. These crimes involve kidnapping, dacoities, marketing of illegal or prohibited goods, money laundering, trafficking people, buying votes, etc.

Juvenile delinquency: also called as youth crime. It is the crime committed by an individual under the age of 18 years.

- **Computer crime:**

Cyber crime is an act of crime that involves computer and a network. The computer may have been used in the commission of a crime, or it may be the target. Net crime refers to criminal exploitation of the internet. Examples of the computer crime include cyber terrorism, cyber warfare, harassment on the internet, spam, internet fraud, etc.

- **Violation of public safety:**

The violations of laws which threaten public safety are included under violation of public safety.

- **Disorderly conduct:** Acting in a manner potentially threatening oneself or other people.
- **Driving under influence of drinks and drugs:** driving under the influence of alcohol or drugs may prove threatening to the individual as well as the public. Constant checks are conducted by police officials in whom the alcohol testing devices are used.
- **Terrorism:** Violence against the normal people living in the society.

Schools of thought:

As the civilization advances, the nature and variety of crime undergoes change. We have numerous theories regarding crime, each reflecting particular stage of development of civilization and a particular point of view. In the mid-18th century, criminology arose as social philosophers gave thought to crime and concepts of law. Over time, several schools of thought have developed. It is important to note, that while there have been numerous schools of criminological thought throughout history, for the most part, the newer schools were a revitalization of the former and not a competing point of view. The current school most criminologists belong to is the Chicago School; however, there are still a great many who feel that a sub-cultural theory of deviance is the better explanation of criminogenic.

The main schools of criminology are:

- Pre-Scientific or Demonological School
- Free- will School
- Classical School
- Ecological School
- Geographical School
- Typological School
- The Socialistic School
- The Sociological School

Pre-Scientific or Demonological School

The Demonological School is the most ancient theory of crime and dates of Pre-scientific Age. According to the thinkers belonging to this age viewed that a crime is a handiwork of the devil. They believed that there are two kinds of forces in the world: Gods and Satanic forces.

The Gods force keeps us away from crime and helps us to do good, whereasthe devil force distracts man from the right path and makes him commit crime. It makes man reckless, lose the sense of morality and removes the fear of God from the individual. Such a person becomes unable to foresee the consequences of his actions. During this age there was a separate and distinct penal code; the system of punishment was not fixed nor was it well regulated.

The chief purpose behind infliction of punishment was to drive away the Demon from the soul. For this whipping was the most common form of penalty tender organs of the body were exposed to cruel treatment, burning, laceration and maceration. The main idea behind this apparent maltreatment of the body was to cause pain to the devil so that it is compelled to leave the body.

This approach and the penal code thereof had no followers because it was

- 1) Unscientific
- 2) Irrational and
- 3) Cruel and Barbaric.

Free -Will School

This school of thought developed in the 16th and the 17th centuries. According to Free Will school the freedom of will was considered to be the most characteristic feature of man. The will of a man is believed to be an outward manifestation of the person's inner criminal resolve. Neither the moral code nor the fear of God nor the pressure of economic conditions was supposed to affect or in any manner modify the inner resolve.

This school was based upon the theory of Retributive punishment. The penalty was imposed upon the convict in order to avenge the wrong done by him. He was exclusively responsible for his actions and these constituted a breaker and violation of order, the order could be restored only by the law breaker either by paying an amount equivalent to the wrong committed or making him suffer in equal measure.

Since the school believed that body and soul were distinct elements and that soul survived death, a dead person was also prosecuted and order of penalty executed on his mortal remains. It offered a comprehensive and adequate explanation of the phenomenon of crime. According to scientists this theory was neither rational nor valid. The physical and social environment determined whether the individual will choose criminal behaviour or non-criminal behaviour.

Classical School

The Classical School, which developed in the mid-17th century, was based on philosophy. Cesare Beccaria, author of *On Crimes and Punishments* (1763–64), Jeremy Bentham, inventor of the *panopticon*, and other classical school philosophers argued that

- 1) people have free will to choose how to act.
- 2) Deterrence is based upon the notion of the human being as a 'hedonist' who seeks pleasure and avoids pain, and
- 3) a 'rational calculator' weighing up the costs and benefits of the consequences of each action. Thus, it ignores the possibility of irrationality and unconscious drives as motivational factors.
- 4) Punishment (of sufficient severity) can deter people from crime, as the costs (penalties) outweigh benefits, and that severity of punishment should be proportionate to the crime.
- 5) The swifter and more certain the punishment, the more effective it is in deterring criminal behaviour.

The Classical school of thought came about at a time when major reform in penology occurred, with prisons developed as a form of punishment. Also, this time period saw many legal reforms, the French Revolution, and the development of the legal system in the United States.

The explanation of crime on the basis of pleasure pain equation is rather inadequate and one sided. The motive behind all crimes allows no place for pleasure. It over emphasises the role of the individual and overlooks the role of social and cultural environment in the explanation of human behaviour.

The behaviour of man is an interaction of various forces, personal as well as impersonal and it is misleading to single out any factor as the main cause of behaviour. The principle of maximum happiness number is vague and has no guiding value. Moreover, the concept of happiness and pleasure are subjective and these cannot be objectively evaluated. The legislative has to be based on facts and not on subjective feelings

Ecological School

Ecology is a science which studies the effects of environmental change on the growth and development of plants. It emphasises the effect of social environment upon the behaviour of the individual. The main effort of this school is to establish a definite correlation between crime and socio-economic conditions of the criminal. It also studies in detail the relationship of various factors like density of population, the climate changes, town-planning, and spread of education with criminal behaviour.

Views and conclusions of this school are supported by statistical analysis, graphs, charts, and maps. The explanation of crime offered by ecological theory is not complete. It may be true of a particular society at a given time, but we cannot extend and apply these conclusions to other societies. This is because the environmental conditions are not uniform in each society, and they are subject to change. Hence this theory was also not popular.

Geographical School

The phenomenon of crime is closely related with the geography, climate, and attitude of the place where crime takes place. It attempts to show the influence upon behaviour of such factors as climate, topography, natural resources and geographical locations. The chief proponents of this school are Quetlet, Guerry and Montesque and Lombroso. As propounded by Quetlet and Guerry the law is known as Thermic law, according to which certain crimes are so linked with geographical conditions that these occur in a particular climate at a particular area.

According to Montesque, the rate of crime is high in areas near the equator. Lombroso's investigation on this phenomenon of crime discovered that the incidence of crime is less in plains, as compared with rocky lands, plateaus and valleys.

Typological School

According to this school, the criminals are classified on the basis of anthropological and psychological data. Lombroso discovered a definite relationship between physical structures of individuals and the mental makeup of the person. This theory is outmoded.

According to Dr. Goring the comparative study of physical and mental features of thousands of criminals and non-criminals showed no significant difference between the features of criminals and non-criminals. This disproves the assumption that a criminal has certain definite features. They believe that criminal tendencies are not hereditary but are acquired. Hence it has no application in modern approach to crime.

Socialistic School

This school is the extension of the general theory of economic factors contributing to the criminal behaviour. The chief proponents of this school are Karl Marx, Engels, and Bonger. According to them all human activities are strictly influenced and determined by the economic causes. Marx and Engels believed that economic inequalities are the true causes of crime. Due to these economic inequalities, the society is divided into different classes and there is constant tension between these classes.

Bonger also believed that economic conditions are the root cause of the criminal activities. The philosophy of capitalism is an attempt to legitimize the self-seeking acquisitiveness and aggressive pursuit of money and power. These tendencies lead to criminal activity. Though the socialist theory of crime has the definite merit of pinpointing an important factor in the production of crime, it is false to assign exclusive responsibility for the crime either to economics or geography or pleasure or culture. Actually, all factors have their relevance to an adequate and comprehensive theory of crime.

Sociological School

This school offers a sociological explanation of crime. An attempt is made to establish various social factors correlative of various types of crimes. The sociological approach is concerned with effects of group patterns of behaviour, as well as the social status, the role the individual plays in the society, and the individual's conceptions of it, and of various other types of social situations and relationships.

3.6SUMMARY

Sutherland held the view that crime is basically a learned activity. It is only by association with criminals that one learns the nature of crimes and its modus operandi. No one invents crime it has to be learnt and its techniques mastered. This learning and training one receive by associating with the group of criminals. According to D.R.Taft social disorganisation is at the root of all crimes. By disorganisation it is meant that there is a breakdown of the traditional social structure, rejection of old values and loosening of social control upon human behaviour.

3.7KEYWORDS

- A). Probity
- B). Malafide
- C). Revitalisation
- D). Criminogenesis

3.8SELF-ASSESSMENT QUESTIONS

1. What are the factors conditioning determination of appropriate concepts of crime.
2. Discuss the importance of concepts of crime.
3. Discuss the concept and the implications concepts of crime.

3.9REFERENCE BOOKS

- 1) Box, Steven, (1983), *Power, Crime and Mystification*, Tavistock Studies in Sociology, N. Y.
- 2) Chamibless, W. J., (1995), *Whose Law? What Order?* , Wiley, N. Y.
- 3) Clinard, M. B., (1963), *Sociology of Deviant Behavior*, Holt, Rinehart and WinstionN. Y.
- 4) Cohen, A. K., (1966), *Deviance and Control*, Prentice Hall, New Jersey.
- 5) Durkheim, E., (1947), *Division of Labour in Society*, Free Press, N. Y.
- 6) Foucault, M., (1949), *Discipline and Punish*, Harmondsworth, Peregrine.
- 7) Garland, D., (1985), *Punishment and Welfare*, Aldershot, Gover.
- 8) Matza, D., (1969), *Becoming Deviant*, Prentice Hall, New Jersey.
- 9) Norrie, Alan, (1973), *Crime, Reason and History*, Weidenteld and Nicholson, London.
- 10) Wilson, J. Q., (1975), *Thinking About Crime*, Basic Books, N. Y.

Prof. Saraswathi Raju Iyer

LESSON 4

PUNISHMENT

OBJECTIVE

The objective of this lesson is to explain the concept meaning of Punishment.

STRUCTURE

- 4.1 Introduction
- 4.2 Concept of Punishment
- 4.3 Definition of Punishment
- 4.4 Aims of Punishment
- 4.5 Types of Punishment
- 4.6 Summary
- 4.7 Keywords
- 4.8 Self-Assessment Questions
- 4.9 Reference Books

4.1 INTRODUCTION

Punishment has been with human society and human beings from the inception of society. Punishment is a necessary concomitant of law and that laws without punishment/sanction are not true and effective laws. The 'Command-Duty-Sanction model of law, enunciated by John Austin (quoted by Mehta, 1999) states punishment as one of the three pillars of a legal system. It is an evil attached to a command. Punishment is a coercive factor.

It is a stick by which the law is enforced. It is as necessary to law as law is for the society. People obey the law whether or not they like it, as the same is the command of a sovereign backed by sanction/penalties

4.2 CONCEPT OF PUNISHMENT

In criminal law, any pain, penalty, suffering, or confinement inflicted upon a person by the authority of the law and the judgment and sentence of a court, for some crime or offense committed by him, or for his omission of a duty enjoined by law.

Modern Penologists are whether the conventional forms of punishment should remain the special or most important and primary weapon is restrictive criminal behaviour or should be supplemented and even replaced by a much more flexible or diversified combination of measures of treatment of a reformatory, restorative and protective nature. Punishment is considered as a social reaction to crime. It is a human act and involves deliberate infliction of suffering on the wrong doer. It is an institutionalized suffering.

4.3 DEFINITION OF PUNISHMENT

Punishment is the reaction to crime, which is a means of social control. Walter Reckless in considering the meaning of punishment, says, "It is the redress that the commonwealth takes against an offending member". Punishment, according to Westermarck, is limited to "such suffering as is inflicted upon the offender in a definite way by, or in the name of, the society of which he is a permanent or temporary member. With a view to formulate a sociological rationale of punishment, Jackson Toby brought out in an amplified manner that the society really has no other alternate by which it can control deviations. According to him, punishment, as a social control, has every possibility of preventing or deterring crime of sustaining the morale of those who conform to the norms of the society and are morally committed to them and rehabilitating offenders.

According to Sir Walter Moberly suggests that punishment presumes that;

- What is inflicted is an ill, that is something unpleasant
- It is a sequel to some act which is disapproved by authority
- There is some correspondence between the punishment and the act which has evoked it
- Punishment is inflicted, that is imposed by someone's voluntary act
- Punishment is inflicted upon the criminal, or upon someone who is supposed to be answerable for him and for his wrong doings
According to Grunhut, three components must be present if punishment is to act as a reasonable means of checking crime;
- Speedy and inescapable detection and prosecution must convince the offender that crime does not pay
- After punishment the offender must have a fair chance to fresh start.
- The state, which claims the right of punishment, must uphold superior values, which the offender can reasonably be expected to acknowledge.

4.4 AIMS OF PUNISHMENT

The aim of punishment is to control crime and to reduce the amount of crime in society. But why do we punish?

General Deterrence

Make punishment swift and severe enough that people in the general population will not want to commit crimes. Prevention of criminal acts in the population at large can be gained by the imposition of punishment on persons convicted of crimes. Believe that the pain of punishment should outweigh the benefits of crime.

Incapacitation

Keep offender from committing offences by keeping him or her in prison during the time that an offender is in prison, he or she cannot commit crime on the outside. Prevention of criminal acts can be gained by restraining the person being punished from committing criminal acts.

Specific Deterrence

Punishment should be severe enough to make the offender not want to commit crimes in the future.

Rehabilitation

There is something wrong with the offender that makes him or her commit crimes. Treat the offender so that he or she can re-adjust to society and not commit crimes.

Retribution/Desert

Crimes are acts that deserve punishment. Has no crime control aim. Focuses exclusively on the past criminal behaviour and punishment is given solely to express condemnation of that behaviour just deserts- idea that punishment should fit the crime and punishment must be equal in proportion to the seriousness of the offence.

Equity

The offenders should pay back society and victims for their losses; examples restitution payments, payment for court costs, imprisonment costs.

4.5 TYPES OF PUNISHMENT

There are basically two types of punishment. They are Positive Punishment works by presenting a negative consequence after an undesired behaviour is exhibited, making the behaviour less likely to happen in the future. For example- During a meeting or while in class, your cell phone starts ringing, you are lectured on why it is not okay to have your phone on.

Negative punishment

Negative punishment happens when a certain desired stimulus/item is removed after a particular undesired behaviour is exhibited, resulting in the behaviour happening less often in the future. The following are some examples of negative punishment:

For a child that really enjoys a specific class, such as gym or music classes at school, negative punishment can happen if they are removed from that class and sent to the principal's office because they were acting out/misbehaving.

The types of punishment given are

- Prison
- Death penalty
- Community service
- Young offenders institution
- Fines
- Warnings
- ASBO's

Prison- a building to which people are legally committed as a punishment for a crime or while awaiting trial.

The use of imprisonment or incarceration as a form of punishment has been used from the earliest times. It is a legal penalty imposed by the State for the commission of a crime. Imprisonment involves the deprivation of liberty and freedom, and has been seen as an appropriate way of not only punishing offenders, but also as a preventative measure to ensure offenders don't re-offend in aims of protecting wider society.

- **Death penalty**-punishment by execution
- **Death penalty**- also called **capital punishment**, is when a government or state executes (kills) someone, usually because they have done something wrong.
- **Community service**- is performed by someone or a group of people for the benefit of the public or its institutions. Performing community service is not the same as volunteering, since it is not always done voluntarily. The victims are forced to do community service as a punishment for their mistake.
 - ✓ **Young Offender Institution** is a type of British prison intended for offenders aged between 18 and 20, although some prisons cater for younger offenders from ages 15 to 17, who are classed as juvenile offenders. Typically those aged under 15 will be held in a Secure Children's Home.
 - ✓ **Fines** - A **fine** is money paid usually to superior authority, usually governmental authority, as a punishment for a crime or other offence. The amount of a fine can be determined case by case, but it is often announced in advance. The most usual use of the term, fine, relates to a financial punishment for the commission of crimes, especially minor crimes, or as the settlement of a claim.
 - ✓ **Warnings**- The police or Crown Prosecution Service can give you a caution or warning if you commit a minor crime.

Warnings are given to anyone aged 10 or over for minor crimes - e.g. writing graffiti on a bus shelter. You have to admit an offence and agree to be warned. You can be arrested and charged if you don't agree. A warning is not a criminal conviction, but it could be used as evidence of bad character if you go to court for another crime.

- **ASBO-Anti Social Behaviour Order**

Anti-social behaviour order- is a civil order against a person who has been shown, on the balance of evidence, to have engaged in behaviour. The order restricts behaviour in some way, by prohibiting a return to a certain area or shop, or by restricting public behaviour such as swearing or drinking alcohol. An ASBO may be issued in response to "conduct which caused or was likely to cause harm, harassment, alarm or distress, to one or more persons not of the same household as him or herself and where an ASBO is seen as necessary to protect relevant persons from further anti-social acts by the defendant.

The history of early penal systems of most countries reveals that punishments were torturous, cruel and barbaric in nature. It was towards the end of the eighteenth century that humanitarianism began to assert its influence on penology emphasizing that severity should be kept to a minimum in any penal programme. The common modes of punishment prevalent in different parts of the world included corporal punishments such as flogging, mutilation, branding, pillories, chaining prisoners together etc., simple or rigorous imprisonment, forfeiture of property and fine.

Flogging:

Of all the corporal punishments, flogging- was one of the most common methods of punishing crimes. In India, this mode of punishment was recognized under the Whipping Act, 1864, which was repealed and replaced by similar Act in 1909 and finally abolished in 1955.

The English penal law abolished whipping even earlier. In Maryland (USA) whipping was recognized as late as 1953 although its use was limited only to "wife-bearing". Flogging, as a mode of punishment is being used in most of the middle-east countries even to this day.

The instruments and methods of flogging, however, differed from country to country. Some of them used straps and whips with a single lash, while others used short pieces of rubber-hose as they left behind traces of flogging. In Russia, the instrument used for flogging was constructed of a number of dried and hardened thongs of raw hide, interspersed with wires having hooks in their ends, which could enter and tear the flesh of the criminal. It has now been discontinued being barbarous and cruel in form.

Penological researches have shown whipping, as a method of punishment has hardly proved effective. Its futility is evinced by the fact that most of the hardened criminals who were subjected to whipping repeated their crime. There is a general belief that whipping may serve some useful purpose in case of minor offences such as eve teasing, drunkenness, vagrancy, shoplifting, etc., but it does not seem to have the desired effect on offenders charged with major crimes.

Mutilation:

Mutilation was yet another kind of corporal punishment commonly in use in early times. This mode of punishment was known to have been in practice in ancient India during Hindu period. One or the both the hands of the person who committed theft were chopped off and if he indulged in sex crime his private part was cut off. The system was in practice in England, Denmark and many other European countries as well.

The justification advanced in support of mutilation is that it serves as an effective measure of deterrence and retribution. The system, however, stands completely discarded in modern times because of its barbaric nature. It is believed that such punishments have an inevitable tendency to infuse cruelty among people.

Branding:

The origin of this type of punishment is found in the biblical times where god brands Cain for killing his brother Able, with a mark on his forehead as a punishment. As a brand of punishment, branding of prisoners was commonly used in oriental and classical societies. Roman penal laws supported this sort of punishment and criminals were branded with appropriate marks on the forehead so that they could be identified and subjected to public ridicule. This acted as a forceful weapon to combat criminality. England also branded its criminals till 1829 when it was finally abolished.

The system of branding was not uncommon to the American penal systems also. The burglars were punished by branding letter "T" on their hand and those who repeated this offence were branded "R" on the forehead. In Maryland (USA) blasphemy was punishable with branding the letter "B" on the forehead. In India, branding was practiced as a mode of punishment during the Mughal rule. This mode of corporal punishment now stands completely abolished with the advent of humanitarianism in the field of penology.

Stoning:

Stoning the criminals to death is also known to have been in practice during the medieval period. This mode of sentencing the offender is still in vogue in some of the Islamic countries, particularly in Pakistan, Saudi Arabia etc. The offenders involved in sex crimes are generally punished by stoning to death. The guilty person is made to stand in a small trench dug in the ground and people surround him from all sides and pelt stone on him until he dies. Though, it is a punishment barbaric in nature, but due to its deterrent effect, the sex crimes, especially crimes against women are well under control in these countries.

Gillin defines parole as “the release from a penal or a reformatory institution, of an offender who remains under the control of correctional authorities, in an attempt to find out whether he is fit to live in the free society without supervision. It is thus the last stage of the penal or correctional scheme of which probation may probably be the first. It is therefore necessary that in suitable cases, the inmates be released under proper supervision from the prison institution after serving a part of their sentence. This will serve a useful purpose for their rehabilitation in free society. This object is accomplished by the -system of parole, which seems to restore the inmate to society as a normal law abiding citizen.

In other words parole may be said as conditional release, a ticket of leave, an administrative pardon, a permission to spend the part of the sentence outside the prison or a premature release. According to Donald Taft, “Parole is a release from prison after part of the sentence has been served, the prisoner still remaining in custody and under stated conditions until discharged and liable to return to the institution for violation of any of these conditions.”

Thus, parole is a release method which retains the same control over prisoners, yet permits them more normal social relationships in the community and provides constructive aid at the time they most need it. Parole is one of the correctional schemes. The life in a prison is so rigid and restrictive that it hardly offers any opportunity for the offender to rehabilitate himself. In suitable cases, the inmates of a prison should be released under proper supervision from the prison institution after serving a part of their sentence. This may serve a useful purpose for their rehabilitation in the society as a normal law abiding citizen.

Pillory:

Pillory was yet another form of cruel and barbaric punishment, which was in practice till 19th century. The criminal was made to stand in a public place with his head and hands locked in an iron frame so that he could not move his body. The offender could be whipped or branded while in pillory. He could be stoned if his offence was a serious nature. At times the ears of the criminal were nailed to the beams of the pillory. Restraining physical movements of the criminal had the most agonizing effect on him and it was believed would surely bring the offender to books.

The system of pillory existed slightly in different form during the Mughal rule in India. Hardened criminals and dangerous offenders were nailed in walls and shot or stoned to death. The punishment undoubtedly was more cruel and brutal in form and, therefore, it has no place in modern penal systems. Hanging condemned prisoner to death in a public place was common mode of pillory punishment in most part of the world until the middle of the twentieth century.

These thinkers tried to understand the relationship between behaviour and freewill or behaviour and determinism, to establish which of the 2 types of cause effect relationship was true. Lombroso considered the offenders to be throwbacks to Neanderthal man, and considered them to possess "atavistic" criminal tendencies. This approach, influenced by the earlier theory of phrenology and by Charles Darwin and his theory of evolution, has been superseded. Enrico Ferri, a student of Lombroso, believed that social as well as biological factors played a role, and held the view that criminals should not be held responsible when factors causing their criminality were beyond their control. Criminologists have since rejected Lombroso's biological theories.

Fines:

The imposition of fine was a common mode of punishment for offences, which were not a serious nature, and especially those involving breach of traffic rules or revenue laws. This mode of punishment is being extensively used in almost all the sentencing systems of the world even today. Fines by the way of penalty may be used in case of property crimes and minor offences. Other forms of financial penalty include payment of compensation to the victim of the crime and payment of costs of the prosecution. Financial penalty may be either in shape of fine or compensation or costs.

The real problem involved in imposition of financial penalties is the quantum of fine or costs- and enforcement of its payment. The usual methods of enforcement are forfeiture of property, and threat of incarceration. Recovery of fines from the source of income of offender may be one of the best methods of enforcing this penalty.

In fixing the amount of fine or pecuniary penalty financial condition of the criminal must be kept in mind. Imposition of an exorbitant sum by way of fine beyond the means of the offender would be unrealistic and, therefore, frustrate the cause of penal justice.

In India, however, in the matter of recovery of fines the provisions of Section 421 of the Code of Criminal Procedure, 1973 would apply. The Code provides that when a Court imposes a sentence of fine or a sentence of which fine forms a part, it may direct that whole or part of the fine may be paid as a compensation to the victim for the loss or injury caused to him on account of the crime.

In determining the amount and method of fine, the court should take into consideration the financial resources of the defendant and the nature of burden that its payment will impose on him. Normally, court should not sentence an offender only to pay a fine, when any other disposition is authorised by law, unless having regard to the nature and circumstances of the crime and prior history and antecedents of the offender, the sentence of fine alone is deemed significant for the protection of public interest.

While awarding the sentence of fine, the court must keep in mind the gravity of offence and the financial capacity of the offender to pay the amount of fine. Besides, it is not desirable to impose fine in addition to death sentence or long-term imprisonment, which may be an unnecessary burden on the family of the convicted person.

Security Bond:

A security bond for good behaviour though strictly speaking not a punishment,

may serve a useful purpose as a form of restraint of the offender. This may entail compulsory treatment or supervision of the offender. The court may, defer sentence on some offender conditionally subject to his normal behaviour. This conditional disposal of offender is increasingly being recognized as an effective mode of corrective justice in modern penology.

A greatest advantage of this nominal measure of punishment is that it offers an opportunity to the offender to become a law-abiding citizen and chances of his reformation are better than those who are imprisoned or subjected to institutional sentence. That apart, the family members of the offender are not adversely affected by this mode of punishment, as they are not deprived of their breadwinner.

The concept of 'Crime' is central to the understanding of criminal justice in any society. All societies that are constituted by the individual members men and women – lay down certain ground rules for guiding and regulating the freedoms of thought and actions of its members.

Thus, a liberal and permissive society may accord to its members greater freedom, while as a conservative and authoritarian society may concede limited freedom to its members in matters of thought and action. As a consequence, human behaviour and action is routinely labelled as 'deviant' or a kind of deviation from the expected or normal behavioural standards.

What constitutes 'deviation' is in turn influenced by the nature of the society (primitive, traditional or modern), stages of its development (underdeveloped, developing or developed), evolution of systems for dealing with deviations and repressiveness and progressiveness of its outlook etc. 'Crime' constitutes a distinct kind of deviation that is backed by the dominant political power that has far-reaching consequences like serious stigmatisation, formal prosecution and punishment etc. This makes deviance and crime a multi-faceted and multi-use enquiry. The foregoing pages are devoted to an issue-wise discussion of the core theme with a view to giving to the readers a comprehensive understanding of the complex and inter-disciplinary theme.

It is said that due to the implementation of recommendations of the committee the death rate in prisons came down considerably. In 1876, the Third Jail Committee under the auspices of Lord Lytton made a general review of the subject and suggested means for introducing more uniform regulations and for making short sentence more deterrent. The Fourth Jail Committee, appointed by Lord Dufferin in 1888, suggested changes in rules of prison administration and classification and segregation of prisoners following the investigation into the diversity of practices in the prison. It also covered the internal management of jails, laying down rules for prison management.

The work of this committee was corroborated by the recommendations of the All India Committee of 1892. It surveyed the general prison administration in India and drew up proposals on the subject of prison offences and punishment. This report, as a manuscript was accepted by the Government of India and got confirmed as the Prisons Act 1894. The Act restricted and regulated the use of cellular confinement and penal diet as well. It provided for the classification of different offenders and tried to secure uniformity of treatment to all offenders in jails.

Banishment:

The practice of transporting undesirable criminals to far-off places with a view to eliminating them from society has commonly used in most parts of the world for centuries. In England, war criminals were usually transported to distant Austro-African colonies. The term 'transportation, banishment, exile and outlawry though similar, have different connotations. The difference however seems immaterial for the present purpose. Exile as a device merged into outlawry with earlier religious element largely supplanted by a political move.

French criminals are transported to French colonies in Guyana and New Caledonia during nineteenth century. This mode of punishment was used only for hopeless criminals, political offenders and deserters. There was no question of these criminals returning alive as they were sure to die labouring in dense ever-infested forests of the African land. The French system of deportation was most brutal, cruel and inhumane. The system was abolished after the World War II when free French Government was installed in that country.

Russian countries transported their criminals to Siberian penal camps. The condition of camps was far worse than that was in French Guyana. They were virtually hell on the earth and have been called "House of the Dead" by Dostoevsky. These camps were mostly meant for political prisoners who were completely deprived of their civil rights and were long termers.

The practice of transportation is known to have existed in penal system of British India as well. It was popularly known Kalapani. Dangerous criminals were dispatched to remote island of Andaman and Nicobar. It had psychological effect on Indians because going beyond the seas was looked with disfavour from the point of view of religion and resulted in out-casting of the person who crossed the seas. The practice came to an end during early forties after these islands came in occupation of Japanese. It was finally abolished in 1955. It must, however, be noted that the practice of banishment still persists in mini form called "Externment". The object of this method of punishment is to disassociate the offender from his surroundings so as to reduce the capacity to commit crime. This form of punishment has been accepted under the Indian penal system.

Solitary Confinement:

Confining the convicts in solitary prison cells without work was a common mode of punishment for hardened criminals in medieval times. Solitary confinement was intended for elimination of criminals from society and at the same time incapacitating them from repeating crimes. The deterrence involved in this mode of punishment was deemed necessary for prevention of crime. The monotony involved in this kind of punishment had the most devastating effect on criminals. Man by nature is known to be a social being hence cannot bear the pangs of separation and living in complete isolation from his fellowmen. Therefore, segregation of convicts into isolated prison cells under the system of solitary confinement resulted in disastrous consequences and the prisoners undergoing the sentence either died untimely or became insane. Besides, they became more furious and dangerous to society if at all they chanced to come out of the prison alive after completing their term of solitary confinement. As a result of these ill effects on prisoners the system of solitary confinement soon fell into disuse and it was finally withdrawn as a measure of punishment.

As against these the legislative and judicial initiatives to abolish out dated crimes of attempt to commit suicide (Section 309) and sex against natural order (Section 377) are instances of certain progressive groups pressing for decriminalisation in these areas. In respect of suicide offence both the Law Commission of India (42nd Law Commission Report) and the Supreme Court of India (*Rathinam v. Union of India* (1994) 3SCC 394) have categorically opined for a change in the law. But some-how the conservative views underlying the otiose law continues to prevail. Somewhat similar trend is visible in respect to a crime that criminalises all forms of homosexuality and bestiality mainly with a view to enforcing the Victorian morality of recognising only heterosexual relationship and limited sexual freed.

The cruel and barbarous penal system of the ancient days continues for quite a long time in our country until the downfall of the Mughal empire. During Mughals the legal system resembled that of ancient India and of contemporary muslim sovereign. Muslim law divided punishment into Hadd, Tazier, Quisas, and Tash-hir. Hadd included stoning to death for adultery, encouraging for drinking wine, cutting off for robbery with murder etc. Tazier was the punishment like public reprimands dragging the offenders to the door, imprisonment or excise or boxing on the ear. Quisas or retaliation rested on the personal types of crimes such as a murder. Tash-hir or public degradation was a popular devised punishment of universal currency throughout the Muslim world and even in Hindu India and Medieval Europe.

It included such punishments as shaving off the offender's head, making him ride on an ass with his face turned towards its tail, and his body covered with dust, sometimes with a garland of old shoes placed around his neck, parading him in this posture through the streets with noisy music and finally turning him out of the city. As to the offences against the state, such as rebellion, peculation and default in the payment of revenue, the Quaranic law was silent and as such the sovereign was the sole authority on inflicting punishment in such cases. The constitutionality of is under challenge and the Court has still to lay down the law on the point.

4.6SUMMARY

Commenting on the torture and cruelty involved in solitary confinement, P.K.Sen,observed that it was perhaps the best way to put an end to the criminal without resorting to bloodshed or murder. Significantly, this mode of punishment is known to have found support in ancient penology of India as an effective expiatory measure. It was believed that complete isolation of man provides him better opportunity for penance and remonstrance and the feeling of guilt and self-hatred tend to bring about his reformation speedily.

The provisions relating to solitary confinement are contained in Sections 73 and 74 of the Indian Penal Code. Section 73 provides that the Court may order that the offender shall be kept in solitary confinement. For any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole according to the following scale:

For a period not exceeding one month if the term of imprisonment does not exceed six months;

For a period not exceeding two months if the term of imprisonment does not exceed for one year;
For a period not exceeding three months if the term of imprisonment exceeds one year.

When the substantive sentence exceeds three months, to seven days in any one-month. That is to say, solitary confinement must be imposed at intervals. A sentence inflicting solitary confinement for the whole term of imprisonment is illegal, though it may be for less than fourteen days.

4.7 KEY WORDS

- A. Punishment
- B. Crime
- C. Death
- D. Criminal

4.8 SELF-ASSESSMENT QUESTIONS

1. Explain the concept of Punishment.
2. Discuss the importance of Punishment.
3. Discuss the concept and the implications of Punishment

4.9 REFERENCE BOOKS

- C.M.V. Clarkson, H.M. Keating and S.R. Cunningham (2007) *Clarkson and Keating Criminal Law: Text and Materials*, Sweet and Maxwell, London
- Hari Singh Gaur (2004) *The Penal Law of India*, Law Publishers India Private Limited, Allahabad
- K.N. Chandrasekharan Pillai (rev.) (2008) *R.V. Kelkar's Criminal Procedure*, Eastern Book Company, Lucknow
- R. Gopal (1990) *Sohoni's Code of Criminal Procedure*, Butterworths, New Delhi
- Juvenile Justice (Care and Protection of Children) Act 2000
- Andrew Ashworth (2005) *Sentencing and Criminal Justice*, Cambridge University Press, Cambridge.
- Andrew Von Hirsch, Andrew Ashworth and Julian Roberts (2009) *Principled Sentencing: Readings on Theory and Policy*, Hart Publishing, Portland.

Prof. M. Trimuthi Rao

LESSON 5

THEORIES OF PUNISHMENT

OBJECTIVE

The objective of this lesson is to explain the concept meaning of Theories of Punishment

STRUCTURE

- 5.1 Introduction
- 5.2 Theories of Punishment
- 5.3 Summary
- 5.4 Keywords
- 5.5 Self-Assessment Questions
- 5.6 Reference Books

5.1 INTRODUCTION

Each society has its own way of social control for which it frames certain laws and also mentions the sanctions with them. These sanctions are nothing but the punishments.

‘The first thing to mention in relation to the definition of punishment is the ineffectiveness of definitional barriers aimed to show that one or other of the proposed justifications of punishments either logically include or logically excluded by definition.’ Punishment has the following features:

- It involves the deprivation of certain normally recognized rights, or other measures considered unpleasant
- It is consequence of an offence
- It is applied against the author of the offence
- It is supplied by an organ of the system that made the act an offence.

5.2 THEORIES OF PUNISHMENT

The determination of guilt in a criminal case is followed by a decision on the kind of treatment that should be meted out to the offender. As mentioned earlier the treatment suggested by different theorists varies according to the purpose sought to be achieved. The purposes which broadly govern the decision with regard to such a treatment are:

- Retribution
- Prevention
- Deterrence
- Reformation and rehabilitation

The kinds of punishment given are surely influenced by the kind of society one lives in. Though, during ancient period of history punishment was more severe as fear was taken as the prime instrument in preventing crime. But with change in time and development

of human mind the punishment theories have become more tolerant to these criminals.

It becomes very important on behalf of the society to punish the offenders. Punishment can be used as a method of reducing the incidence of criminal behaviour either by deterring the potential offenders or by incapacitating and preventing them from repeating the offence or by reforming them into law-abiding citizens.

With change in the social structure the society has witnessed various punishment theories and the radical changes that they have undergone from the traditional to the modern level and the crucial problems relating to them. Theories of punishment contain generally policies regarding theories of punishment namely:

- Retributive
- Preventive
- Deterrent and
- Reformative

Retributive Theory:

Retributive theory of punishment is based on the idea that the offender should suffer for the wrong committed by him. The suffering is imposed on the offender on account of either vengeance, expiation or as just deserts.⁷ Let's try to understand the notion of vengeance, expiation and just deserts, reflected in this theory especially focusing on how they suggest three different purposes for imposition of suffering. Unlike the aforesaid theories this theory focuses on the past action of the offender rather than the future i.e. protection of society, preventing commission of crime in future.

The notion of vengeance views the punishment as an expression of the feeling of revenge that is aroused in the mind of the victim, his near and dear ones and the society in general on account of the commission of crime. While punishing the state acts on behalf of the victim as well as the entire society and thus avoids private retaliation. The notion of expiation implies that the guilt of the offender is blotted out by the suffering imposed on him.

In other words, once the offender undergoes the suffering imposed on him for his wrong, he is considered to have paid back his owed to victim and society at large. The debt it is said is incurred on account of transgression of law by the offender. Once this debt is paid the liability of the offender is extinguished and innocence is substituted for guilt. The notion of just deserts implies that the person deserves to be punished for the offence he has committed. This notion further has two ideas associated with it i.e. just desert as eliminating undue advantage just desert as censure or renunciation.

It is said that the offenders gain undeserved advantage by breaking themselves free of the restrictions, which all others abide by and thus remain under the burden of those restrictions. The punishment thus restores the balance between those who accrue undue advantage by destroying the undue advantage enjoyed by them. This notion has been criticized on two accounts one being that the idea of benefits and burden presumes that law-abiding conduct is necessarily burdensome and crime is advantageous. Secondly, the notion is silent on quantum of punishment in specific cases so as to strike a balance between benefits and burdens.

A presentence investigation report (PSIR) is a legal term referring to the investigation into the history of person convicted of a crime before sentencing to determine if there are extenuating circumstances which should ameliorate the sentence or a history of criminal behaviour to increase the harshness of the sentence. The PSIR has been said to fulfil a number of purposes, including serving as a charging document and exhibit proving criminal conduct, and is said to be akin to a magistrate judge's report and recommendation.

Considered among the most important documents in the criminal justice field, the Presentence Investigation Report (PSI) has been the central source of information to sentencing judges since the 1920s. Its original purpose was to provide information to the valuable suggestions on Prison Administration in India. Consequently, All India Jail Manual Committee was formed to review the working of Indian Jails and suggest measures for reform in the system. Consequent to the Report of the Jail Manual Committee the Government of India decided to have a comprehensive legislation on probation of offenders.

Then the Probation of offenders came in to force in 1958. Its original purpose was to provide information to the court on the defendant's personal history and criminal conduct in order to promote individualized sentencing. With the advent of more punitive sentencing policies in recent years, the PSI has become more offence focused and less individualized. Despite current trends, the PSI will likely remain a critical component of the criminal justice system.

This theory of punishment is based on the principle- "An eye for an eye, a tooth for a tooth". Retributive means to give in turn. The object of this theory is to make the criminal realize the suffering of the pain by subjecting him to the same kind of pain as he had inflicted on the victim. This theory aims at taking revenge rather than social welfare and transformation. It has not been supported by the Criminologists, Penologists and Sociologists as they feel that this theory is brutal and barbaric. The person wrongdoer was allowed to have revenge against the wrong doer. The principle of an eye to eye, a tooth to tooth, a nail to nail, limb for limb was basis of criminal administration.

The most stringent and harsh of all theories retributive theory believes to end the crime in itself. This theory underlines the idea of vengeance and revenge rather than that of social welfare and security. Punishment of the offender provides some kind solace to the victim or to the family members of the victim of the crime, who has suffered out of the action of the offender and prevents reprisals from them to the offender or his family. This theory is based on the same principle as the deterrent theory, the Utilitarian theory. To look into more precisely both these theories involve the exercise of control over the emotional instinctual forces that condition such actions. This includes our sense of hatred towards the criminals and a reliance on him as a butt of aggressive outbursts. Thus, the researcher concludes that this theory closely related to that of expiation as the pain inflicted compensates for the pleasure derived by the offender. Though not in anymore contention in the modern arena but its significance cannot be totally ruled out as fear still plays an important role in the minds of various first-time offenders. But the researcher feels that the basis of this theory i.e., vengeance is not expected in a civilized society. This theory has been severely criticized by modern day penologists and is redundant in the present punishments.

Sir Walter Moberly states that the punishment is deemed to give the men their dues. "Punishment serves to express and to and to satisfy the righteous indignation which a

healthy community treats a transgression. As such it is an end in itself."

As Kant argues in a famous passage: "Judicial punishment can never be used merely as a means to promote some other good for the criminal himself or civil society, but instead it must in all cases be imposed on him only on the ground that he has committed a crime; for a human being can never be manipulated merely as a means to the purposes of someone else. He must first of all be found to be deserving of punishment before any consideration is given of the utility of this punishment for himself or his fellow citizens."

"Kant argues that retribution is not just a necessary condition for punishment but also a sufficient one. Punishment is an end in itself. Retribution could also be said to be the 'natural' justification", in the sense that man thinks it quite natural and just that a bad person ought to be punished and a good person rewarded. However 'natural' retribution might seem, it can also be seen as Bentham saw it, that is as adding one evil to another, base and repugnant, or as an act of wrath or vengeance.

Therefore, as we consider divine punishment we must bear in mind, as Rowell says, the doctrine of hell was framed in terms of a retributive theory of punishment, the wicked receiving their just deserts, with no thought of the possible reformation of the offender. In so far as there was a deterrent element, it related to the sanction hell provided for ensuring moral conduct during a man's earthly life.

Criticism of the Theory

The retributive theory, even in its modified form, is defective, for as Justice Holmes points out, "this passion of vengeance is not one which we encourage, either, as private individuals or as law makers. Salmond points out that "Retribution is in itself not a remedy for the mischief of the offence but an aggravation of it". Punishment involves pain and suffering. The infliction of suffering, if unredeemed by someone corresponding and compensating good, can only add to the sum total of misery already occasioned by the offence of the criminal. So it cannot be justified if no ulterior good is aimed at and punishment is inflicted merely as an end in itself. It is thus clear that retribution is only a subsidiary purpose served by punishment.

Preventive Theory:

Prevention seeks to prevent the offender from committing a crime again by rendering the offender incapable of committing the crime. The punishments guided by this theory of punishment may seek to bring about permanent incapacitation for instance by imposing death penalty or by severing limbs or by disqualifying a person from doing something for example disqualification from driving. Even sentence of imprisonment incapacitates the offender but that incapacitation is only temporary in nature. This theory views punishment as a means to ensure prevention of commission of crime in future and in that sense is forward looking like the deterrence theory. An important consideration in a sentence based on prevention as the purpose of punishment is the likelihood of commission of crime by the same offender again.

This is also viewed as a drawback of this approach as it seeks to impose punishment not for the past offence of the offender but the possible future offences that he is likely to commit. Moreover the correctness of the prediction of commission of crime in future is also questionable.

This theory too aims to prevent the crime rather than avenging it. As per this theory, the idea is to keep the offender away from the society. This criminal under this theory is punished with death, life imprisonment etc. This theory has been criticized by some jurists.

Object of punishment is prevention or disablement of offenders are disabled from repeating the offences by awarding punishment, such as death, exile or forfeiture of an office.

Unlike the former theories, this theory aims to prevent the crime rather than avenging it. Looking at punishments from a more humane perspective it rests on the fact that the need of a punishment for a crime arises out of mere social needs i.e. while sending the criminals to the prisons the society is in turn trying to prevent the offender from doing any other crime and thus protecting the society from any anti-social elements.

Thus one can easily say that preventive theory though aiming at preventing the crime to happen in the future but it still has some aspects which are questioned by the penologists as it contains in its techniques which are quite harsh in nature. The major problem with these types of theories is that they make the criminal more violent rather than changing him to a better individual. The last theory of punishment being the most humane of all looks into this aspect.

Fitch in order to explain this in greater details puts forward the illustration, A owner of the land puts a notice that 'trespassers' would be prosecuted. He does not want an actual trespasser and to have the trouble and expense of setting the law in motion against him.

He hopes that the threat would render any such action unnecessary; his aim is not to punish trespass but to prevent it. But if trespass still takes place he undertakes prosecution. Thus the instrument which he devised originally consists of a general warning and not any particular convictions.

Thus it must be quite clear now by the illustration that the law aims at providing general threats but not convictions at the beginning itself. Even utilitarian such as Bentham have also supported this theory as it has been able to discourage the criminals from doing wrong and that also without performing any severity on the criminals. The present day prisons are fallout of this theory. The preventive theory can be explained in the context of imprisonment as separating the criminals from the society and thus preventing any further crime by that offender and also by putting certain restrictions on the criminal it would prevent the criminal from committing any offence in the future. Supporters of this theory may also take Capital Punishment to be a part of this theory. A serious and diligent rehabilitation program would succeed in turning a high percentage of criminals away from a life of crime.

There are, however, many reasons why rehabilitation programs are not commonly in effect in our prisons. Most politicians and a high proportion of the public do not believe in rehabilitation as a desirable goal. The idea of rehabilitation is considered mollycoddling. What they want is retribution, revenge, punishment and suffering.

Thus one can easily say that preventive theory though aiming at preventing the crime to happen in the future but it still has some aspects which are questioned by the penologists as it contains in its techniques which are quite harsh in nature. The major problem with these types of theories is that they make the criminal more violent rather than changing him to

abetterindividual.

Deterrent Theory:

To deter means to discourage or dissuade someone and in case of punishment for an offence it implies dissuasion from commission of offence. This dissuasion may act at various levels viz., at individual, general or educative level.¹ The deterrent theory of punishment aims at reducing recurrence of crime by punishing the offender, which discourages not only the offender from committing crime again but such unpleasant consequences also deter people generally who might have thought of committing crime in future. This theory of punishment seeks to “educate the public as to the proper distinction between good and bad conduct”² and thus plays an educative role in the long run. The deterrence theory favors such sentences which are likely to create a fear in the minds of actual and potential offenders and thus discourage or demotivate them from committing offenses in future.

It is the concept in which individuals learn to recover from the effects of criminal behaviour and bring about justice in the work of criminology. The Chicago school arose in the early twentieth century, through the work of Robert E. Park, Ernest Burgess, and other urban sociologists at the University of Chicago. In the 1920s, Park and Burgess identified five concentric zones that often exist as cities grow, including the “zone in transition” which was identified as most volatile and subject to disorder.

In the 1940s, Henry McKay and Clifford R. Shaw focused on juvenile delinquents, finding that they were concentrated in the zone of transition. Chicago School sociologists adopted a social ecology approach to studying cities, and postulated that urban neighbourhoods with high levels of poverty often experience breakdown in the social structure and institutions such as family and schools. This results in social disorganisation, which reduces the ability of these institutions to control behaviour and creates an environment ripe for deviant behaviour.

Local rules, adopted by the judges of each jurisdiction, supplement the federal rules and set a specific schedule for the disclosure of the initial draft of the presentence report to the defendant and both counsel, for the filing of objections to the report by counsel, and for the submission of the final report to the court, the defendant, and counsel. The report must be disclosed to the court, the defendant, defendant's counsel, and the attorney for the government at least before the sentencing. The probation officer must manage the investigation process within the time line established by those rules. In addition to gathering information, the officer must plan to verify that information, interpret and evaluate the data, determine the appropriate sentencing guidelines and statutes to the specific facts of the case, and present the results of the investigation in an organized and objective report. The probation officer must set deadlines for the submission of information by the defendant and others and monitor compliance with the deadlines.

The drawbacks of this approach to sentencing are twofold. On the one hand it would justify imposition of harsh sentence on an offender in order to deter others from committing a similar offence and on the other such an approach would not be averse to imposition of punishment on an innocent person provided it serves to deter others. Supreme Court of India has also recognized that “punishment to an accused in criminal jurisprudence is not merely to punish the wrongdoer but also to strike warning to those who are in the same sphere of crime or to those intending to join in such crime.

Under this theory, severe punishments are inflicted upon the offender so that he abstains from committing a crime in future and it would also be a lesson to the other members of the society, as to what can be the consequences of committing a crime. This theory has proved ineffective, even though it has certain defects.

The object of punishment is not only to prevent the wrong-doer from doing a wrong a second time, but also to make him an example to other persons who have criminal tendencies. Salmond considers deterrent aspects of criminal justice to be the most important for control of crime. The chief aim of the law of crime is to make the evil-doer an example and a warning to all that are like minded. One of the primitive methods of punishment believes in the fact that if severe punishments were inflicted on the offender would deter him from repeating that crime. Those who commit a crime, it is assumed, derive a mental satisfaction or a feeling of enjoyment in the act. To neutralize this inclination of the mind, punishment inflicts an equal quantum of suffering on the offender so that it is no longer attractive for him to carry out such commission of crimes. Pleasure and pain are two physical feelings or sensation that nature has provided to mankind, to enable him to do certain things or to desist from certain things, or to undo wrong things previously done by him. The basic idea of deterrence is to deter both offenders and others from committing a similar offence.

In earlier days a criminal act was considered to be due to the influence of some evil spirit on the offender for which he was unwillingly was made to do that wrong. Thus to correct that offender the society resorted to severe deterrent policies and forms of the government as this wrongful act was taken as a challenge to the God and the religion. But in spite of all these efforts there are some lacunae in this theory. This theory is unable to deter the activity of the hardcore criminals as the pain inflicted or even the penalties are ineffective. The most mockery of this theory can be seen when the criminals return to the prisons soon after their release, that is precisely because as this theory is based on certain restrictions, these criminals are not affected at all by these restrictions rather they tend to enjoy these restrictions more than they enjoy their freedom.

J. Bentham, as the founder of this theory, states:

"General prevention ought to be the chief end of punishment as its real justification. If we could consider an offence, which has been, committed as an isolated fact, the like of which would never recur, punishment would be useless. It would only be only adding one evil to another. But when we consider that an unpunished crime leaves the path of crime open, not only to the same delinquent but also to all those who may have the same motives and opportunities for entering upon it, we perceive that punishment inflicted on the individual becomes a source of security for all. That punishment which is considered in itself as a base and repugnant to all generous sentiments is elevated to the first rank of benefits when it is regarded not as an act of wrath or vengeance against a guilty or unfortunate individual who has given way to mischievous inclinations, but as an indispensable sacrifice to the common safety."

Bentham's theory was based on a hedonistic conception of man and that man as such would be deterred from crime if punishment were applied swiftly, certainly, and severely. But being aware that punishment is an evil, he says, if the evil of punishment exceeds the evil of the offence, the punishment will be unprofitable; he will have purchased exemption from one evil at the expense of another.

The origin of probation can be traced to English criminal law of the Middle Ages. Harsh punishments were imposed on adults and children alike for offenses that were not always of a serious nature. Sentences such as branding, flogging, mutilation, and execution were common. During the time of King Henry VIII, for instance, no less than 200 crimes were punishable by death, many of which were minor offenses. This harshness eventually led to discontent in certain progressive segments of English society that were concerned with the evolution of the justice system. Slowly but resolutely, in an effort to mitigate these inhumane punishments, a variety of measures were devised and adopted. Royal pardons could be purchased by the accused; activist judges could refrain from applying statutes or opt for a lenient interpretation of them; stolen property could be devalued by the court so that offenders could be charged with a lesser crime. Also, methods such as benefit of clergy, judicial reprieve, sanctuary, and abjuration offered offenders a degree of protection from the enactment of harsh sentences.

Eventually, the courts began the practice of "binding over for good behaviour," a form of temporary release during which offenders could take measures to secure pardons or lesser sentences. Controversially, certain courts began suspending sentences. In the United States, particularly in Massachusetts, different practices were being developed. "Security for good behaviour," also known as "good aberrance," was much like modern bail: the accused paid a fee as collateral for good behaviour. Filing was also practiced in cases that did not demand an immediate sentence. Using this procedure, indictments were "laid on file" or held in abeyance. To mitigate unreasonable mandatory penalties, judges often granted a motion to quash based upon minor technicalities or errors in the proceedings. Although these American practices were precursors to probation, it is the early use of recognizance and suspended sentence that are directly related to modern probation.

The basic idea of deterrence is to deter both offenders and others from committing a similar offence. But also in Bentham's theory was the idea that punishment would also provide an opportunity for reform. "While a person goes on seeking pleasure, he also takes steps to avoid pain. This is a new system of political philosophy and ethics developed by Jerome Bentham and John Stuart Mill in the 19th century called Utilitarianism. It postulates human effort towards "maximization of pleasure and maximum minimization of pain" as the goal. "The main ethical imperative of utilitarianism is: the greatest good for the largest number of people; or the greatest number of goods for the greatest number of people" The fear of consequent punishment at the hands of law should act as a check from committing crimes by people. The law violator not merely gets punishment, but he has to undergo an obnoxious process like arrest, production before a magistrate, trial in a criminal court etc. that bring about a social stigma to him as the accused. All these infuse a sense of fear and pain and one thinks twice before venturing to commit a crime, unless he is a hardcore criminal, or one who has developed a habit for committing crimes. Deterrent theory believes in giving exemplary punishment through adequate penalty."

Restrictive Principles of Deterrence:

Beccaria points out, "the more cruel punishments become, the more human mind harden, adjusting themselves like fluids, to the level of objects around them; and the everliving force, of the passions. brings it about that, after a hundred years of cruel punishments, the wheel frightens men only just as much as it first did the punishment of prison". Hobhouse also observed: "people are not deterred from murder by the sight of the

murderers dangling from a gibbet. On the contrary, what there is in them of lust for blood is tickled excited, their sensuality or ferocity is aroused and the counteracting impulses, the aversion to bloodshed, the compunction for suffering are arrested". In the eighteenth-century England, while thieves were hung publicly as a warning, deterred pickpockets frequently plundered the spectators. Thus, one limiting principle to the deterrent theory arises from the fact that the fear inspired even by the most terrifying of punishments will be blunted by long familiarity with that particular mode of punishment.

Probation along with other alternative sanctions is increasingly being used, to alleviate the strain on correctional institutions. As more correctional facilities are filled to capacity, more and more offenders are receiving sentences of probation, and hence serving their sentence in the community. However, the effect of probation violations negates the idea that beds are freed up by the use of alternative sanctions. Several issues have been raised about probation per se, and specifically about increasing probation populations. Foremost is revocation of probation. This is important because it has implications both to public safety and to the effectiveness of probation itself as an alternative sanction. Probation revocation occurs due to violation of probation order, or a new conviction. A judge who sentences an offender to probation is taking the chance he will stay out of trouble. If he violates the rules of probation or is rearrested for new crimes, sanctions are imposed, up to and including revocation--the termination of probation and reinstatement of a jail sentence. While a probation officer has some discretion and each county and state is unique, there are certain violations that typically trigger a violation of probation hearing and revocation.

Another limiting principle is that extreme severity of a penal code may make people unwilling to co-operate in carrying out the punishment. In England it was usual for juries to indulge in prior perjuries for saving petty offenders from gallows. When a prisoner was indicted for stealing goods valued at 300 pounds, the jury found him guilty of larceny of goods to the value of 39 shillings in order that the conviction should not carry with it the penalty of death. Thus if the prescribed penalty be too severe, its deterrent effect would be outweighed by the increased hope of immunity entertained by the malefactor.

Reformative Theory:

It is said that the offenders gain undeserved advantage by breaking themselves free of the restrictions, which all others abide by and thus remain under the burden of those restrictions. The punishment thus restores the balance between those who accrue undue advantage by destroying the undue advantage enjoyed by them. This notion has been criticized on two accounts one being that the idea of benefits and burden presumes that law-abiding conduct is necessarily burdensome and crime is advantageous.¹¹ Secondly, the notion is silent on quantum of punishment in specific cases so as to strike a balance benefits and burdens.

Recent trend in penology focusing on treatment of offenders in order to reform and rehabilitate them also finds resonance in the judicial decisions. The court has held that "Crime is a pathological aberration, the criminal can ordinarily be redeemed. The State has to rehabilitate rather than avenge. The sub-culture that leads to anti-social behaviour has to be countered not by undue cruelty but by re-culturation.

This theory is the most humane of all the theories which aims to reform the legal offenders by individual treatment. The idea behind this theory is that no one is a born Criminal and

criminals are also humans. Under this theory, it is believed that if the criminals are trained and educated, they can be transformed into law-abiding citizens. This theory has been proved to be successful and accepted by many jurists.

According to the reformatory theory, the objective of punishment is the reformation of criminals. But that is the beginning of a new story, the story of the gradual renewal of a man, the story of his gradual regeneration, of his passing from one world into another, of his initiation into a new unknown life. It emphasizes on the renewal of the criminal and the beginning of a new life for him.

The most recent and the most humane of all theories are based on the principle of reforming the legal offenders through individual treatment. Not looking to criminals as inhuman, this theory puts forward the changing nature of the modern society where it presently looks into the fact that all other theories have failed to put forward any such stable theory, which would prevent the occurrence of further crimes. Though it may be true that there has been a greater onset of crimes today than it was earlier, but it may also be argued that many of the criminals are also getting reformed and leading a law-abiding life altogether. Reformatory techniques are much closer to the deterrent techniques.

5.3 SUMMARY

This theory aims at rehabilitating the offender to the norms of the society i.e. into a law-abiding member. This theory condemns all kinds of corporal punishments. These aim at transforming the law-offenders in such a way that the inmates of the penitentiary institutions can lead a life like a normal citizen. These prisons or correctional homes as they are termed humanely treat the inmates and release them as soon as they feel that they are fit to mix up with the other members of the community. The reformation generally takes place either through probation or parole as measures for reforming criminals. It looks at the seclusion of the criminals from the society as an attempt to reform them and to prevent the person from social ostracism. Though this theory works stupendously for the correction of juveniles and first-time criminals, but in the case of hardened criminals this theory may not work with the effectiveness. In these cases, come the importance of the deterrence theories and the retributive theories. Thus, each of these four theories has their own pros and cons and each being important in its own way, none can be ignored as such.

5.4 KEYWORDS

- A) Probation
- B) Treatment
- C) Reformation
- D) Justification

5.5 SELF-ASSESSMENT QUESTIONS

- A) Classify imprisonment on the basis of the theories of punishment
- B) What are the factors conditioning determination of theories of punishment
- C) Discuss the concept and the implications of Theories of Punishment

5.6 REFERENCE BOOKS

1. Andrew Von Hirsch, (1987) *Past or future crimes: Deservedness and Dangerousness in the Sentencing of Criminals*, Rutgers University Press.
2. Ahmed Siddique, (1993). *Criminology, Problems and Perspectives*, III Edn., Eastern Book Company, Lucknow.
3. Bhattacharya S.K., (1982). *Social Defence*, Manas Publications, New Delhi.
4. Bhattacharya S.K., (1986). *Probation system in India*, Manas Publications, New Delhi.
5. Brodie, S.R., (1976). *Effectiveness of sentencing*, Home office, London.
6. Chockalingam K., (1993). *Issues in Probation in India*, Madras University Publications, Madras.
7. Christopher J. Emmins, (1985). *A practical approach to sentencing*, Financial Training Publications Ltd., London.
8. Devasia, V.D & Leelamma Devasia, (1992). *Criminology, Victimology and Corrections*, S.B.Mangia for Ashish Publishing House, New Delhi.
9. Goswami, B.K. (1980). *Critical Study of Criminology and Penology*, Allahabad Agency, Allahabad.
10. Ghosh, S., (1992). *Open Prisons and the Inmates*, Mittal Publications, New Delhi.
11. Naresh Kumar, (1986). *Constitutional Rights of Prisoners*, Mittal Publishers, New Delhi.
12. Reckless, W.C., (1967). *The Crime Problem*, Vakils, Feffner and Simens P.Ltd., Bombay.
13. Mulla Committee Report on Prison Reforms, 1983. Govt, of India.
14. Paranjpe, N.V., (2002). *Criminology and Penology*, Central Law Publications, Allahabad

Prof. V. Venkateswarlu

LESSON 6

LIMITATIONS OF PUNISHMENT

OBJECTIVE

The objective of this lesson is to explain the concept meaning of the Limitations of Punishment.

STRUCTURE

- 6.1 Introduction
- 6.2 Origin and Evolution
- 6.3 Corporal and Capital Punishment
- 6.4 Proportionality of Punishment
- 6.5 Summary
- 6.6 Key words
- 6.7 Self-Assessment Questions
- 6.8 Reference Books

6.1 INTRODUCTION

Punishing the offender is a primary function of all civil states. The incidence of crime and its retribution has always been an unending fascination for human mind. The practice of punishment and public opinion concerning it has been profoundly modified due to the rapidly changing social values and sentiments of the people. It is in this perspective that the problem of crime and punishment is engaging the attention of criminologists and penologists all around the world. The punishment can be used as a method of reducing the incidence of criminal behaviour. It is this principle which underlies the doctrines concerning the desirability and objectives of punishment.

Hugo Grotius (quoted Mehta, op. cit.) offered earliest and most simplistic definition of punishment as the reflection of an ill, suffered for an ill done. Stephen Schafer defines punishment as the enforcement of responsibility for violating a prescribed duty that is ruled by a power more powerful than the violator. Punishment can be defined as a penalty or sanction given for any crime or offence.

Sir Walter Moberly (quoted in Paranjape, 2009, p.222), while accepting the definition of punishment as given by Grotius, suggests that punishment presupposes that:

- i) what is inflicted is an ill, that is something unpleasant;
- ii) it is a sequel to some act which is disapproved by authority;
- iii) there is some correspondence between the punishment and the act which has evoked it;
- iv) punishment is imposed by some one's voluntary act;
- v) punishment is inflicted upon the criminal who is supposed to be answerable for him and for his wrong doing
- vi) Moral sanctions are internal to person and depend upon his moral psyche.

- vii) Social sanctions are imposed directly or indirectly by society. It is a very powerful behaviour mechanism.
- viii) Legal sanctions are imposed by the legislative enactments of laws. It comes from the law giver. The law is seen to be a command which imposes a duty and the failure to fulfil the duty attracts legal sanction.
- ix) Punitive sanctions actually inflict punishment upon the transgressor. Punitive sanction is the rough treatment given to the offender.

6.2 ORIGIN AND EVOLUTION OF THE SYSTEM OF PUNISHMENT

A look at the system of punishment from the early times till date will provide us an understanding of the origin, evolution and adequacy of modern penal system.

a) Early stages: The sense of fear and ignorance led to barbarous method of treatment of offenders. The concept of law and order was not known to them. The common methods of settling disputes were through personal vengeance, reparation, etc. Thus, it led to exploitation of the weaker by the stronger resulting in complete chaos. The life and property were most insecure and always exposed to danger. The cases of property damages were generally settled by compelling the offender to pay compensation to the injured. Later state came into existence and took to itself the task of maintaining law and order in the community by punishing the law-breakers.

b) Medieval Period: The tenets of religion had great influence on the administration of justice and penal policy. Crime began to be identified with sin and violence. This led to the evolution of solitary confinement as a means of penance by putting the wrong doer in isolation. It is believed that if the offender sincerely repented for his offence, the mental torture that he suffers is itself a great punishment for him.

The noted Italian criminologists, Garofalo and Enrico Ferri rejected this theory. Sir Leo Page observed that the theory is not only wrong but actively mischievous. This theory of expiation presented practical difficulties in the determination of exact quantum of punishment (quoted Mehta, 1999, pp.331-333).

With the advance of science and knowledge in social disciplines, reformation became a wave throughout the European continent. Rehabilitation through the method of reformation is considered more useful. With this end, the modern judicial trend is to incorporate correctional methods in the penal programme.

Deterrence was the cardinal rule of justice; it meant considerable torture and harassment to offenders. The theory of vengeance is, thus, nothing but a perverted form of retributive method of punishment.

c) Modern Penology: It has been generally accepted that punishment must be in proportion to the gravity of the offence. It is suggested that reformation of criminal rather than his expulsion from society is more purposeful. Today old barbarous methods of punishment are abandoned. Modern penologists have substituted new forms of penal sanctions for the old methods of sentencing. The present modes of punishment commonly include imposition of monetary fines, segregation of the offender temporarily or permanently through imprisonment, or externment or compensation by way of damages from the wrong doer.

Undoubtedly, it goes to the credit of eminent criminologists, notably, Beccaria, Garofalo, Fermi, Tarde, Bentham and others, who formulated sound principles of penology and made all out efforts to ensure rehabilitation of the offender so as to make him a useful member of society once again. Open air jails, parole or probation are being intensively used for long-termers so that they can earn their livelihood while in the institution.

It was Beccaria (mentioned in Paranjape, 2009) who advocated equalized treatment for all criminals for similar offences and reiterated that it was not the personality of offender, but his antecedents, family background and circumstances, which had to be taken into consideration while determining his guilt and punishment. He was equally opposed to the discretionary power of court and argued that the function of determining appropriate punishment for different offences must be confined to the legislature and law makers alone.

The function of jury is to determine the question of fact, i.e. whether the crime has been committed by the offender or not, and decide the guilt or innocence of the accused. The central theme of penal policy advocated by adherents of classical school was quality of punishment for similar offences.

The adherents of neo-classical school suggested that punishment should be awarded in varying degrees depending on the mental condition and intent of the criminal. It was for the first time that an attempt was made to shift the emphasis from 'crime to criminal'. This led to classification of criminals into different categories according to the genesis of the criminality. The object was to make the reformatory methods of punishment more effective. Sen(1943, p.45), rightly observed that punishment is converted into a treatment method for bringing about reformation of the offender.

Garofalo believed that reformation had only a limited utility in cases of young or first offenders and it hardly served any useful purpose in cases of recidivist and hardened criminals. He also rejected deterrent punishment since it had failed to determine the exact quantum of punishment for a given offence under varying social circumstances, Enrico Feri asserted that punishment was necessary for the protection of society. He opined that punishment was a social deterrent. Feri did not believe that the imprisonment does not serve useful purpose.

It is well settled that prevention of crime and protection of society are the main objects of punishment. Punishment is an act which involves the balancing of retribution, deterrence and reformation.

Essentials of an Ideal Penal System

An ideal penal system must, essentially, include the following characteristics:

- 1) A rational penal policy should aim at protecting the society from crimes and reclaim criminals by removing imperfections in the penal law of the country. Greater emphasis should be on prevention rather than cure.
- 2) Bentham, well known English law reformer, commented that penal policy must be in conformity with the utilitarian doctrine of pleasure and pain: punishment be effective should be proportionate to the gravity of the offence.
- 3) Elimination of delay in awarding punishment is, perhaps, the most fundamental requirement of an ideal penal programme. Inordinate delay causes loss of faith in justice delivery system.

- 4) Penal actions act as a threat to the aggressor thereby refraining him from committing such forbidden acts of violence. As Beccaria puts it, the purpose of punishment is to make crime an ill bargain for the offender'.
- 5) Experience has shown that the principle of equal punishment for similar offences does not prove effective for all types of criminals. It is for this reason that classification of criminals into different categories is deemed necessary.
- 6) It is significant to note that efficacy of punishment essentially depends on the proper functioning of agencies which administer criminal justice. Disproportionate and unduly harsh punishment shall make the members of community feel that their life is not safe and insecure in the hands of administrators.
- 7) Reformation of criminals should be the object of punishment. The punishment to be efficacious must include the combination of deterrence, prevention and reformation.
- 8) While appreciating the need for reformatory approach towards criminals, a word of caution seems necessary. With all the comforts to inmates in prisons, the inmates often take the institutions as an easy resort to spend their life comfortably without shouldering any responsibilities. This obviously effects the very object of reformation.
- 9) The authorities should refrain from projecting the image of the offenders as 'big shot'. The rewards so often announced by the govt. on the heads of notorious dacoits, murderers and criminals seem to undermine the aspect of penal policy, e.g. Poolan Devi story is pictured as 'Bandit queen' and Veerappan as 'Sandal wood jungle dacoit'
- 10) Most of the modern penologists are opposed to retention of capital punishment on humanitarian grounds. Despite growing disinclination for awarding -death penalty, there is a growing reluctance to abolish it. The ideal policy is to retain capital punishment in the statute book to be used in 'rarest of rare case'
- 11) Punishment should include both compensation as well as imprisonment.
- 12) The efficacy of punishment, by and large, depends on the impartiality. The penal policy should be Completely free from considerations as to the caste, creed, religion or status of the offender.
- 13) As a sound principle of criminal justice, it is for the legislature to prescribe maximum limit of punishment for every offence in Penal Code without laying down any minimum limit. This will enable law courts to award punishment according to the requirements of individual offender, thus, infusing an element of discretion in judicial sentencing.
- 14) The system of solitary confinement has now become obsolete and outdated. It is discarded because it is torturous. It is so painful that it completely destroys the personality of the offender and he turns hostile and indifferent to the community.
- 15) Punishment should always serve as a measure of social defence. An ideal policy should have enough elasticity so as to mould itself with the changing needs of time and place.

Imprisonment for Life

“Imprisonment for life” has been authorised as a form of punishment under section 53 of the Indian Penal Code as amended by act 26 of 1995 with effect from 1st January 1956. Section of the Indian Penal Code (IPC) clearly points out that in calculating fractions of term of imprisonment, imprisonment for life shall be reckoned as imprisonment for twenty years. The executive authorities are competent under section 55, IPC or under Section 433 (b) of the Code of criminal procedure, (Cr.P.C.) to commute sentence of imprisonment for life to one of rigorous imprisonment not exceeding a term of fourteen years. Such commuted sentence

would entitle life convicts to be set free remissions earned during his incarceration. But in actual practice, it is seen that the prison authorities are illegally detaining the life convicts for a much longer period than the aforesaid maximum 14 years holding that, the nature of sentence of life imprisonment does not alter by the aforesaid provisions of IPC or Cr.P.C. This dichotomy, however, needs to be resolved by Parliamentary intervention through necessary amendments in the existing criminal law.

Imprisonment

Imprisonment presents a most simple penal and common form of sentencing for incapacitating the criminals. It proved to be an efficient method of temporary elimination of criminals apart from being a general deterrent and an individual deterrent. Conditions of imprisonment in civilized countries have undergone radical changes in recent decades. The minimum-security institutions such as open air prisons and prison hostels are being increasingly used as modified forms of incarceration of offenders;

Despite being a corrective measure, the most intricate problem involved in imprisonment, as measure of punitive reaction to crime is the "Prisonisation" of offenders. The prisoner is confronted with the most crucial problem of adjustment to new norms and values of prison life. He loses his personal identity in the process of adjustment and is converted into a mere impersonal entity.

Yet another setback of imprisonment, as a mode of punishment is its damaging effect of his family relationship of the offender. The offender loses contact with the members of his family and" if he happens to be the only breadwinner, the result is still worse. The members of his family suffer misery, starvation and financial crisis. Depriving the offender of his family for a considerably long period creates new problem for prison discipline in the form of homosexuality, bribery, corruption, revolt etc.

In India, however, parole and furlough are being extensively used as a part of penal substitutes for mitigating the rigours of prison inmates. The All India Jail Reforms Committee has further observed that the prisoners should be released on furlough after undergoing a specified period of imprisonment so that they maintain contact with their relatives and friends and may not feel uprooted from society and thus saved from the evil effects of prisonisation.

The social stigma attached to prisoners makes their rehabilitation more difficult. Prisoners quite often feel that the real punishment begins after they leave the prison institution. Sir Lionel Fox, the noted prison reformist of Britain introduced Hostel system for inmates to prevent them from stigmatization and ensure them an honorable life in society.

Be that as it may, the fact remains that imprisonment is still one of the most accepted forms of punishment throughout the world, 'With the correctional techniques introduced in prison institutions, it serves as an efficient measure of reforming the criminal and at the time protecting the society from anti-social elements. Thus, it serves the dual purpose of preventive and reformative justice at one and the same time.

6.3 CORPORAL AND CAPITAL PUNISHMENT

Capital punishment is the infliction of the death penalty upon a person convicted on a serious crime.

Capital punishment is the practice of executing someone as punishment for a specific crime after a proper legal trial.

It can only be used by a state, so when non-state organizations speak of having 'executed' a person they have actually committed a murder. It is usually only used as a punishment for particularly serious types of murder, but in some countries treason, types of fraud, adultery and rape are capital crimes. The phrase 'capital punishment' comes from the Latin word for the head. A 'corporal' punishment, such as flogging, takes its name from the Latin word for the body.

Capital punishment is used in many countries around the world. According to Amnesty International as at May 2012, 141 countries have abolished the death penalty either in law or in practice. Of all forms of punishments, capital punishment is perhaps the most controversial and debated subject among the modern penologists. There are arguments for and against the utility of this mode of sentence. The controversy is gradually being resolved with a series of judicial pronouncements containing elaborate discussion on this complex penological issue.

The earlier penological approach held imprisonment, that is, custodial measures to be the only way to curb crime. But the modern penological approach has ushered in new forms of sentencing whereby the needs of the community are balanced with the best interests of the accused: compensation, release on admonition, probation, imposition of fines, community service is few such techniques used. Through this paper, the advantages of probation are highlighted along with how it could be made more effective in India.

The term Probation is derived from the Latin word probare, which means to test or to prove. It is a treatment device, developed as a non-custodial alternative which is used by the magistracy where guilt is established but it is considered that imposing of a prison sentence would do no good. Imprisonment decreases his capacity to readjust to the normal society after the release and association with professional delinquents often has undesired effects.

According to the United Nations, Department of Social Affairs, The release of the offenders on probation is a treatment device prescribed by the court for the persons convicted of offences against the law, during which the probationer lives in the community and regulates his own life under conditions imposed by the court or other constituted authority, and is subject to the supervision by a probation officer. The suspension of sentence under probation serves the dual purpose of deterrence and reformation. It provides necessary help and guidance to the probationer in his rehabilitation and at the same time the threat of being subjected to unexhausted sentence acts as a sufficient deterrent to keep him away from criminality. The United Nations recommends the adoption and extension of the probation system by all the countries as a major instrument of policy in the field of prevention of crime and the treatment of the offenders. In this paper, the focus is on the legislative and administrative aspects of probation, and means by which probation may be made more effective in India

6.4 PROPORTIONALITY OF PUNISHMENT: SENTENCING PROCESS AND POLICIES

The object of criminal trial is to determine whether the accused person is guilty of the offence he is charged with, and to prescribe suitable action if he is proved guilty on the basis of criminal law. The determination of the second issue involves the choice of appropriate sanction out of the many permitted by law. The sentencing process involves the determination of the appropriate sanction both in qualitative and quantitative terms. Bentham sought to achieve some element of rationality in the penal policy by advocating punishments of different magnitudes for different kinds of offences.

Bentham provided the following guidelines for the gradation of offences in terms of different punishment.

- 1) That the value of the punishment must not be less in any case than what is sufficient to out-weigh that of the profit of the offence.
- 2) When two offences come in competition, the punishment for the greater offence must be sufficient to induce a man to prefer the less.
- 3) The punishment should be adjusted in such manner to each particular offence that for every part of the mischief there may be a motive to restrain the offender from giving birth to it.
- 4) The punishment ought, in no case, be more than what is necessary to bring it into conformity with the rules given.

The other rules propounded by Bentham laid down that the quantum of punishment prescribed should be in inverse proportion to the possibility and time factor involved in the infliction of punishment. Regarding the fixation of punishment, Bentham said that the quantum should vary according to the offender's capacity to suffer. He then enumerated thirty-two variables of capacity for suffering, ranging from sex, age, physical and mental health, religion and lineage, among others.

The classical school paved the way for distinguishing the various crimes according to their gravity and the prescription of different punishments for them. The IPC is an example of the influence exercised by Bentham. The grading of the various offences is based on their gravity and the gravity of the offence is generally assessed in terms of social danger, alarm, social disapproval, harm and wickedness involved in it.

i) Social danger: Receiving stolen property is punishable with longer punishment because of the greater social danger posed by the professional receivers of the stolen property as compared to ordinary thieves. Another example, while maximum punishment for ordinary cases of criminal breach of trust under IPC is three years; it is seven and ten years when breach of trust is committed by a public servant.

ii) Alarm: The gravity of an offence is also determined with reference to the alarm it causes to the society. One of the reasons for punishing unsuccessful attempts to commit crimes is that though intended harm is not caused some alarm is caused to the victim and others.

iii) Social Disapproval: Heterosexual intercourse is punishable if it is against the will or without the consent of the victim. To illustrate, in India, illicit relationship with a married woman is punishable but a situation when the man is married and the woman unmarried is not punishable as such.

iv) Harm: This is one of the factors to be considered in the sentencing policy by legislators and judges. An attempt to commit an offence involves the same wickedness on the part of the offender as in the case of the successful commission of the crime, but attempts are punishable with less penalties since lesser or no harm is caused in unsuccessful attempts.

v) Wickedness: Though the harm produced by the different offences may be the same, yet the offence involving greater wickedness should carry greater punishment. It should not be concluded from the above discussion that the quantum of punishment for various offences is variably based on highly scientific or rational considerations.

Prescribing sentences for various offences is a legislative function and courts in India cannot question the wisdom of legislatures even if the sentences appear to them to be unreasonable or excessive. The courts can exercise their discretion in such cases in fixing the appropriate punishment where maximum penalties have been provided but they cannot but be helpless when maximum sentences are laid down.

He Lacassagne School rejected Lombroso's theory of "criminal type" and of "born criminals", and indicated the importance of social factors. However, this theory did not reject biological factors. Indeed, Lacassagne created an original synthesis of both tendencies, influenced by positivism, phrenology and hygienism, which alleged a direct influence of the social environment on the brain and compared the social itself to a brain, upholding an organicist position.

Furthermore, Lacassagne criticized the lack of efficiency of prison, insisted on social responsibilities toward crime and on political voluntarism as a solution to crime, and thus advocated harsh penalties for those criminals thought to be unredeemable ("recidivists") for example by supporting the 1895 law on penal colonies or opposing the abolition of the death penalty in 1906.

Hans Eysenck (1964, 1977), a British psychologist, claimed that psychological factors such as extraversion and neuroticism made a person more likely to commit criminal acts. He also included a 'psychoticism' dimension that includes traits similar to the psychopathic profile, developed by Hervey M. Cleckley and later by Robert He also based his model on early parental socialisation of the child. His approach bridges the gap between biological explanations and environmental or social learning-based approaches.

Primary and Secondary Decisions

The first issue which a court has to decide after finding the accused person guilty is to determine whether the offender needs to be dealt with through 'individualization', or by penal sanctions. Secondly, after making the choice between the two conflicting approaches, the court has to select the appropriate device out of those available in the particular approach. It is obvious that in case of the imposition of imprisonment or fine, the quantum of the sanction shall also have to be fixed. These parts of sentencing decisions are accordingly referred to as the primary and secondary decisions. The criminal procedure code of 1973 incorporated some provisions which reflect the contemporary thinking that sentencing is an important stage in the administration of criminal justice.

The Law Commission identified the various considerations to be made in its Forty Seventh Report. As per the commission, many factors, like nature of offence, the

circumstances, prior criminal record of the offender, age of the offender, the professional and social record of the offender, background of the offender with reference to education, home life and social adjustments, the prospect of rehabilitation, the possibility of a return to normal life, possibility of treatment or training and the possibility of the sentence serving as a deterrence have to be taken into consideration.

a) Pre-sentencing inquiry: Following devices are useful in arriving at appropriate decisions. It is evident that the sentencing authority must have sufficient information regarding the various personal factors of the accused. Courts not only receive and use the information given in the reports but they may also seek advice from experts like psychiatrists or probation officers. The congress of the Institutional penal and penitentiary commission in Brussels held in 1951 recognized the utility of presenting report and some of the resolutions are reproduced below.

- i) A presentence report covering not merely the surrounding circumstances of the crime but also factors of personality, character and socio-cultural background of the offender is a highly desirable one.
- ii) The scope and intensity of the investigation report should be adequate to furnish the judge with enough information to enable him to make a reasoned disposition.
- iii) It is recommended that criminologists in various countries conduct researches designed to develop prognostic methods.
- iv) It is recommended that the professional preparation of judges concerned with peno-correctional problems include training in the field of criminology.

b) Disparity in sentencing: One difficult problem relating to the sentencing process is the lack of uniformity in the quantum of punishment given by different courts for the same or similar offence. Obviously, it would be unreasonable to expect uniformity of a very high degree since penology is not the kind of discipline where a ready-made formula of a precise nature can be applied to meet the various situations nor all the judicial officers possess the same attitude while sentencing, since they are found to be influenced by their own values and personalities.

Several factors associated with probation revocation, most notably, past problem behaviour. In particular, offenders with previous military disciplinary problems or a juvenile or adult record were more likely to have their probation revoked. Also noted was the more likely revocation of the socially disadvantaged, specifically probationers with lower education and lower socio-economic status. Instability in marriage and jobs was also reported as associated with probation revocation, and property offenders were noted to be more likely to have their probation revoked. Furthermore, it is reported that the imposition of special conditions and longer sentences increase the likelihood of probation revocation. Repeatedly reported are some socio-demographic characteristics and crime attributes of probationers that made them more likely to become recidivist. Among these, though reported at varying degrees of importance are characteristics such as age, sex, ethnicity, prior records, and type of offence, educational level, and drug and alcohol use

c) Disparity Reduction: Though sentencing disparity cannot be eliminated altogether, yet efforts can be made for reducing it to the minimum level.

The strategies indicated are, the better training of judicial officers and the co-ordination of sentencing policies through sentencing councils. Provision for appellate review of sentence is also made in criminal laws which go a long way in reducing the disparities.

Improving sentencing skills should be an important part of any scheme which aims to make sentencing practices more consistent. Training of judicial personnel in penology and sentencing procedures would enable judges to keep abreast with the latest trend in penological thought and practice.

Since sentencing requires more experience in the fields of social work and psychiatry, the job must be entrusted to a board of experts. But, this proposal has been criticized because of the potentialities of abuse. This apprehension can be eliminated by providing appeals.

Another alternative is to try a combination of the judiciary and the board of experts by employing the technique of indeterminate sentence. The board then decides the limits and the actual time of release on the basis of the performance.

The steps taken to reduce sentencing-disparity, thus, aim at reducing the sentencing-discretion of both judges and parole boards.

Indian perspective: P. K. Sen, a well-known authority on Indian penology, observed that penology embodies the fundamental principles upon which the state formulates its scheme of punishment. He opines that punishment always lacks exactness because it is concerned with human conduct which is constantly varying according to circumstances. He suggested, punishment must be devised on case law so that it would be free from rigidity and capable of modification with changing social conditions. Penal science is not new to Indian criminal jurisprudence.

6.5 SUMMARY

A well-defined system did exist in ancient India even in the period of Manu or Kautilya. The ancient administrators were convinced, that punishment serves as a check on repetition of crime and prevents law-breaking. They believed that all the theories of punishment are directed towards a common goal, that is, the protection of society from crime and criminals. Sen asserted that the concept of punishment has now radically changed in as much as it is no longer regarded as a reaction of the aggrieved party against the wrong doer but has become an instrument of social defence for the protection of society against crime.

6.6 KEYWORDS

- A) Imprisonment
- B) Accused
- C) Uniformity
- D) Relationship

6.7 SELF-ASSESSMENT QUESTIONS

- 1) Classify imprisonment on the basis of the limitations of punishment.
- 2) What are the factors conditioning determination of limitations of punishment.
- 3) Discuss the concept and the implications of limitations punishment.

6.8 REFERENCE BOOKS

1. Bhattacharya S.K., (1982). *Social Defence*, Manas Publications, New Delhi.
2. Bhattacharya S.K., (1986). *Probation system in India*, Manas Publications, New Delhi.
3. Brodie, S.R., (1976). *Effectiveness of sentencing*, Home office, London.
4. Chockalingam K., (1993). *Issues in Probation in India*, Madras University Publications, Madras.
5. Christopher J. Emmins, (1985). *A practical approach to sentencing*, Financial Training Publications Ltd., London.
6. Devasia, V.D & Leelamma Devasia, (1992). *Criminology, Victimology and Corrections*, S.B.Mangia for Ashish Publishing House, New Delhi.
7. Goswami, B.K. (1980). *Critical Study of Criminology and Penology*, Allahabad Agency, Allahabad.
8. Ghosh, S., (1992). *Open Prisons and the Inmates*, Mittal Publications, New Delhi.
9. Naresh Kumar, (1986). *Constitutional Rights of Prisoners*, Mittal Publishers, New Delhi.
10. Reckless, W.C., (1967). *The Crime Problem*, Vakils, Feffner and Simens P.Ltd.,
11. Bombay. Mulla Committee Report on Prison Reforms, 1983. Govt, of India.
12. Paranjpe, N.V., (2002). *Criminology and Penology*, Central Law Publications, Allahabad.

Prof. V. Venkateswarlu

LESSON 7

CORRECTIONS – CONCEPT, MEANING

OBJECTIVE

The objectives of the present lesson are explained about corrections and its need and importance.

STRUCTURE

- 7.1 Introduction
- 7.2 Definitions
- 7.3 Meaning of Correction
- 7.4 What is Crime
- 7.5 Statutory and Non-Statutory
- 7.6 Correctional Institutions
- 7.7 Types of correctional institutions for Non-institutional treatment
- 7.8 Summary
- 7.9 Key words
- 7.10 Self-Assessment Questions
- 7.11 Reference books

7.1 INTRODUCTION

From times immemorial, the notion of crime and punishment existed. It is as old as human beings. Crime is a concept which is inherent in the behaviour of human beings.

Punishment goes hand in hand with crime. Think of a small child who is hit by falling down on the ground. The baby does not stop crying until his mother beats the ground. So this inevitably proves that punishment is an integral part of the occurrence of crime. When in pre-historic age people used to live in clans (groups) there also, one group used to attack another and the group which would be defeated had to suffer punishment. Whether punishment was just and fair in those days is not the subject of present discussion. Again, when history is recorded, we evidence a totem society in which totem which resembled man and animal was considered to be very powerful and in the name of totem punishment would be awarded. This again leads us to the conclusion that punishment was awarded by the most powerful object, thing or person.

Equating punishment of the modern age also we find that its apparent features are not changed. That punishment is only awarded when and to such a person who commits a crime and not to others. Secondly, punishment was awarded by a superior thing, person or authority.

Thirdly, punishment is obviously brutal. In no point of history, we can show any instance that punishment was very pleasant. Jeremy Bentham, modern philosopher, has upheld his pain and pleasure theory which makes it crystal clear that punishment must necessarily be the suffering of pain. Whenever and wherever there arises crime, punishment is the only remedy.

It is also most important that criminal law should ensure that human rights are respected by seeing that the law is strictly adhered to the principles of liberty and legality which is the results of the historical development of present-day society should be considered inviolable. This propagates that society has no right to punish the so-called offender, but must perform its basic duty to educate, reform and re-socialize him. A lot of change has been made of the environment in the prisons and much healthy living conditions exist today in the prisons, but still the whole system is wanting in the reform of the substantive thinking of all those who are directly attached to the criminal justice system and also the society at large. The only aspiration of the judge is that the punishment must fit the crime, not the criminal.

7.2 DEFINITIONS OF CORRECTIONS

Is also the name we give to the field of academic study of the theories, missions, policies, systems, programs, and personnel that implement those functions, as well as the behaviours and experiences of offenders? The death penalty in a number of countries has been abolished and replaced by other forms of punishments. In the countries, where death sentence has not yet abolished, it is awarded in exceptional cases. However, there is a national debate going on the abolition or retention of this penalty and meanwhile the legislature and judiciary has shown aversion towards its execution. Now, as per the provisions of the New Criminal Procedure Code, the Court while awarding the death sentence has to give reasons for awarding such sentence, as the legislature emphasis has shifted from death sentence to that of the life death sentence to that of the life imprisonment. The Judiciary in a number of cases has laid down that the death sentence is to be awarded in rarest of rare cases. Moreover, even if death sentence has been awarded by the court, the court has to record reasons for awarding such sentence. Further, every death sentence by the Trial Court needs to be confirmed by the High Court. Further, an appeal may lie before the Supreme Court on conviction and sentence issues. Finally, each case exercise of death sentence entitles awardee to file a mercy petition before the Chief Executive for pardon or commutation.

The judiciary throughout the world has given due recognition to the principles underlying the modern correctional philosophy and stressed the need for treatment of the offenders. The courts in England and the United States have taken a lead in this regard and have demonstrated pro-active approach to realise the basic objectives of punishment through the correctional approach. The Indian judiciary especially at higher level has also given due emphasis for the treatment and resocialisation of the offenders. The Supreme Court in a number of cases has demonstrated pro-active approach in this regard and has thereby proved to be like a beacon light for rest of the judiciary in the country. The apex court through Public Interest Litigations (PIL) has delivered a number of judgments which have not only identified the legal and constitutional rights of the prisoners, but have also issued directions for their implementation and thereby improved the lot of the prisoners within the stone walls. The judicial activism has played a very dynamic role in expounding the law to tilt it for the benefit of the mankind and humanity

7.3 MEANING OF CORRECTION

Corrections is a generic term covering a variety of functions carried out by government (and, increasingly, private) agencies having to do with the punishment, treatment, supervision, and management of individuals who have been convicted of criminal offenses. These functions are implemented in prisons, jails, and other secure institutions, as well as in community-based correctional agencies such as probation and parole departments. This is a difficult task

because many offenders have a psychological, emotional, or financial investment in their current lifestyles and have no intention of being “corrected” (Andrews&Bonta,2007; Walsh Correctional practice is a developing science based on an evolving dynamic between two concepts: punishment and rehabilitation. Society demands that criminals be punished for their behaviour; thus, they lose their freedom. Prisoners must also learn constructive behaviours and have positive role models if the cycle of recidivism is to be broken.

Correctional machinery is an integral part of the criminal justice system. If the purpose of the system is to achieve prevention of crimes the system cannot afford to leave the correctional and rehabilitative aspect unattended. Correction is one segment of the Criminal Justice System. A person who is accused of any crime is either convicted or acquitted by the court. Persons who are convicted by the court are lodged in a correctional setting. A person who is undergoing trial in the court may also be lodged in a correctional setting by order of the court. Thus, a correctional institution or setting is a place where a person accused of or convicted of a crime is lodged for a specified period of time.

The terminology changes in US academia from "penology" to "corrections" occurred in the 1950s and 1960s which was driven by a new philosophy emphasizing rehabilitation. It was accompanied by concrete changes in some prisons, like giving more privileges to inmates, and attempting to in still a more communal atmosphere. At least nominally, most prisons became "correctional institutions", and guards became "correctional officers".

Corrections refer to the supervision of persons arrested for, convicted of, or sentenced for criminal offenses. Correctional populations fall into two general categories: institutional corrections and community corrections. Corrections data, with a few exceptions, covers adult agencies or facilities and adult offenders. Corrections in the legal context refer to the retribution, rehabilitation, and supervision of criminal offenders through the system of incarceration & Stohr, 2010). Not that all criminals can be reformed. Hardened criminals and recidivists must be segregated for discarding them from the society all together. On the other hand, juvenile delinquents must be reformed and grown up to be absorbed into the main-stream in the society.

Community Correction

A community correction encompasses rehabilitation, educational training, employment assistance, ensuring public safety, and offender monitoring. These elements help to reintegrate offenders into the community.

The primary responsibility of the government is to protect its citizens from those who would harm them. The military protects us from foreign evildoers, and the criminal justice system protects us from domestic ones. The criminal justice system is roughly divided into three categories: law enforcement, the courts, and corrections—the so-called “Catch ’reconvicted, and corrected” trinity. Corrections is thus a system embedded in a broader collection of public protection agencies, one that comes into play after the accused has been caught by law enforcement, prosecuted, and convicted by the courts.

The present trend throughout the world is that all the civilized societies have taken various measures to instil a sort of confidence among the people towards judiciary and rehabilitation of the offenders. Further, a number of steps have been taken to minimise the trial period and various treatment methods have been devised within the four walls as well as

out-side the four walls. The treatment methods devised are aimed at reformation and rehabilitation of the offenders. The sentencing under the modern correctional philosophy is directly related with the correctional process. In order to realise the basic objectives of the punishment under the modern penology, the sentence must be appropriate not only to the crime, but also to the criminal, so that he can return to society as a law-abiding citizen.

The main focus under the modern correctional process is upon the criminal. In earlier times, specific punishments for specific crimes were laid down by the law, and once a verdict of guilt was returned, the judge merely ordered the appropriate sentence to be carried out. The sentencing judges hardly showed their concern regarding the places where the offenders were not lodged nor were they concerned about the future of the offender. The sentencing Judge was not bound to choose penalties designed for reformation and rehabilitation of the offenders or adapt the punishment to their needs and potentialities. There was no provision to hear the counsel on the nature and quantum of the sentence. The situation has now changed, and as a result of new strides in the criminology, there is a rethinking about crime and punishment.

7.4 WHAT IS CRIME

An action or omission that constitutes the offense that may be prosecuted by state and its Punishable. A crime is an act that breaks a law that relates to how to behave in society.

The harm caused by acts seen to be against society's a whole, not just a specific person. Traditionally, the approach towards crime control was guided by the concepts of deterrence, retribution, and offender incapacitation. Deterrence refers to the various measures taken to prevent crime. Retribution means punishing someone for the wrong doing. Offender incapacitation refers to the act of making an individual incapable of committing a crime.

Correction of the offenders is defined as 'the effort to restore a man to the society as a better and good citizen. Correction is aimed at moral improvement of the individual, sharpening of his intellect and developing a sense of honesty. The correctional philosophy aims at reformation of the offenders, and under this philosophy, a wrong doer is not only a criminal to be punished, but a patient to be treated with care. It is with this concept that the correctional/reformative theory has been adopted by the philosophers from plato to the present age. A known philosopher Victor Hague once remarked that 'to open a school is to close a prison'. It means that if a person of doubtful character is imparted education and given a proper training so as to make him competent to earn his livelihood honestly, he would be reluctant to commit a crime. In other words, if a criminal is normally regenerated, his criminal tendencies may extinct or become considerably dormant.

The Correctional Philosophy believes that curative forms of punishment have to be devised to change the character of the wrong-doer in a positive direction and develop his better quantities, so that he desires to do what is right, instead of fearing to do what is wrong.

A well-known Jurist Wortley (1967) in this regard expressed his opinion as under:

Imprisonment as a punishment is off-shoot of the modern penology, as it was unknown in the primitive society. Imprisonment got to a slow start in the 16th century and become major part of the punishment in the 20th Century. The prison population increased and the over-crowding within the four walls gave birth to a number of vices and thus gained

the attention of the Criminologists and Penologists. Research studies in criminology and penology have revealed that the punishment based on retribution and deterrence does not yield the desired results and therefore, the main focus shifted towards the correction of the offenders and the reformation and rehabilitation process gained the momentum. A number of correctional measures were initiated to redeem the offender back to the society. There is a strong belief that the proper punishment can realise the basic objective of the penology, where as harsh punishment is bound to rebound with negative results.

The punishment under the correctional philosophy aims at the rehabilitation of the offender and therefore, insists for the treatment of the prisoners as per individual sociological and psychological needs. This approach asserts that the deterrent value does not lie in the severity of the punishment, but in the educative and moralising function of the law. History of punishment has shown that severity.

These ideologies of crime control have been gradually replaced by a diversified framework of reintegrative correctional strategies. These strategies intend to assist the release inmates in their transition back into mainstream society. The whole focus is on reshaping the behaviours of the convicted offenders with the following gaol correctional institutions are fragmented on the basis of a number of factors. The main sources of fragmentation are as follows;

- a) Protection of society against crime.
- b) Develop a sense of discipline and security.
- c) Reform and rehabilitate them in the given social milieu through appropriate Correctional interventions.
- d) Equip with skills and abilities in order to help them lead a normal life as a citizen, once they get out of the correctional institution

By jurisdiction

- Central
- State
- Local

By criminal justice function

- a) Police
- b) Courts
- c) Corrections

By location

- a) Institutional
- b) Non-institutional

By age

- a) Adult
- b) Juvenile

7.5 STATUTORY AND NON-STATUTORY

All these fragments come under one master classification which is statutory and non-statutory. Statutory is the category covered under the Indian Penal Code and other laws. Correctional work with adult prisoners comes under this category wherein minor prisoners are sent to Welfare Homes. Other statutory ones come under social legislations like Juvenile Justice (Care and Protection of Children) Act 2000, Immoral Trafficking (Prevention)

Act 1956, and Bombay Prevention of Begging Act 1959. Statutory refers to organisations and bodies that are defined by a formal law or statute. These bodies are entities shaped by an Act of Parliament and set up by the Government to consider the data and make judgements in some area of activity. Non-statutory is essentially another term for common law such bodies are formed by executive resolution or action which means that they are formed only by the Government action.

The process of the criminal justice reaches to the logical conclusion, when the guilt of the accused is established beyond reasonable doubt. The trial at this stage enters, now in a different sphere and is called as sentencing. The court at this stage has to award the sentence within the available forms of the punishment. The sentencing is a very difficult task for the court. The forms and methods of punishment are directly related with the correction and reformation of the offenders. Capital punishment leaves no scope for any kind of reformation but imprisonment no doubt is accompanied by many vices, but there is always a scope for improvement, provided proper treatment methods are devised in a proper perspective. There are different forms of punishment for different kinds of crimes are contained in more than two hundred Indian statutes, the bulk of crimes and punishments.

Prison establishments in India exist at three levels;

1. Taluka level,
2. District level,
3. Central (sometimes called Zonal/Range) level.

The jails in these levels are called Sub Jails, District Jails, and Central Jails respectively.

The main objectives of the corrections areas follows;

1. To prevent the occurrence/episode of crime.
2. To punish/penalize the transgressors and the criminals.
3. To rehabilitate the transgressors and the criminals.
4. To compensate the victims as far as possible.
5. To maintain law and order in the society.
6. To deter the offenders from committing any criminal act/activities in the future.

7.6 CORRECTIONAL INSTITUTIONS

Correctional institution is nothing but a panel of institutions maintained by the government.

Types of Correctional Institutions for Institutional Treatment:

1. Jails:

Confine persons before or after adjudication and are usually operated by local law enforcement authorities such as a sheriff, a police chief, or a county or city administrator. A small number of jails are privately operated. Regional jails include two or more jail jurisdictions with a formal agreement to operate a jail facility. Persons confined in a jail facility following a criminal conviction are usually sentenced to an incarceration sentence of 1 year or less.

2. Prisons:

Prisons confine persons after they are convicted of a criminal offense and are usually operated under the authority of a state Department of Corrections or the Federal Bureau of Prisons (BOP). As with jails, some prisons are privately operated. Persons confined in a prison are typically serving an incarceration sentence of more than 1 year. Prisons are the

place in which criminals could be securely confined and this containment function had continued to predominate in spite of the gradual emergence of other aims for imprisonment, such as deterrence or rehabilitation. A prison can perform many different functions, even simultaneously. It is also a contradictory institution. The purpose of punishment in form of incarceration is not just to deter or to rehabilitate but to defend society from criminal predation through incapacitation.

3.Observation Homes:

Observation homes established for the temporary release of any juvenile in conflict with law during the pendency of a case before the juvenile justice board. Every juvenile who is not placed under the charge of parent or guardian is sent to an observation home. He/she initially kept in a reception unit of the observation home for preliminary enquiries. Care and classification of the juveniles is done according to his/her age group, such as 7-12years, 12-16years and 16-18years, giving due consideration onto physical and mental status and degree of offence committed.

1. Special Homes:

Under juvenile justice (care and protection) Act, 2000 state government is empowered for establishing and maintaining special homes for reformation and rehabilitation of juveniles in conflict with law. Such homes are maintained by the government or by certified voluntary organizations. In these homes, various types of services are provided which necessary for the re-socialize of a juvenile.

2. Children Homes:

Children homes are meant for the reception of children in need of care and protection during the pendency of enquiry even for their stay as the case may be. Every child's home is provided with facilities of accommodation, maintenance, education, vocational training, rehabilitation and development of character and abilities.

3. After-care Organization:

These organizations are meant for the juveniles' discharge from the children's homes and special homes. The purpose of the aftercare organization is to help in the rehabilitation and resettlement of children through extended educational and vocational training facilities including job placement. The stay in aftercare organization is restricted to a maximum of three years over seventeen years of age till he/she attains the age of 20yearson the basis of a discharge report prepared by competent authority.

4. Protective Home for Women:

The protective home and corrective institutions are established Under the Immoral Traffic(prevention) Act by the Directorate of Social Welfare. It admits girls and women, who are rescued from brothels, are abducted and kidnapped (section 366 IPC), raped (section 376IPC) and are in mortal danger. The girl and women can get admission only through the orders of the court and will continue to stay till the person behaves. The Indian system takes care of such things in prisons Act, prisoners Act, Jail Manual etc. It is interesting to see how the French Pondicherry differed from the Indian Pondicherry in the matter of correction and rehabilitation and what impact does this has on the Public.

5. Short stay homes:

It is institution established under the Immoral Traffic (prevention) Act (ITPA) by Government/ Union Territory Administration. The purpose is to provide temporary shelter to the needy women/girls in distress, pending their restoration or re adjustment in their families or admission in suitable institutes. The short stay home provides admission to girls and women in the age group of 18 to 45 years. Who are destitute is tress deserted or is immoral danger? The duration of stay in short stay home is districted to 6 months. The home provides safe custody, boarding, lodging, food, clothing medical care and vocational training like tailoring and knitting. Pt provides specialties like food, shelter, accommodation, medical care non formal education and vocational training. The superintendent of short stay home makes all efforts to restore or, reintegrate the women/girl in her family or through marriage.

6. Beggars home:

These homes are established under the Anti-Beggary laws of the state government. Unfortunately, there is no Anti-Beggary Act formulated at the national level. These Acts are formulated by the state at their own initiatives. Reception canter and Bagger Homes are established under the Act. The Beggar's home provides specialties like food, shelter, accommodation, medical care, non-formal education and vocational training to beggars so they are economically rehabilitated into society.

Community Based Corrections are sanctions imposed on convicted adults or adjudicated juveniles that occur in a residential or community setting outside of jail or prison. The sanctions are enforced by agencies or courts with legal authority over the adult or juvenile offenders. Community Based Corrections can focus on both of adults and juveniles, attempting to rehabilitate them back into the community. In contrary to the "tough on crime" mindset which expresses harsh punishment, this community based correctional method seeks to transition offenders back into the community.

Non-institutional treatments are community-based correctional programmes that help in their integration of offenders. Community-based correction is an effective method of accomplishing the changes in the behaviour of the offender by helping him to become a law-abiding citizen. In the Penal Institutions a number of measures have been taken which are aimed at the treatment and rehabilitation of the prisoner, so that on his return to the society, he can live a law-abiding life. The main steps among other measures include vocation, trainings, wages, health service, proper visiting hours by the family or friends, proper communication facilities, reading of newspapers, reading of books, participation in sports and recreational activities, extension lectures by the social and religious preachers and last but not the least respect for human dignity and human rights.

Chief Justice of the Supreme Court Justice K.G. Balakrishan (2007) observed that the Criminal Justice System in the country is to protect the citizens of this country from onslaught of the criminal activities if a section of the society which indulges in such acts. The out-come of the criminal justice system must be to inspire confidence and create an attitude of respect for the rule of law. It is in the interest of all the concerned that guilt or innocence of the accused must be established as quickly as possible. He further maintained that unfortunately, that there is large number of undertrial prisoners in this country. It is a matter of fact that prisons throughout the country are overcrowded with the prisoners and the majority of the prisoners are undertrial prisoners, which in most of the cases is a major impediment in the correctional process.

7.7 TYPES OF CORRECTIONAL INSTITUTIONS FOR NON-INSTITUTIONAL TREATMENT

- A. Probation
- B. Parole
- C. Hybrid treatment
- D. Community service
- E. Work release

A. Probation:

The term probation is used to denote the status of a person placed on probation, to refer to the subsystem of the criminal justice system. Probation is an alternative to the prison/special home. It is a sentence that does not involve confinement but may involve conditions imposed by the Court Juvenile Justice Board, usually under the supervision of a probation officer. Probation is the most common form of community corrections for convicted offenders. Probation refers to a period where offenders are under strict supervision.

B. Parole:

Parole is a treatment programme in which the offender, after serving part of a term in a correctional institution, is conditionally released under the supervision and treatment of a Parole Officer. Parole is not of every individual in prison. It is viewed as a privilege granted to a prisoner for good behaviour and progress while in prison and is considered useful in rehabilitation outside.

C. Hybrid Treatment:

This is a kind of correctional treatment in a collaborative enterprise between corrections and treatment professionals.

D. Community Service:

Community service, the offenders must give personal time to perform tasks that are valued in the community. This programme is especially meant for juvenile and adolescents who are placed in community service organizations.

E. Work release:

In work release programmes, the inmates are released from incarceration to work. They enable the offenders to engage in positive contacts with the community, assuming of course, that work placement is satisfactory. They permit offenders to provide some support for themselves and their families. This can eliminate the self-concept of failure that may be the result of loss of the supportive role.

7.8 CONCLUSION

Imprisonment at present is the main form of punishment and the prison system under the modern correctional philosophy has a very vital role in the criminal justice process. Prison systems can't operate in isolation, but have to perform their functions in the total system.

The Criminal Justice System is an important component of the entire human civilization. Right from the very beginning human beings have devised, time and again, certain measures to protect the society from the potential and prospective criminals. The

increasing crime rate has always been a serious concern of the human civilization and the issues pertaining to the Criminal Justice System have been debated and are being debated at the National, Regional and International level. The Judiciary is equally an important partner in the Criminal Justice Process, but Indian judiciary is crumbled with the huge load of cases and adjournments are order of the day. Judiciary has a very vital role in the entire Criminal Justice System. Speedy trial is an essential component of the correctional process. It is therefore, necessary that the speedy trial of criminal cases should be recognised as urgent need of the present judicial system.

The judiciary has changed and every attempt is made to tailor the sentence in accordance with the individual needs. The courts now do not close their eyes after the sentence is passed, but they continue to monitor the impact of the sentence and functioning of the prisons. The rough attitudes of the police, non-professional approach of the investigating agencies, cunning approach of the prosecutor, materialistic approach of the defence lawyer, long delay in the disposal of the cases and over-crowding in the prisons all coupled together, frustrate the basis purpose of the Criminal Justice System. More over the strong nexus between police and criminals on one hand and politicians and criminal syndicates on the other hand also frustrate the rehabilitation process.

7.9 KEY WORDS

- A) Correction
- B) Encompasses
- C) Rehabilitation
- D) Enforcement

7.10 SELF-ASSESSMENT QUESTIONS

- 1) Describe the historical perspective of the correctional process?
- 2) Explain the concept of treatment of the offenders?
- 3) Give a brief historical background of the imprisonment as a punishment?
- 4) Describe role of the judiciary in the modern correctional philosophy?
- 5) What are the main impediments in the rehabilitation of the offenders?

7.11 REFERENCE BOOKS

1. Encyclopaedia of Social Work in India Vol. III (1987) Ministry of Welfare, Government of India
2. American Correctional Association: www.aca.org.
3. Pennsylvania Prison Society: www.prisonssociety.org.
4. Bureau of Justice Statistics (information available on all manner of criminal justice topics): www.bjs.ojp.usdoj.gov
5. Paranjape. N.V Criminology and Penology 12th edn 2006 Central Law Publication
6. Siiddique A Criminology problem and Prospective–Eastern Book Company, Lucknow.

Dr. M. Anuradha

LESSON 8

CORRECTIONS – PHILOSOPHY & HISTORICAL BACK GROUND

OBJECTIVE

The objectives of the present lesson is explain about corrections and its philosophy and historical back ground.

STRUCTURE

- 8.1 Introduction
- 8.2 Definitions
- 8.3 Philosophy of Corrections
- 8.4 History of Corrections
- 8.5 Early Punishments in Westernized Countries
- 8.6 Concept in Mughal India
- 8.7 Concept of prison in India
- 8.8 Early Stage Of Modern Prison In International Level
- 8.9 Post Independence
- 8.10 Social Work aspect
- 8.11 Role of Social Worker in Correctional Setting
- 8.12 Summary
- 8.13 Key words
- 8.14 Self-Assessment Questions
- 8.15 References

8.1 INTRODUCTION

After determination of guilt the vital function performs by the courts is sentencing the criminal. The sentencing power and the varied quantities of punishment are an integral aspect of the substantive law norms. By the middle mid twentieth century reformative sentencing justifications have dominated the srive sentencing scene. There are various other forms and methods of punishment, but it is now a accepted principle, that cruel and degrading punishment does not help in curbing the increasing crime rate. It is also believed that outrageous cries for law and order, and hysterical demands for harsh punishment will never stop crime, because roots of crime lie deep in our social structure. The swing of the pendulum is now from punishment to correction. Imprisonment as a form of punishment is now increasingly being used for correction and treatment of the offenders.

Imprisonment as a punishment is off-shoot of the modern penology, as it was unknown in the primitive society. Imprisonment got to a slow start in the 16th century and become major part of the punishment in the 20th Century. The prison population increased and the over-crowding within the four walls gave birth to a number of vices and thus gained the attention of the Criminologists and Penologists. Research studies in criminology and penology have revealed that the punishment based on retribution and deterrence does not yield the desired results and therefore, the main focus shifted towards the correction of the

offenders and the reformation and rehabilitation process gained the momentum. A number of correctional measures were initiated to redeem the offender back to the society. There is a strong belief that the proper punishment can realise the basic objective of the penology, where as harsh punishment is bound to rebound with negative results.

The punishment under the correctional philosophy, aims at the rehabilitation of the offender and therefore, insists for the treatment of the prisoners as per individual sociological and psychological needs. This approach asserts that the deterrent value does not lie in the severity of the punishment, but in the educative and moralising function of the law. History of punishment has shown that severity of the punishment does not yield desired results. In this unit an attempt has been done to discuss the concept of the correctional set-up under the modern correctional philosophy.

8.2 CORRECTION DEFINITION

Correction of the offenders is defined as ‘the effort to restore a man to the society as a better and good citizen. Correction is aimed at moral improvement of the individual, sharpening of his intellect and developing a sense of honesty. The correctional philosophy aims at reformation of the offenders, and under this philosophy, a wrong doer is not only a criminal to be punished, but a patient to be treated with care. It is with this concept that the correctional/reformative theory has been adopted by the philosophers from plato to the present age. A known philosopher Victor Hague once remarked that ‘to open a school is to close a prison’. It means that if a person of doubtful character is imparted education and given a proper training so as to make him competent to earn his livelihood honestly, he would be reluctant to commit a crime. In other words, if a criminal is normally regenerated, his criminal tendencies may extinct or become considerably dormant.

8.3 PHILOSOPHY OF CORRECTIONS

A philosophy of punishment involves defining the concept of punishment and the values, attitudes, and beliefs, as well as justifying the imposition of a painful burden on someone. Legal scholars have traditionally identified four major objectives or justifications for the practice of punishing criminals: retribution, deterrence, rehabilitation, and incapacitation.

Criminal justice scholars have recently added a fifth purpose to the list: reintegration. All theories of punishment are based on conceptions of basic human nature, and thus to a great extent on ideology. The view of human nature on which the law in every country relies today is the same view enunciated by classical thinkers Beccaria and Bentham, namely, that human beings are hedonistic, rational, and possessors of freewill.

Hedonism: is a doctrine that maintains that all life goals are desirable only as means to the end of achieving pleasure or avoiding pain. It goes without saying that pleasure is intrinsically desirable and pain is intrinsically undesirable, and that we all seek to maximize the former and minimize the latter. We are assumed to pursue these goals in rational ways.

Rationality involves a logical “fit” between the goals people strive for and the means they use to achieve them, the ultimate goal of any human activity is self-interest, and self-interest governs our behaviour whether it takes us in pro social or antisocial directions.

Hedonism and rationality are combined in the concept of the **hedonistic calculus**, a method by which individuals are assumed to logically weigh the anticipated benefits of a given course of action against its possible costs. If the balance of consequences of a contemplated action is thought to enhance pleasure.

Retribution: is a “just deserts” model that demands that punishment match the degree of harm criminals have inflicted on their victims—what they justly deserve. Those who commit minor crimes deserve minor punishments, and those who commit more serious crimes deserve more severe punishments. This is the most honestly stated justification for punishment because it both taps into our most primitive punitive urges and posits no secondary purpose for it, such as rehabilitation or deterrence. Logan and Gaes (1993) go so far as to claim that only retributive punishment “is an affirmation of the autonomy, responsibility, and dignity of the individual”

Deterrence:

The principle behind **deterrence** is that people are deterred from crime by the threat of punishment either when it is applied to the individual committing a crime (specific deterrence) or when potential offenders are aware of the possibility of punishment (general deterrence).

Specific deterrence refers to the effect of punishment on the future behaviour of persons who experience the punishment. For specific deterrence to work, it is necessary that a previously punished person make a conscious connection between an intended criminal act and the punishment suffered as a result of similar acts committed in the past.

Committing further crimes after being punished is called **recidivism**, which is a lot more common among ex-inmates than rehabilitation. **Recidivism** refers only to crimes committed after release from prison and does not apply to crimes committed while incarcerated. Deterrence theorists do not view people as calculating machines doing their mental math before engaging in any activity. They are simply saying that behaviour is governed by its consequences. Our rational calculations are both subjective and bounded.

Incapacitation:

Incapacitation refers to the inability of criminals to victimize people outside prison walls while they are locked up. Nothing avails except to set them apart from innocent people.

The incapacitation justification probably originated with Enrico Ferri’s (1856-1929) concept of social defence for Ferri to determine punishment, notions of culpability, moral responsibility, and intent were secondary to an assessment of offenders’ strength of resistance to criminal impulses, with the express purpose of averting future danger to society. He believed that moral insensibility and lack of foresight, underscored by low intelligence, were the criminal’s most marked characteristics. Thus, the purpose of punishment is not to deter or to rehabilitate but to defend society from criminal predation.

This brings up the idea of selective incapacitation, which is a punishment strategy that largely reserves prison for a select group composed primarily of violent repeat offenders but which may also include other types of incorrigible offenders.

Rehabilitation:

The term rehabilitation means to restore or return to constructive or healthy activity. Whereas deterrence and incapacitation are mainly justified on classical grounds, rehabilitation is primarily a positivist concept. The rehabilitative goal is based on a medical model that used to view criminal behaviour as a moral sickness requiring treatment the goal of rehabilitation is to change offenders' attitudes so that they come to accept that their behaviour was wrong, not to deter them by the threat of further punishment. Today, this model views criminality in terms of 'faulty thinking' and criminals as in need of 'programming' rather than 'treatment'. Although the goal is the same as that of deterrence, it is different in that the goal is to change offenders' attitudes so that they come to accept that their behaviour was wrong, not to deter them by the threat of further punishment. Norwegian society has a long tradition of working for the rehabilitation of wrong doers, and certainly does not lack the resources to make it work.

Reintegration

The goal of reintegration is to use the time criminals are under correctional supervision to prepare them to re-enter (or reintegrate with) the free community as well equipped to do so as possible. In effect, reintegration is not much different from rehabilitation, but it is more pragmatic, focusing on concrete programs such as job training rather than attitude change.

8.4 HISTORY OF CORRECTIONS

The history of corrections is riddled with the best of intentions and the worst of abuses. Correctional practices and facilities (e.g., galley slavery, transportation, jails and prisons, community corrections) were created, in part, to remove the riffraff both poor and criminal from urban streets or at least to control and shape them. Prisons and community corrections were also created to avert the use of more violent or coercive responses to such folk. The focus is on exploring the history of the Western world's correctional operations and then American corrections, specifically, and the reoccurring themes that run through this history and define it.

It is somewhat ironic that one of the best early analyses of themes and practices in American prisons and jails was completed by two French visitors to the United States- **Gustave DE Beaumont and Alexis de Tocqueville's** a 26-year-old French magistrate, brought along his friend Beaumont, supposedly to study America's newly minted prisons for 9 months. They ended up also observing the workings of its law, its government and political system, and its race relations, among other things the irony is that, as outsiders and social critics, they could so clearly see that Americans, who were thought to have "invented prisons" and who worked in them, were blind.

Public views of punishment for crimes have changed over the centuries. History has its clement and its stormy seasons, and during times of war, famine, and disorder, gains made in peace and plenty are sometimes lost. Yet generally over time most societies have moved from the extraction of personal or family justice vengeful acts such as blood feuds or the practice of "an eye for an eye" toward formal systems based on written codes and orderly process.

Jails and prisons have changed from being holding places where prisoners awaited deportation, maiming, whippings, beatings, or execution. Confinement itself has become the punishment. In the United States today, as articulated by the U.S. Supreme Court, punishment has at least four justifications: deterrence, societal retribution, rehabilitation, and incapacitation the last category intended to protect society by permanently incarcerating those who cannot be reformed.

8.5 EARLY PUNISHMENTS IN WESTERNIZED COUNTRIES

Human beings, throughout recorded history, have devised ingenious ways to “punish” their kind for real or perceived transgressions. Among tribal groups and even in more developed civilizations, such punishment might include, among other tortures, whipping, branding, mutilation, drowning, suffocation, executions, and banishment (which in remote areas was tantamount to a death sentence). The extent of the punishment often depended on the wealth and status of the offended party and the offender. Those accused or found guilty and who were richer were often allowed to make amends by recompensing the victim or his or her family, while those who were poorer and of lesser status were likely to suffer some sort of bodily punishment. But whatever the approach, and for whatever the reason, some sort of punishment was often called for as a means of balancing the scales of justice, whether to appease a god or gods or later Lady Justice.

In the thirteenth century, offenders were commonly broken on the wheel for treason. 1530 act authorized poisoners to be boiled alive. Burning was the penalty for high treason and heresy, as well as for murder of a husband by a wife or of a master by a servant. Unlike the punishment of boiling, that of burning remained lawful in England until 1790. In practice, and as a kindness, women were strangled before they were burned. The right hand was taken off for aggravated murder. Ordinary hangings were frequent and drawing and quartering, where the hanged offender was publicly disembowelled and his still-beating heart held up to a cheering multitude, was not uncommon.

Colonial Jails and Prisons

Jails were the first type of correctional facility to develop, and in some form they have existed for several thousand years. Whether pits or dungeons or caves were used, or the detained were tied to a tree, ancient people all had ways of holding people until a judgment was made or implemented (Irwin, 1985; Mattick, 1974; Zupan, 1991).

The first jail in America was built in Jamestown, Virginia, soon after the colony’s founding in 1606 (Burns, 1975; Zupan, 1991). Massachusetts built a jail in Boston in 1635, and Maryland built a jail for the colony in 1662 (Roberts, 1997). The oldest standing jail in the United States was built in the late 1600s and is located in Barnstable, Massachusetts (Library of Congress, 2010). It was used by the sheriff to hold both males and females, along with his family, in upstairs, basement, and barn rooms. Both men and women were held in this and other jails like it, mostly before they were tried for both serious and minor offenses, as punishment for offenses, or to ensure they were present for their own execution.

Ancient Times

Many ancient cultures allowed the victim or a member of the victim's family to deliver justice. The offender often fled to his or her family for protection. As a result, blood

feuds developed in which the victim's family sought revenge against the offender's family. Sometimes the offender's family responded by striking back. Retaliation could continue until the families tired of killing or stealing from each other or until one or both families were destroyed or financially ruined.

Medieval Times

As in ancient times, medieval Europe had very harsh punishments. Torture and death were commonly administered. From the depths of the "Dark Ages" came cruel instruments that tortured as they killed. For example, the rack stretched its victims until their bodies were torn apart. The Iron Maiden a box thickly set with sharp spikes inside and on the inner side of its door pierced its victims from front and back as it closed. People came to watch public executions to see the convicts burn, be hanged, or be beheaded.

Confinement

Those arrested were usually confined (imprisoned) until they confessed to the crime and their physical punishment occurred. The medieval church sometimes used long-term incarceration to replace executions. Some wealthy landowners built private prisons to enhance their own power, imprisoning those who dared dispute their pursuit of power or oppose their whims. With the enactment of King Henry-II's set of ordinances, called the Assize of Clarendon(England, 1166), many crimes were classified as offenses against the "king's peace" and were punished by the state and not by the church, the lord, or the victim's extended family. At this time the first prisons designed solely for incarceration were constructed.

Prisons

The only comfort prisoners had in the cold, damp, filthy, rat- and roach-infested prisons of medieval Europe was what they could or rather were required to buy. The prison-keeper charged for blankets, mattresses, food, and even the manacles (chains). The prisoner had to pay for the privilege of being both booked (charged) and released. Wealthy prisoners could pay for plush quarters but most suffered in terrible conditions, often dying from malnutrition, disease, or victimization by other prisoners.

Transportation

Yet another means of "corrections" that was in use by Europeans for roughly 350 years, from the founding of the Virginia Colony in 1607, was transportation (Feeley, 1991). Also used to rid cities and towns of the chronically poor or the criminally inclined, transportation, as with bridge wells and gaols, involved a form of privatized corrections, where by those sentenced to transportation were sold to a ship's captain. He would in turn sell their labour as indentured servants, usually to do agricultural work, to colonials in America (Maryland, Virginia, and Georgia were partially populated through this method) and to white settlers in Australia.

Transportation ended in the American colonies with the Revolutionary War, but was practiced by France to populate Devil's Island in French Guiana until 1953 (Welch, 2004). Welch notes that transportation was a very popular sanction in Europe.

8.6 CONCEPT IN MUGHAL INDIA

During the days of Mughal rule in India, Islamic tenets of criminal law were in force. According to the Encyclopedia of Islam in Muslim Law punishments are classified under four heads as (i) Hadd, (ii) Qisas, (iii) Diyaand (iv) Tazir.

- (i). **Hadd** - is that punishment which has been specifically defined in the Quran or the Hadd is by the Prophet. The penalties prescribed for these offences are liquidation, death, cutting of hand and feet, and strokes of whip varying from forty strokes to hundred strokes.
- (ii). **Qisas** – means retaliation, which was of two kinds. Qisas – fil-nafs or blood vengeance which was applicable in cases of homicide and the other called Qisas –fil-madun al-nafs applicable in cases which did not prove fatal. If a person committed a wilful murder or inflicted a wound which did not prove fatal, he was liable to Qisas or retaliation. Wali or Tnext of kin of the slain person had the right to kill the offender under certain circumstances. And under the supervision of the judge In cases of retaliation short of life, a hand was cut off for a hand, a foot for a foot, a nose for a nose, and a tooth for a tooth.
- (iii) **Diya-** means a sum extracted for any offence upon the person, in consideration for the claim of Qiyas, or retaliation, not being insisted upon. Tazir, literally means ‘to censor or repel’. In awarding
- (iv) **Tazir** - the judge exercised his discretion; consequently, the sentence could be anything from a public reprimand to whipping or banishment. Thus, imprisonment was not the most often sought form of punishment, and jails were used basically as places for detention of under trials or nobles and political offenders.

By the eighteenth century, the Work Houses or “bride wells” had lost their original Purpose because judges increasingly resorted to corporal punishments or transportation to the Colonies for vagrants.

The sixteenth century Protestants impulse to banish idleness and beggary provided a second precursor to the penitentiary in the Amsterdam Rest house and Skin House founded in 1596 and 1597 respectively. Through these work Houses the Magistrates sought to establish “houses of discipline” where inmates could be put to work in order to learn industrious habits. Thus, Amsterdam provided a model of European house of correction where new classes of deviants and convicts sentenced to force public labours. In practice, these state workshops were used not as reformatories but used as places where a diverse population of unfortunate ingredients were coerced in to hard labour.

It was in England during the latter part of the eighteenth century and the first part of the nineteenth that the use of the death penalty reached its climax. Macaulay “Introduced a measure which consolidated many recent recommendations and practices and attempted in a large measure to standardize penal treatment. “The year 1835, is landmark in the history of prisons, one period closes and a new one begins. The period of unrestricted local enterprise ends and a period of partial government control open.

8.7 CONCEPT OF PRISON IN INDIA

Macaulay projected the same picture, in his Minutes, as the suggested approach of the proposed committee on Prison Discipline in India. He argued his case: "Death is rarely inflicted in this country at present, and it must certainly be the wish of Government and of the Law Commission that it should be inflicted more rarely still. The practice of logging has been abolished, and we should, I am sure, be most unwilling to revive it. The punishment of transportation is so expensive to say nothing of other objections that it can be employed only in a small number of cases. Imprisonment is the punishment to which we must chiefly trust. It will probably be resorted to in ninety cases out of every hundred."

Macaulay's minute was recorded in 1835, as a consequence of the Charter Act of 1833 when the British Crown had abolished the East India Company as a trading corporation.

They had proclaimed and owned all the territory, wealth and revenue that had been collected by the Company, and established an administrative set-up on an all – India basis, to govern the territorial holds in India.

In 1639, Francis Day acquired a piece of land from the Raja of Chandragiri, who later came to be known as Madraspatnam. There he built Fort St. George in 1640 for the Company's factory and also for the residence of English people employed in the service of the Company. Madraspatnam was the first township under the control of the English where executive arrangements to provide law and order and administer civil and Criminal justice arose.

Consequently, arose the need for a jail which was then located within the precincts of Fort. St. George. On 8th February, 1665, the King of Portugal handed over Bombay in dowry to the King of England and Humphrey Cook took the possession of Bombay. Thus, the company acquired sovereign rights over Bombay. In his report of 3rd March 1665 Humphrey Cook wrote, "I have ordered a prison to be made to keep all in quietness, obedience and subjection.

In 1698, the British Company purchased the zamindari rights of the three villages – Calcutta, Sutanati and Govindapur – in Bengal, The zamindar was responsible not only for maintaining the peace, but also for the trial of civil and criminal cases, subject to appeal to the Nawab." Thus, we see that within the first ninety years of their trading in India, at the close of the Seventeenth century, the English had established 'gaols' in Madras, Bombay and Calcutta. In time to come, all the three places grew into independent functioning Presidencies under the administration and control of an English Governor – in – Council. The Charter of 1667 had "empowered the. Company to establish Courts of Judicature similar to those established in England for the proper administration of justice, "specially providing "that such laws and regulations should not be repugnant or contrary to, but be as near as possible to the laws of England."

The factory period of trading corporation, when the above origin and growth of 'gaols' took shape under British influence, extended over two centuries and a quarter. It is an important period to understand the genesis of Indian Prison System, in an environment where the Mughal administration of criminal justice was sought to be imposed. There is no publication till this day, in the field of Criminology that highlights the growth of prisons during 1608-1833, the Factory Period under British influence in India. In his Minutes of

December, 1835, the concept of modern prison in India originated with the Minute by TB Macaulay.

The Committee on Prison Discipline submitted its report on January, 8, 1838, which is available record of the then prevailing conditions in gaols under the English in India, and one that suggested a detailed plan for setting up an effective Prison- administration in India but the authorities in England rejected there commendations of the Prison Discipline Committee,1838 on grounds of cost.

In the middle of the nineteenth century imprisonment became the main form of punishment. But prisons, now here had till then merged as the instrument of carrying out judicial punishment. Cantor observed “imprisonment is the modern major method of disposing serious offenders.

8.8 EARLY STAGE OF MODERN PRISON IN INTERNATIONAL LEVEL

Modern prison is in part a rejection of the traditional jail. Some historians have found the origins of the penitentiary in the16th century English Work Houses where able-bodied vagrants were set to work in order to learn habits of industry. This is said to be an important institutional development towards evolving rehabilitation where confinement was used for coercive education.

Social Origins of the Institutional Treatment.

The emergence of the penitentiary as centre of criminal justice systems was part of a broader process of institution building that included the rise of factory, free elementary schools, general hospitals, mental hospitals, orphanages and other asylums for the dependent and deviant. The prison reformers attempted for social betterment by rehabilitating the prisoners by remodelling the society for better public mutilations and executions seemed to have lost their efficacy as a deterrent to crime.

By the mid -19th Century, New York penitentiaries were over – crowded, scandal ridden custodial institutions. Thus, institutions created as means of rehabilitating criminals and as humane alternative to traditional punishment saved very few from vice or unnecessary sufferings. In spite of this fact, the penitentiaries continued to be built because they shielded the public from the hard core recidivist criminals.

In 20th century, the institutional incarceration or the penitentiary idea to reform the criminals with the presumption that human beings to be profoundly social creatures capable of adjustment with social activities, such as, athletics / sports, vocational education, recreation and participation in government activities has failed and not working well. In spite of revived ideology of reformation of prisoners in the custodial institutions, in practice, these reforms or rehabilitating plans did not full-fill the expectations of those who thought to implement a system of individualized treatment. At the end of this century although many new prisons were being built many strategies and plans had been adopted for reformation of the prisoners, but all these efforts failed to keep pace with the need of the prisoners to be rehabilitated or reformed to lead a normal life. Existing rehabilitative programmes rarely worked effectively and/or efficiently.

In 1864, the Second Commission of Inquiry into Jail Management and Discipline

made similar recommendations as the 1838 Committee. In addition, this Commission made some specific suggestions regarding accommodation for prisoners, improvement in diet, clothing, bedding and medical care. In 1888, the Fourth Jail Commission was appointed. On the basis of its recommendations, a consolidated prison bill was formulated. Provisions regarding jail offences and punishment were specially examined by a committee of experts on Jail Management. In 1894, the draft bill became law with the assent of the Viceroy. It is this Act which forms the basis for the present-day jail management and administration in India.

This Act has hardly undergone any substantial changes since its inception. However, the process of review of prison problems in India continued. In the report of the Indian Jail Committee 1919-20, for the first time in the history of prisons, 'reformation and rehabilitation' of offenders were identified as the objectives of prison.

8.9 POST INDEPENDENCE

After independence, various Committees were appointed to improve the condition of prisons in India. The Pakwasa Committee in 1949 suggested the system of utilizing prisoners as labour for road work without any intensive supervision over them. It was from this time onwards that a system of wages for prisoners for their labour was introduced.

The Mulla Committee

In 1980 the Government of India set-up a Committee on Jail Reforms under the Chairmanship of Justice A. N. Mulla. The Mulla Committee submitted its report in 1983. Some of the prominent recommendations of the Mulla committee are:

- Improving prison condition by making available proper food, clothing, sanitation,
- The prison staff to be properly trained and organized into different cadres. Setting up an All-India Service called the Indian Prisons & Correctional Service.
- After-care, rehabilitation and probation to be an integral part of prison service
- The press and public to be allowed inside prisons and allied correctional institutions periodically, so that the public may have first-hand information about the conditions of prisons and be willing to co-operate in rehabilitation work.
- Under trials in jails to be reduced to bare minimum and they be kept away from convicts. Under trials constitute a sizable portion of prison population. Their number to be reduced by speedy trial and liberalization of bail provisions.
- The Government may make an effort to provide adequate financial resources

The Krishna Iyer Committee In 1987, the Justice Krishna Iyer Committee was appointed to study the situation of women prisoners in India. It recommended the induction of more women into the police force in view of their special role in tackling women and child offenders. Hoshangabad, in Madhya Pradesh has an open prison built on 17 acres of land, where convicts during the last two years of their sentence are transferred from other prisons in the State to make them familiar with reformed environs. Prisoners go out for work daily like normal people do from their homes and return at the end of the day.

Model Prison Manual 2016 was finalized with the approval of the Home Ministry and circulated to all States and Union Territories for their guidance. The new manual aims at bringing uniformity in laws, rules and regulations governing prison administration and

management of prisoners all over the country. Its key features include an emphasis on prison computerization, special provisions for women prisoners, focus on after care services, prison inspections, rights of prisoners sentenced to death, repatriation of foreign prisoners, enhanced focus on prison correctional staff, to name a few.

The Union Home Ministry, issued an advisory on prison reforms adopted at the 5th National Conference of heads of prisons of States and Union Territories, 2016.

8.10 SOCIAL WORK ASPECT

Social Work Education: is designed to train practitioners to perform a variety of functions in human services settings, including clinical practice, administration, policy practice, supervision, organizing, advocacy, and research and evaluation. Foundation level education in social work includes content on work with individuals, families, couples, and small groups; human behaviour community and organizational dynamics; social policy; research and evaluation; social, cultural, and ethnic diversity; and values and ethics.

Social work education is unique in its broad approach to human services, an approach that seems to be tailor-made for work with adult and juvenile offenders and with the various components of the juvenile and criminal justice systems. In principle, social workers with advanced training are educated to be able to provide clinical and case management assistance to individual offenders and their families; design, administer, and evaluate programs; supervise staff; and advocate and lobby for legislative and other social change. Social work is a discipline, which takes preventive and remedial action on problems in several areas of society. It helps families in economic or emotional difficulty. It works in medical and school situations. It seeks to correct the causes underlying delinquency and crime.

According to the Social Work Curriculum Study, "Social Work seeks to enhance the social functioning of individuals, singly and in groups, by activities focused upon their social relationships, which constitute the interaction between man and his environment. The activities can be grouped into three functions: prevention of social dysfunction. Restoration of impaired capacity, provision of individual and social resources.

It is now recognized that criminals must be treated and rehabilitated as well as punished, and it may be possible to use the techniques and goals of social work in correctional settings.

Prevention of social dysfunction involves early discovery, control, and elimination of conditions and situations, such as delinquency and crime, which potentially could hamper effective social functioning. The two main divisions of prevention of social dysfunction are: prevention of problems in the area of interaction between individuals and groups and secondly, the prevention of social ills.

Restoration can be curative or rehabilitative. Its curative aspects are to eliminate factors, which have caused break down of functioning, and its rehabilitative aspects are to organise and rebuild interactional patterns. Provision of resources can be developmental and educational. The developmental aspects are designed to further the effectiveness of existing social resources or to bring to full use the personal abilities for more effective social interaction. The educational aspect is structured to make familiar the public with specific conditions and needs for now or with changing Social resources. The final assumption about

human nature is that humans enjoy a free will that enables them to purposely and deliberately choose to follow a calculated course of action. If people seek to increase their pleasures illegally, they do so freely and with full knowledge of the wrongness of their acts. It is only with the concept of free will that we can justifiably assign praise and blame to individual actions. Because criminals generally know what is right and what is wrong and choose the latter, society has a perfectly legitimate right to punish those who harm it.

Prison Social workers provide assessment and intervention services for prisoners. They conduct individual counselling; provide treatment assessments for appropriate programs, assess at-risk prisoners and facilitate group programs - all designed to enhance and support rehabilitation.

Social workers address the factors associated with offending behaviour and assist with daily life especially with in prison environments.

Community: Social workers with in community corrections are responsible for:

- Identifying offender social development needs and providing appropriate referrals
- monitoring the response of offenders to conditions of court and implementing measures to ensure they comply with community-based sanctions
- Preparing comprehensive written reports in order to facilitate offenders' release plans, set appropriate parole conditions and to advise of their progress.

In criminology and the social sciences, a correction refers to the process of responding to criminals. This can take place through prisons and other punishments. The idea is to correct how a The Correctional Administration System is one component of the larger criminal justice system and is dedicated to increasing public safety by helping offenders to become law-abiding citizens, while exercising secure and humane control.

Different methods of social work like case work and group work are applicable in correctional institutions besides probation and parole. Correctional administration in the broader sense means reshaping, re-educating and reforming the individual behaviour attitudes and feelings of anti social nature which have culminated into his/her incarceration or committal to some penal institution for custody/treatment. It includes attempts by the correctional administrators and social workers to reorient and re-socialize the deviant behaviour traits of an individual personality by providing helpful and educative facilities and services which help in increasing a feeling of repentance and a strong desire to correct.

Social work, like all other professions, has problem solving functions and hence, it can help Offenders in their treatment and rehabilitation. According to Williams (1970) the primary aim of rehabilitation of a prisoner is "to make the transition from the prison community to the free community as smooth and painless as possible by giving the prisoner financial and material assistance and psychological instruction, counselling and guidance and by offering or imposing some degree of continuing supervision where this is desirable. Help may be needed in obtaining employment, in obtaining accommodation, in re-establishing his position in the family, in settling various debts incurred while he was in custody or prior there to, and in countless other directions. "The concept of Rehabilitation closely follows from the medical model being absorbed in pen logical thinking. The concept of after care and rehabilitation of released prisoners from the correctional institution sow sits origin to the pen logical thought that regards reformation and rehabilitation as the ultimate aim of the Criminal Justice Administration.

After care being a vital link in the correctional cycle, has been conceived as an approach and as a service designed: to reduce the offender's social isolation and dependence; to help him to get over his social handicaps; to remove the stigma that darkens his/her present and future life because of institutionalization and finally to accelerate the process of his/her rehabilitation as a mentally, socially and vocationally well-adjusted person. It also contemplates to provide a set of pre-designed programmes which are organized for the care, supervision and guidance of an ex-institutionalized prisoner and also to the various activities that are directed towards his/her acceptance by the family and the community. After care of prisoners is an extension of the care and attention meted out to them when they had been in a jail. The person in a prison is often a victim of circumstances and his detention period needs to be utilized for giving him/her training and equipping him with skills which would help him to rehabilitate himself and function as an efficient and useful member of the society. The training has to be continued and the aftercare programme needs to be viewed as a necessary step in the complete rehabilitation of the individual.

8.11 ROLE OF SOCIAL WORKER IN CORRECTIONAL SETTING

1. Advocates and Reformers:

Social work has always embraced and been committed to social justice issues. Social workers are trained to identify and confront injustices through the policy process, protest, and lobbying. Examples of issues that warrant social workers' advocacy and reform efforts include the rights of offenders who have a major mental illness, the need for programs designed to facilitate the transition of offenders from institutional to community-based settings, the need to prevent abuse and discrimination in institutional settings, and the legal protection of minors who have been charged and tried in criminal court as adults and sentenced to adult prisons.

2. Administrators and Supervisors:

Social work education programs typically include an administrative track for those students who wish to pursue this career path. Curriculum content ordinarily includes instruction on program planning, budgeting, and financial management, grant writing, personnel issues, and staff management, employee evaluation, supervision, leadership, staff development, community relations, and organizational dynamics. Such knowledge and skills are invaluable in a wide range of public and private sector criminal justice settings, such as parole and probation officers, residential treatment programs, and counselling centres.

3. Researchers and Program Evaluators:

Throughout the profession's history, social workers have strengthened their understanding of and commitment to research and program evaluation. Criminal justice programs that were once created, designed, and funded based on faith and good will now require in - depth research and evaluation to justify their existence. Every accredited social work education program provides students with at least foundation-level knowledge and skills related to formulating research and evaluation questions, research and evaluation design, sampling methods, data collection techniques, measurement issues (validity and reliability), research and evaluation ethics (especially the protection of human subjects), data analysis, and report preparation.

4. Legal Aid:

Legal aid and assistance to the weak and downtrodden is a task best suited to the professional social workers in the light of their professional goals, which are committed to the welfare of the poor and needy. Right from promoting legal literacy to giving legal advice in specific cases a professional social worker's services can be of immense value in bringing our justice system within the reach of the common man.

5. Direct Service Providers:

Social workers should also be active participants in mediation, alternative dispute resolution, restitution, and conciliation programs. Social workers have both the clinical skills to assume these roles and the values and ideological commitment required to be effective. Social work and social workers should be central to the restorative justice movement.

Professional skill is expressed in the activities of the social worker. It constitutes his artistic creation, resulting from three internal processes: first, conscious selection of knowledge pertinent to the professional task at hand in order to help the offender, second, fusion of this knowledge with social work and correctional values; and third, the expression of this synthesis in professionally relevant activity to administer correction and to modify offending behaviour.

Juvenile delinquency and crime are major problems of modern society. Social work has an important role to play in the control, correction and prevention of delinquency and crime. Social work attempts to help the individual, his family and the community to face and solve delinquency and crime through the utilization of individual, family and community resources.

Casework, Group work, and Community organisation are the basic processes utilized by the social worker in correctional settings. The correctional social worker is given authority in order to change the way offenders (clients) express values in action. All social workers work with offenders in terms of values. More than any other function, the correctional social worker's task is defined in terms of changing values of the delinquent or criminal, so that they become suitable in action with the values of the society. The social worker helps, particularly the police departments, courts, probation, institutions, parole and prevention.

Therefore, professional social work in correctional settings is a comprehensive, constructive social attitude, therapeutic in some instances, restraining in some instances, but preventive in its overall social impact.

8.12 SUMMARY

Corrections is a social function designed to hold, punish, supervise, deter, and possibly rehabilitate the accused or convicted. It is also the study of these functions. Although it is natural to want to exact revenge ourselves when people do us wrong, the state has taken over this responsibility for punishment to prevent endless tit-for-tat feuds. Over our social evolution, the state has moved to more restitutive forms of punishment that while serving to tone down the community's moral outrage, tempers it with sympathy. Much of the credit for the shift away from retributive punishment must go to the great Classical School of criminology, which was imbued with the humanistic spirit of the Enlightenment. The view of human nature (as hedonistic, rational, and possessing free will) held by thinkers of the time

was that punishment should primarily be used for deterrent purposes, that it should only just exceed the gains of crime, and that it should apply equally to all who have committed the same crime regardless of any individual differences. Opposing classical notions of punishment are those of the positivists who rose to prominence during the 19th century and who were influenced by the spirit of science. Positivists rejected the philosophical underpinning's regarding human nature of the classicists and declared that punishment should fit the offender rather than the crime. The objectives of punishment are retribution, deterrence, incapacitation, rehabilitation, and reintegration, all of which have come into favour, gone out, and come back again over the years.

8.13 KEY WORDS

- A) Philosophy
- B) Community
- C) Reformers
- D) Legal Aid

8.14 SELF-ASSESSMENT QUESTIONS

1. Explain the objective of corrections and types of corrections.
2. Elaborate the Philosophy of Corrections.

8.15 REFERENCES

- cyclopaedia of Social Work in India Vol. III (1987) Ministry of Welfare, Government of India
- American Correctional Association: www.aca.org.
- Pennsylvania Prison Society: www.prisonsociety.org.
- Bureau of Justice Statistics (information available on all manner of criminal justice topics): www.bjs.ojp.usdoj.gov
- Paranjape. N.V Criminology and Penology 12th edn. 2006 Central Law Publication
- Siiddique A Criminology problem and Prospective–Eastern Book Company, Lucknow.

Dr. M. Anuradha

LESSON 9

CORRECTIONAL INSTITUTIONS

OBJECTIVES

The objective of this lesson is to make the student understand the concept of correctional institutions, objectives and types of correctional institutions.

STRUCTURE

9.1 Introduction

9.2 Concept and Definition of Correctional Institutions

9.3 Genesis of Correctional Social work In India

9.4 Objectives of Correctional Institutions

9.5 Types of Correctional Institutions

 9.5.1 Correctional institutions for institutional treatment

 9.5.2 Types of correctional institutions for non-institutional treatment

9.6 Role of Social workers In Correctional Institutions

9.7 Skills and Techniques Used In Correctional Social Work

9.8 Use of Social Work Methods in Correctional Setting

9.9 Summary

9.10 Keywords

9.11 Self-Assessment Questions

9.12 Reference Books

9.1 INTRODUCTION:

The correctional system is designed to keep society at large safe by separating the community from those individuals who have committed crimes. This is brought about by incarcerating the convicted criminal in a jail or prison. The guiding hallmark of the correctional system is the punishment of wrongdoers. Incarceration is the most serious punishment (short of loss of life) to which a free society can condemn an individual. The correctional administration is the administration of services aimed at the reformation and rehabilitation of offender. The terminology change from 'penology' to 'corrections' occurred in the 1950s and 1960s, and it was driven by a new philosophy emphasizing rehabilitation. It was accompanied by concrete changes in some prisons, like giving more privileges to inmates, and attempting to instil a more humane atmosphere. At least nominally, most prisons became correctional institutions, and jailors or guards became correctional officers. The primary responsibility of the government of any country or state is to protect its citizens from those who would harm them. Correction is thus a system embedded in a broader collection of public protection agencies and programs, one that comes into play after the accused has been caught by law enforcement, prosecuted, and convicted by the court system.

Corrections is a generic term covering a wide variety of functions carried out by government (and increasingly private) agencies having to do with the punishment, treatment, supervision and management of individuals who have been accused or convicted of criminal

offences. Correctional work is a difficult and challenging. The experiences of many offenders (not all, of course) devoured their childhood and youth and marred their characters to the point where many of them have a psychological, emotional, or financial investment in their current lifestyles and have no intention of being 'corrected' (Andrews & Bonta, 2007; Walsh & Stohr, 2010).

The correctional administration is "A programme that prepares individuals to plan and manage institutional facilities and programs for housing and rehabilitating prisoners in the public and / or private sectors. Includes instruction in the principle and practice of correction, facilities planning and management, safety and security, social and health services, staff and inmate management, budgeting, communication skills, correctional psychology, and applications to specific types of correctional facilities approaches. A prison can perform many different functions, even simultaneously. It is also a contradictory institution. The purpose of punishment in form of incarceration is not just to deter or to rehabilitate but to defend society from criminal predation through incapacitation. Correctional practice is a developing science based on an evolving dynamic between two concepts: punishment and rehabilitation. Society demands that criminals be punished for their behaviour; thus, they lose their freedom. Prisoners must also learn constructive behaviours and have positive role models if the cycle of recidivism is to be broken.

9.2. CONCEPT AND DEFINITION

Correctional Institution is a penal institution maintained by the government. It is a detention camp, detention home, detention house, house of detention. It is also an institution where juvenile offenders can be held temporarily (usually under the supervision of a juvenile court). A correctional institution used to detain persons who are in the lawful custody of the government (either accused persons awaiting trial or convicted persons serving a sentence). It is a prison, prison house where persons are confined while on trial or for punishment. Finally, it is a reform school, reformatory, training school for the detention and discipline and training of young or first offenders

A **correctional institution** is a secure facility designed to house and rehabilitate individuals who have been convicted of a crime. A correctional institution, also known as a prison or jail, is a secure facility that is designed to house individuals who have been convicted of a crime and sentenced to a period of confinement. The primary goal of these institutions is to provide for the safe and secure confinement of inmates while also promoting rehabilitation and reducing recidivism.

The design and operation of correctional institutions can vary widely depending on a number of factors, such as the size of the institution, the nature of the population being housed, and the goals of the correctional system. However, all correctional institutions share some common features, such as secure physical structures, staff trained in security and inmate management, and a system of rules and regulations that govern the behaviour of both inmates and staff.

Correction is one segment of the Criminal Justice System. A person who is accused of any crime is either convicted or acquitted by the court. Persons who are convicted by court are lodged in a correctional setting. A person who is undergoing trial in the court may also be lodged in a correctional setting by order of the court. Thus, a correctional institution or setting is a place where a person accused of or convicted of a crime is lodged for a specified period of

time. Traditionally, the approach towards crime control was guided by the concepts of deterrence, retribution and offender incapacitation. Deterrence refers to the various measures taken to prevent crime. Retribution means punishing someone for the wrongdoing. Offender incapacitation refers to the act of making an individual incapable of committing a crime. These ideologies of crime control have been gradually replaced by a diversified framework of reintegrative correctional strategies. These strategies intend to assist the release inmates in their transition back into the mainstream society.

One of the primary goals of these institutions is to promote rehabilitation and reduce recidivism. To achieve this goal, many institutions offer a variety of programs and services to inmates, such as educational and vocational training, substance abuse treatment, mental health counselling, and employment readiness training. These programs are designed to help inmates develop the skills and knowledge they need to successfully reintegrate into society upon their release and to reduce their likelihood of reoffending.

Another important goal of correctional institutions is to maintain safety and security for both staff and inmates. This is achieved through a variety of means, such as secure physical structures, surveillance and monitoring technology, staff training in security and inmate management, and a system of rules and regulations that govern the behaviour of both inmates and staff. They also employ a range of strategies to prevent and manage conflicts among inmates, such as segregation and alternative dispute-resolution programs.

In addition to these goals, they also play an important role in the broader criminal justice system. They are responsible for enforcing the sentences handed down by the courts and for ensuring that individuals who have been convicted of a crime are held accountable for their actions. Correctional institutions are also responsible for protecting the public by keeping dangerous offenders off the streets and preventing them from committing further crimes.

However, despite their important role in the criminal justice system, correctional institutions are not without their challenges. One of the most significant challenges facing correctional institutions is overcrowding, which can lead to increased tension among inmates, reduced access to programs and services, and increased risk of violence. Correctional institutions also face challenges related to staff training and retention, as well as issues related to mental health and substance abuse among inmates.

9.3. GENESIS OF CORRECTIONAL SOCIALWORK IN INDIA

‘Social work’ is generally understood in India as charitable work done by individuals or organizations driven by humanitarian and/or religious values, as a subsidiary or voluntary activity. A more professional and systematic approach to social work was initiated with support from (Sir Dorabji Tata Trust) SDTT in the early-1930s. At that time, through an institution called ‘Neighbourhood House’, a young American missionary, Dr Clifford Manshardt, carried out a number of non-religious activities for the benefit of children and adults in Nagpada, a densely populated lower-class area in the heart of Mumbai. Recognizing the need for professional social workers, Manshardt decided to hold six-week courses for bright young people interested in social work. Subsequently, with assistance from SDTT, he started a full-fledged school for social work. Established in Neighbourhood House, in 1936, as the Sir Dorabji Tata Graduate School of Social Work, it changed to the Tata Institute of Social Sciences (TISS) in the 1940s, and moved to its present campus in Deonar in the 1950s. Juvenile

delinquency, crime and criminology were among the subjects of study at TISS, right from the early days. In 1952, an effort to provide specialized training for correctional work was initiated.

With the help of the Ministry of Home Affairs, Government of India, and two experts made available by the United Nations, TISS offered a six-month programme to prison officers deputed by various state governments. In 1953, a separate Department of Criminology and Correctional Administration (CCA) was created, giving full recognition to the professional training requirements in this field. The department became TISS's Centre for Criminology and Justice, in 2006. Till the 1970s, most students of the CCA department were candidates deputed from departments of prisons, social welfare, and women and child development across the country. After finishing their MA degree in social work with specialization in criminology and correctional administration, the deputed officials would go back to their departments to work as prison officers, social welfare officers, and probation officers.

Over the years, many state governments developed in-house training facilities, and deputation of candidates to TISS gradually stopped. Among the first students of the department who did not come from a government service background was Dr. Sanober Sahni, who later joined the faculty of the CCA department. Sahni did her PhD on women undertrial prisoners.

In the course of collecting data for her thesis, she felt the need to provide services to undertrial prisoners. And so, in 1990, she initiated a TISS field action project called Prayas. Prayas began by offering services in the female and male youth sections of Mumbai Central Prison. Over the years, both the target group and location of services have expanded. Prayas has guided the setting up of similar efforts at other locations in Maharashtra and around the country. Even though, the intervention of social work profession has been relatively of recent origin in India, efforts have been made systematically with each component of the criminal justice system in the country for better justice to needy or especially under trials. However, the intervention has been mainly on the part of non-government organizations.

As we know, there are glaring inadequacies in the functioning of Law-and-order machinery in India, the idea of a system of social work interventions operating from police stations assumes significance. In India, Tata Institute of Social Sciences (TISS) with the support from Sir Dorabji Tata Trust (SDTT) has been pioneering institution making significant contributions within the Criminal Justice System in the country. TISS set up the first Special Cell for Women and Children way back in 1984 in the office of the Police Commissioner of Mumbai with two trained social workers. The major concern was to render professional social work services to women and children who approached the police for help and also to work on the issue of violence against women and children. The Second Cell was set up in 1988, at Dadar Police Station; and the third one commenced operation in the Kandivali Police Station in 1994.

The mission of the Special Cell is to work towards ensuring that women are recognized as individuals, with equal rights and opportunities in society, including the opportunity to live a peaceful, violence-free life (SCWC, 2004, p. 2). In 2001, the intervention system in the context of the criminal justice social work in the police set up in Maharashtra comprised three Special Cells in Mumbai and eight in Nagpur. (Menachery, 2004, p. 129). It was around the same time that this initiative got a fillip when TISS signed a memorandum of understanding with UNIFEM and the Government of Maharashtra and Police to expand the work of special cells across the state of Maharashtra. The Department of Women and Child Development, Government of Maharashtra took over the responsibility of Special Cells in the state in 2005.

With the support of the UNDP and the Government of India, Special Cells also began operations in Dhar in Madhya Pradesh and Ambala and Jind in Haryana in the year 2007 (Ganesh, 2007, p. 12-13).

9.4. OBJECTIVES OF CORRECTIONAL INSTITUTIONS

- To provide for safe and secured custody of prisoners of all types committed to prison by the courts.
- To provide for Basic Minimum facilities to prisoners to maintain human dignity and rights.
- To provide for reformation of prisoners and safe rehabilitation to free society after release from the Jail Keep prisoners in safe custody.
- Maintain order, control, discipline and safe prison environment.
- Provide decent conditions for prisoners and meet their needs, with respect to food, clothing, bedding, hygiene, sanitation and health care.
- Provide skill orientation programmes which help prisoners amend their offending behaviour and allow them to reform as responsible persons as quickly as possible.
- Help prisoners prepare for their return to the community.
- Keep the prison force disciplined, motivated and professional by reinforcement with periodical training.
- Deliver prison services using the resources provided by Government with maximum efficiency.
- In meeting these goals, it will co-operate closely with other stakeholders of criminal justice agencies for development of the Criminal Justice Delivery system as a whole.

The whole focus is on reshaping the behaviours of the convicted offenders with the following goals (Dhaor, 2008):

- i. Protection of society against crime;
- ii. Develop a sense of discipline and security;
- iii. Reform and rehabilitate them in the given social milieu through appropriate correctional interventions; and
- iv. Equip with skills and abilities in order to help them lead a normal life as a citizen, once they get out of the correctional institution.

To fulfil the above objectives, various kinds of reintegrative services are offered within a correctional setting. These services include inmate care and welfare, vocational training programmes, inmate-family contact, self-discipline incentives (such as remissions, leaves, transfer to open institutions, parole etc). Thus, the inmate within a correctional setting would be involved in various kinds of productive activities. This will enable in reducing “prison subculture contamination”, which is manifested in numerous undesirable activities that are associated with prison life. Further, certain categories of inmates who endanger public safety are segregated from the mainstream society by way of imprisonment. Thus, putting a person in a correctional setting deprives him/her of liberty and self-determination. However, all possible efforts are taken to ensure that the person come out as better individuals than that they were at the time of their admission. With this objective, the Honourable Supreme Court of India in its various judgements has reiterated the following principles (Dhaor, 2008):

- i. A person in a correctional setting does not become a non-person;

- ii. A person in prison is entitled to all human rights within the limitations of imprisonment; and
- iii. There is no justification in aggravating the suffering already inherent in the process of incarceration.

9.5. TYPES OF CORRECTIONAL INSTITUTIONS

9.5.1 Types of correctional institutions for institutional treatment:

- a. Prisons
- b. Observation homes
- c. Special homes
- d. Children homes
- e. After-care organization
- f. Protective home for women
- g. short stay home
- h. Beggars home.

a. Prisons:

Prisons are the place in which criminals could be securely confined and this containment function had continued to predominate in spite of the gradual emergence of other aims for imprisonment, such as deterrence or rehabilitation.

b. Observation homes:

Observation homes established for the temporary of any juvenile in conflict with law during the pendency of a case before the juvenile justice board. Every juvenile who is not placed under the charge of parent or guardian is sent to an observation home. He/she initially kept in a reception unit of the observation home for preliminary enquiries. Care and classification of the juveniles is done according to his/her age group, such as 7-12 years, 12-16 years and 16-18 years, giving due to consideration to physical and mental status and degree offence committed.

c. Special homes:

Under juvenile justice (care and protection) Act, 2000 state government is empowered for establishing and maintaining special homes for reformation and rehabilitation of juveniles in conflict with law. Such homes are maintained by the government or by certified voluntary organization. In these homes, various types of services are provided which necessary for the re- socialize of a juvenile.

d. Children homes:

Children homes are contemplated for the reception of children in need of care and protection during the pendency of enquiry even for their stay as case may be. Every child's home is provided with facilities of accommodation, maintenance, education, vocational training, rehabilitation and development character and abilities.

e. After-care organizations:

These organizations are meant for the juvenile's discharge from the children's homes and special homes. The purpose of the aftercare organization is help in the rehabilitation and resettlement of children through extended educational and vocational training facilities including job placement. The stay in aftercare organization is restricted to a maximum of three

years over seventeen years age till s (he) attains the age of till s (he) attains the age of 20 years on the basis of a discharge report prepared by competent.

f. Protective home for women:

The protective home and corrective institutions are established Under the Immoral Traffic (prevention) Act by Directorate of Social Welfare. It admits girls and women, who are rescued from brothels, are abducted and kidnapped (section 366 IPC), raped (section 376 IPC) and are in moral danger. The girl and women can get admission only through the orders of the court and will continue to stay till the Court gives the order for her restoration or rehabilitation.

g. Short stay homes:

It is institution established under the Immoral Traffic (prevention) Act (ITPA) by Government/ Union Territory Administration. The purpose is to provide ort temporary shelter to the needy women/girls in distress, pending their restoration or readjustment in their families or admission in suitable institutes. The short stay home provides admission to girls and women in the age group of 18 to 45years. Who are destitute distress deserted or are in moral danger. The duration of stay in short stay home is districted to 6 months. The home provides safe custody, boarding, lodging, food, clothing medical care and vocational training like tailoring and knitting. It provides specialties like food, shelter, accommodation, medical care non formal education and vocational training. The superintendent of short stay home makes all efforts to restore or, reintegrate the women/girl in her family or through marriage.

h. Beggars home:

These homes are established under the Anti-Beggary laws of the state government. Unfortunately, there is no Anti-Beggary Act formulated at the national level. These Acts are formulated by the state at their own initiatives. Reception centres and Bagger Homes are established under the Act. The Beggar's home provides specialties like food, shelter, accommodation, medical care, non-formal education and vocational training to beggars so they are economically rehabilitated into society.

9.5.2 Types of correctional institutions for Non-institutional treatment

- a. Probation
- b. Parole
- c. Hybrid treatment
- d. Community service
- e. Work release

Non-institutional treatments are community-based correctional programmes that help in the reintegration of offenders.

Community-based correction is an effective method of accomplishing the changes in the behaviour of the offender by helping him to become a law-abiding citizen.

a. Probation:

The term probation is used denote the status of a person placed on probation, to refer to the subsystem of the criminal justice system. Probation is an alternative to the prison/ special home. It is a sentence that does not involve confinement but may involve conditions imposed by the Court Juvenile Justice Board, usually under the supervision of a probation officer.

b. Parole:

Parole is a treatment programme in which the offender, after serving part of a term in correctional institution, is conditionally released under the supervision and treatment of a Parole Officer. Parole is not of every individual in prison. It is viewed as a privilege granted to a prisoner for good behaviour and process while in prison and is considered useful in rehabilitation outside.

c. Hybrid Treatment:

This is a kind of correctional treatment in a collaborative enterprise between corrections and treatment professionals.

d. Community service:

Community service, the offenders must give personal time to perform tasks that are valued in the community. This programme is especially meant for juvenile and adolescents who are placed in community service organization.

e. Work release:

In work release programme the inmates are released from incarceration to work. They enable the offenders to engage in positive contacts with the community, assuming of course, that work placement is satisfactory. They permit offenders to provide some support for themselves and their families. This can eliminate the self- concept of failure that may be the result of loss the supportive role.

Offender incapacitation refers to the act of making an individual incapable of committing a crime. These ideologies of crime control have been gradually replaced by a diversified framework of reintegrative correctional strategies. These strategies intend to assist the release inmates in their transition back into mainstream society. The whole focus is on reshaping the behaviours of the convicted offenders with the following gaol correctional institutions are fragmented on the basis of a number of factors. The main sources of fragmentation are as follows:

1. Protection of society against crime.
2. Develop a sense of discipline and security.
3. Reform and rehabilitate them in the given social milieu through appropriate correctional interventions.
4. Equip with skills and abilities in order to help them lead a normal life as a citizen, once they get out of the correctional institution

By jurisdiction

- Central
- State
- Local

By criminal justice function

- Police
- Courts
- Corrections

By location

- Institutional
- Non-institutional

By age

- Adult
- Juvenile

All these fragments come under one master classification which is statutory and non statutory. Statutory is the category covered under the Indian Penal Code and other laws. Correctional work with adult prisoners comes under this category wherein minor prisoners are sent to Welfare Homes. Other statutory ones come under social legislations like Juvenile Justice (Care and Protection of Children) Act 2000, Immoral Trafficking (Prevention) Act 1956, and Bombay Prevention of Begging Act 1959.

It is widely known that Indian jails are overcrowded. As on 31 December 2011, total capacity of jails in the country is 332,782 as against 372,926 jail inmates. The occupancy rate at all-India level works out to 112.1 percent. Ironically, the number of under-trials stood at 241,200, constituting 64.7 percent of total inmates- people who have not yet been proven guilty of their alleged crimes (National Crime Record, 2011). Years spent in a CJI — deservedly or undeservedly — not only isolate the person from society; they impact him/her in other ways too. Kerala High Court observed, is a person who “loses his identity”. Known “by a number”, s/he not only loses personal possessions but also personal relationships. Loss of freedom, status, possessions, dignity and the autonomy of a personal life led to psychological problems, the court noted in *A Convict Prisoner in the Central Prison vs State of Kerala* (1993 Cri LJ 3242). Unless they are from privileged backgrounds, people who are confined in CJIs suffer even after their release; the tag of a criminal is heavy, long-lasting and difficult to erase.

Friends, colleagues and acquaintances stay away. Past or potential employers want nothing to do with the person. In many cases, even families disown the so-called ‘criminal’ member. Without emotional and financial support to lead a productive, satisfying life there are good chances that a one-time offender is pushed into taking up criminal activities, associating with criminals, or leading a life marked by addiction or destitution.

At best, state efforts at rehabilitation are restricted to providing training in income-generation activities and advancing small business loans to prisoners after their release. Continuous and regular support to all released under trials is not formally recognized or offered by State agencies. The Justice Malaimath Committee on ‘Reforming Criminal Justice System’ rightly observes that “The entire existence of the orderly society depends upon sound and efficient functioning of the Criminal Justice System.” Unless it is made sure that criminal justice system functions with speed, fairness, transparency and honesty, it is difficult to bring down prevailing “crisis of legitimacy”. Improving law and order requires cooperation across all rule-of-law institutions. Police reform alone would not suffice to quell crime if police capture criminals and then corrupt judges release them and if prisons allow convicts to enlarge their criminal empires while behind bars, or if laws do not exist to keep them in jail for adequate periods of time.

Although there are a number of legal provisions and judgments in favour of people confined to CJIs, there is no system of ensuring that these provisions and judgments are fully observed. Former Prime Minister Manmohan Singh pointed out a glaring example of the gap

between the law and its implementation in his address to the conference of chief ministers and chief justices of the states, in New Delhi. Many under trials, he said, “have been in jail for periods longer than they would have served had they been sentenced!” It is in this context that the trained social workers can play a critical role especially for the benefit of poor inmates, minors and women separated from their families.

9.6. ROLE OF SOCIAL WORKERS IN CORRECTIONAL INSTITUTIONS

Social workers in criminal justice settings often assess new arrivals to the prison, develop treatment and support plans for inmates, provide individual therapy and psychosocial educational support groups, provide referrals to medical or mental-health services, and monitor the progress and compliance of inmates in treatment. As in most settings, social workers in criminal justice facilities document inmates’ progress in their health records, write progress reports, and, in some institutions, present their cases at institutional forums.

In many prison systems, the initial assessment of the inmate involves a battery of psychological tests and interviews with social workers and other treatment professionals to determine the presence of acute (psychosis, anxiety, depression, suicide ideation) and chronic conditions (severe and persistent mental illness, history and current manifestations of trauma and substance abuse). During the assessment phase the social worker determines the inmate’s eligibility for services and treatment and, in theory if not in reality, begins to plan for the inmate’s discharge.

Based on the assessment data, intervention and treatment plans are developed, taking into consideration the unique needs of the inmate; these may include a combination of individual counselling, involvement in a specialized treatment group and case management services. A growing body of research indicates that strengths-based case management is an effective response to inmates in need of skills in daily living or those who struggle with alcohol and drug addiction or with serious physical or mental-health issues.

Working with minors

Juveniles who are in the system because they have committed or been the victim of crimes may need the assistance of a social worker for issues such as a minor’s ability to testify. Other issues relevant to minors include their ability to make medical decisions, child custody issues or the necessity to appoint a guardian if a parent dies or becomes incapacitated. Social workers in the criminal justice system who work with children often become advocates for different legal standards for children as compared to adults, according to the National Association of Social Workers.

Social work education is designed to train practitioners to perform a variety of functions in human services settings, including clinical practice, administration, policy practice, supervision, organizing, advocacy, and research and evaluation. Foundation level education in social work includes content on work with individuals, families, couples, and small groups; human behaviour; community and organizational dynamics; social policy; research and evaluation; social, cultural, and ethnic diversity; and values and ethics. Social work education is unique in its broad approach to human services, an approach that seems to be tailor-made for

work with adult and juvenile offenders and with the various components of the juvenile and criminal justice systems.

In principle, social workers with advanced training are educated to be able to provide clinical and case management assistance to individual offenders and their families; design, administer, and evaluate programs; supervise staff; and advocate and lobby for legislative and other social change. The role of professional social worker in various correctional setting has been specifically discussed.

Broadly, the role of social worker in the correctional settings may take many forms as described below (Reamer, 2004):

1. **Due process:** In criminal justice settings, due process involves protection of clients' legal rights. These legal rights may be pertaining to representation by lawyer, speedy trials, etc. The broader subject of clients' rights—for example, related to privacy and confidentiality, protection from harm and exploitation, and participation in the development of intervention plans—has always been central to social work.
2. **Diversion, Decriminalization, and deinstitutionalization:** Social workers must strive towards diversion from the correctional settings to the less formal community-based programmes wherever available and appropriate.
3. **Alternatives to the Penal System:** Development of creative alternatives such as early childhood education, job, vocational training. Mediation and restorative justice programs must be facilitated. Mediation programs are often based on the concept of restorative justice. Restorative justice is a framework that provides offenders with an opportunity to “right” the “wrongs” for which they are responsible (for example, by making restitution to victims and the community, and by apologizing to victims), and a mechanism to empower victims who wish to confront the offenders responsible for their injuries.
4. **Evaluation:** The social worker should be aware of the dynamics of the complex factors affecting the offender and influencing his/ her action. The full range of background information, including family system, support systems, community support should be reviewed.
5. **Direct Service Providers:** Social workers should also be active participants in mediation, alternative dispute resolution, restitution, and conciliation programs. Social workers have both the clinical skills to assume these roles and the values and ideological commitment required to be effective. Social work and social workers should be central to the restorative justice movement.
6. **Advocates and Reformers:** Social work has always embraced and been committed to social justice issues. Social workers are trained to identify and confront injustices, through the policy process, protest, and lobbying. Examples of issues that warrant social workers' advocacy and reform efforts include the rights of offenders who have major mental illness, the need for programs designed to facilitate the transition of offenders from institutional to community-based settings, the need to prevent abuse and discrimination in institutional settings, and the legal protection of minors who have been charged and tried in criminal court as adults and sentenced to adult prisons.
7. **Administrators and Supervisors:** Social work education programs typically include an administrative track for those students who wish to pursue this career path. Curriculum content ordinarily includes instruction on program planning, budgeting and financial management, grant writing, personnel issues and staff management, employee evaluation, supervision, leadership, staff development, community relations, and

- organizational dynamics. Such knowledge and skills are invaluable in a wide range of public and private sector criminal justice settings, such as parole and probation offices, residential treatment programs, and counselling centres.
8. **Researchers and Program Evaluators:** Throughout the profession's history, social workers have strengthened their understanding of and commitment to research and program evaluation. Criminal justice programs that were once created, designed, and funded based on faith and good will now require in-depth research and evaluation to justify their existence. Every accredited social work education program provides students with at least foundation-level knowledge and skills related to formulating research and evaluation questions, research and evaluation design, sampling methods, data collection techniques, measurement issues (validity and reliability), research and evaluation ethics (especially protection of human subjects), data analysis, and report preparation. These too are invaluable skills in criminal justice settings, particularly in an era where accountability and empirically based evidence of effectiveness are essential.
 9. **Provide Background Information,** finding a balance between the rehabilitative potential and issues of public safety
 10. **Identifying the Client:** is an important aspect of the social worker's overall education and training. Who the client is.
 11. **Legal aid and assistance to the weak and downtrodden** is a task best suited to the professional social workers in the light of their professional goals, which are committed to the welfare of the poor and needy. Right from promoting legal literacy to giving legal advice in specific cases a professional social worker's services can be of immense value in bringing our justice system within the reach of the common man.
 12. **Advocates and Reformers:** social work has always embraced and been committed to social justice issues. Social workers are trained to identify and confront injustices, through the policy process, protest, and lobbying. Examples of issues that warrant social workers' advocacy and reform efforts include the rights of offenders who have a major mental illness, the need for programs designed to facilitate the transition of offenders from institutional to community-based settings, the need to prevent abuse and discrimination in institutional settings, and the legal protection of minors who have been charged and tried in criminal court as adults and sentenced to adult prisons.
 13. **Administrators and Supervisors:** Social work education programs typically include an administrative track for those students who wish to pursue this career path. Curriculum content ordinarily includes instruction on program planning, budgeting, and financial management, grant writing, personnel issues, and staff management, employee evaluation, supervision, leadership, staff development, community relations, and organizational dynamics. Such knowledge and skills are invaluable in a wide range of public and private sector criminal justice settings, such as parole and probation offices, residential treatment programs, and counselling centres.
 14. **Researchers and Program Evaluators:** Throughout the profession's history, social workers have strengthened their understanding of and commitment to research and program evaluation. Criminal justice programs that were once created, designed, and funded based on faith and goodwill now require in-depth research and evaluation to justify their existence. Every accredited social work education program provides students with at least foundation-level knowledge and skills related to formulating research and evaluation questions, research and evaluation design, sampling methods, data collection techniques, measurement issues (validity and reliability), research and evaluation ethics (especially the protection of human subjects), data analysis, and report preparation.

15. **Legal Aid:** Legal aid and assistance to the weak and downtrodden is a task best suited to the professional social workers in the light of their professional goals, which are committed to the welfare of the poor and needy. Right from promoting legal literacy to giving legal advice in specific cases a professional social worker's services can be of immense value in bringing our justice system within the reach of the common man.
16. **Direct Service Providers:** Social workers should also be active participants in mediation, alternative dispute resolution, restitution, and conciliation programs. Social workers have both the clinical skills to assume these roles and the values and ideological commitment required to be effective. Social work and social workers should be central to the restorative justice movement.

A social worker can give the following inputs among others:

- Make the person aware of legal and constitutional rights and understand the social-legal norms and the consequences of their violation.
- Give proper guidance, suggestions, information to chart the future course of action
- Help in getting quality legal experts Social Work in Correctional Setting Understanding Social Work as a Profession
- Give emotional support, most needed in such situations
- Build a strong supportive casework relationship and create an atmosphere wherein the person feels free to discuss his problems, frustrations, fears and anxieties
- Have a non-judgmental attitude

The social worker can focus on range of programmes in education, vocational training, and family support because they are likely to be far more effective than the court system. A significant role of the social worker can be as a watch dog and promoter of human rights. She can play the role of an enabler, activist, change agent, counsellor, advisor depending on the issue and the needs of the clientele.

9.7. SKILLS AND TECHNIQUES USED IN CORRECTIONAL SOCIAL WORK

- Social work approach in correctional setting implies a philosophy as well as application of techniques for problem solving. Operational philosophy of social work rests on three specific premises.
- Function of intervention is to target on a problem in social function.
- Social work conceives problem solving as a partnership activity between social worker and client.
- Response to the client means most and equilibrium is best restored at the point of crisis so crisis, related social work should be emphasized.
- Some of the important skills and techniques of social work with the clients are:

Counselling

- It is a relationship in which one endeavours to help another understand and solve his problem of adjustment. It is distinguished from advice or admonition in that it implies mutual consent. It has as its goal the immediate solution of a personal problem or long-range effort to develop self-understanding and maturity. Insight and empathy Perceptive understanding is required on the part of the social worker who develops insight into the problem of the client/offender by empathy. Empathy is a critical ingredient in the therapeutic process: "Getting into the client's frame of reference."

Interviewing

- Interviewing is a professional conversation with a purpose. Effective communication is at the heart of positive human interaction. Interviewing is different from intense psychotherapy and counselling. Interview is basic while counselling is the epitome of positive guided interaction. The captive client Here the client because of the constrained setting is captive. Presence during the sessions is not voluntary and somewhat imposed. Hence it is a very responsible process and the whole environment should be light hearted. There is needed a structured permissive relationship between the client and interviewer. This relationship should allow the client gain an understanding of himself to a degree which enables him take positive step in the light of a new environment.

Stigma and self esteem

- Oxford Dictionary describes stigma as a “mark of disgrace”. It should be kept in mind that becoming an offender and coming in conflict with law has a deeper impact on the self-esteem of the client, as the society treats them as marginalized and stigmatized. Sometimes the client internalizes the stigma and behaves in a very different Social Work in Correctional Setting Understanding Social Work as a Profession 46 way (defensive or abusive). Hence the social worker has to keep these factors in mind before entering into any kind of intervention with them.

9.8. USE OF SOCIAL WORK METHODS IN CORRECTIONAL SETTING:

The student social worker can use all the social work methods during their field work placement in the correctional setting.

Social Casework in correctional settings:

Social case work involves a secure face to face relationship essentially basis in working with individuals and their problem.

The practice of the case work is being governed by five key basic assumptions that are helpful in serving the offender which are as follows:

- A. Every individual must be seen as a person of worth and dignity
- B. Behaviour, whether acceptable unacceptable to the community, express a need of the individual.
- C. An individual can and will change her/his behaviour if the right time and in the right amount.
- D. If the offer of help is given before the problem become serious aggravated, the repose is likely to be better; and
- E. The family is the most influence force in the development of personality in the crucial early years.

Social Group work in correctional settings.

Group work with delinquents and adult offenders is usually considered as a powerful method for modifying behaviour and attitude.

The purpose of group work in correctional settings is:

- A. To strengthen the emotional security of the offender within the framework of the group so that he does not feel alone and helpless but also moves towards not being wholly dependent on it.
- B. To strengthen the offender's independence by helping him to actually participate in the group discussion, and not to submit to a gang leader or a powerful sub-group.
- C. The introduction of an adult (group worker) who represent the values of a society offenders often reject, but who, because of his accepting attitude represent adult security and love.
- D. To provide an opportunity to gain inner resilience and status with the group through accomplishment in activities by society.

Community organization in correctional setting:

Community organization has an important role in rehabilitation and reintegration of released offenders into mainstream of the society. At the same time community organization is used widely for the prevention of crime and delinquency. The convicts after completing the sentence usually face problems in the adjustment with family, relatives, peer group, neighbourhood and even for acquiring employment. Social workers consider family to be an important unit that can provide support released offenders to take care of his various needs and aspirations. For these social workers has to mobilize the resources for meeting the needs of individuals and establishing support groups on whom one can rely upon, as and when necessary.

Social action in correctional setting:

Social action has too imperative role to play in the field of corrections. Among others, the process of Public Interest Litigation (PIL) could be one of the main issues. The under-trials are kept in the jail for years without their cases even being processed, let alone decided. In such cases social workers have approached the court to get justice for such under trails that have spent years in judicial custody then required in the jails just waiting for their trails to begin. Therefore lobbying also work as an important technique here.

Social work research and social welfare in correctional settings:

There is need to evaluate the current programmes and services in the field of corrections to bring about certain development in this setting. Extensive research studies are required 'in order to select alternative to the institutional care. At the same time, it is desirable to measure the relative efficacy of institutional and non-institutional services in the field of corrections.

9.9. SUMMARY

Social work has a momentous role to play in correctional setting. With its goal of restoring and enhancing the social functioning, social work professionals/students through different designation as caseworker, welfare officer, social worker, probation officer or prison officer help the offenders in correcting and modifying their personality, attitude and to reintegrate them back into the society. A correctional social worker's core duty is to provide incarcerated people with resources to navigate life both in and after prison. Correctional social workers must juggle varying tasks and responsibilities with efficacy, empathy and excellent communication skills.

They often take care of multiple clients per day and sometimes work nights, weekends and holidays.

Correctional social workers connect incarcerated individuals with mental health and substance abuse counselling, job and educational skills training, prison condition monitoring, and advocacy, among other resources.

Correctional social workers may interview inmates or formerly incarcerated individuals to gather background information on their family, social, education and medical life histories.

Correctional social workers also assess the need for social services and make referrals for appropriate programs. Correctional social workers schedule and conduct individual and/or group counselling sessions. They evaluate clients' needs, help set short and long-term goals and objectives, prepare clients' case history and progress reports, discuss cases with superiors, and make recommendations and preparations for discharge. Administrative tasks are another big part of a correctional social worker's day-to-day job. These might include writing treatment plans, taking and organizing notes, maintaining files, and communicating with social services, other social workers, and legal entities on inmates' behalf. The term "correctional social worker" may conjure up images of working in a jail or prison, and many correctional social workers do work in these settings. However, some work in other correctional facilities, such as juvenile detention facilities, immigration detention facilities and military prisons.

9.10. KEY WORDS

- A. Criminology
- B. Correctional Institutions
- C. Probation,
- D. Parole

9.11. SELF ASSESSMENT QUESTIONS

1. Explain the concept and objectives of correctional Institutions
2. Discuss the Genesis of Correctional social work in India
3. Elucidate the role of social worker in Correctional Setting

9.12. REFERENCE BOOKS

1. Lilly, J. R., Cullen, F. T., & Ball, R. A. (2002). *Criminological theory: Context and consequences*. Thousand Oaks, CA: Sage Google Scholar
2. MacKenzie, D. L. 2005. The importance of using scientific evidence to make decisions about correctional programming. *Criminology and Public Policy*, 4(2), 1001–1010. CrossRefGoogle Scholar
3. Meena, N. (2019). *Correctional methods for rehabilitation of offenders in India*-Dissertation, National Law University, Delhi
4. Pati, A. K., & Mitra, S. (2011). *Crime and correctional administration*. MSW paper-12. Netaji Subhas Open University.

Prof. D. Sai Sujatha

LESSON 10

CENTRAL PRISONS

OBJECTIVES

The objective of this lesson is to make the student understand the concept of Prisons, history of prison system in India, problems and Rights of prisoners.

STRUCTURE

- 10.1. Introduction
- 10.2. Concept and Definition of Prison
- 10.3. History of Prison System in India
- 10.4. Prisons in India
- 10.5. The powers and duties of officers & employees
- 10.6. Types of Prisons
- 10.7. Prison Functions
- 10.8. Rights of Prisoners
- 10.9. Problems in Prison
- 10.10. Summary
- 10.11. Keywords
- 10.12. Self-Assessment Questions
- 10.13. Reference Books

10.1. INTRODUCTION

Prisons, and their administration, is a state subject covered by item 4 under the State List in the Seventh Schedule of the Constitution of India. The management and administration of prisons falls exclusively in the domain of the State governments, and is governed by the Prisons Act, 1894 and the Prison manuals of the respective state governments. Thus, the states have the primary role, responsibility and authority to change the current prison laws, rules and regulations. The Central Government provides assistance to the states to improve security in prisons, for the repair and renovation of old prisons, medical facilities, development of borstal schools, facilities to women offenders, vocational training, modernization of prison industries, training to prison personnel, and for the creation of high security enclosures.

The Supreme Court of India, in its judgements on various aspects of prison administration, has laid down 3 broad principles regarding imprisonment and custody. First, a person in prison does not become a non-person. Second, a person in prison is entitled to all human rights within the limitations of imprisonment. Third, there is no justification for aggravating the suffering already inherent in the process of incarceration.

According to 2021 NCRB data, Indian prison population had 77% under trials, while only 22% convicts, with almost half of the under trials in prison for more than 2 years. Out of 5,54,000 prisoners, 4,27,000 were awaiting trial, out of which 24,033 under trials were already in jail for three to five years. The occupancy rate of prisons was 130%. Prisons are an important element of the criminal justice system that punishes a miscreant's deviant behaviour in our

society. India's jails and prisoners' legislation is just one of those laws that go overlooked and neglected all the time. In today's context, they are not given the priority that they should be for reform. There is a perpetual gap and vacuum since there are no rigorous laws in place for persons who are incarcerated, who have the same right to live a life of dignity and fundamental respect as all other inhabitants of the country. There have been several occasions when inmates have been subjected to inhumane treatment and have been denied basic necessities such as appropriate sanitary conditions and adequate meals.

The Central Government grants the State Government various laws and regulations on prison rules in order to ensure effective administration and maintain the safety of inmates within the prison's four walls. Special orders made by state governments examine the imprisonment of convicts, including the land and property that has been linked to them. The management of prisons is specified in the State Lists as part of item 4 of the Constitution of India's seventh schedule. In accordance with the Prisoners Act of 1894 and the Prison Manuals that various states would have independently produced, the process of administration and management of prisons falls under the jurisdiction of the state. Also with the help of the central government states keep improving prison security, repairing and renovating old prisons, improving healthcare facilities, developing borstal schools, giving helpful facilities for women offenders, providing vocational training, modernising prison industries, training prison personnel, and building high-security enclosures.

10.2. DEFINITION AND MEANING OF PRISON

Prison, an institution for the confinement of persons who have been remanded (held) in custody by a judicial authority or who have been deprived of their liberty following conviction for a crime. A person found guilty of a felony or a misdemeanour may be required to serve a prison sentence. The holding of accused persons awaiting trial remains an important function of contemporary prisons, and in some countries such persons constitute the majority of the prison population. In the United Kingdom, for example, generally about one-fifth of the prison population is unconvicted or unsentenced, while more than two-thirds of those in custody in India are pre-trial detainees.

“Prison” means any jail or place used permanently or temporarily under the general or special orders of a State Government for the detention of prisoners, and includes all lands and buildings appurtenant thereto, but does not include—

- (a) any place for the confinement of prisoners who are exclusively in the custody of the police;
- (b) any place specially appointed by the State Government under section 541 of the Code of Criminal Procedure, 1882; or
- (c) any place which has been declared by the State Government, by general or special order, to be a subsidiary jail.

A prison, gaol or jail is a facility in which inmates are forcibly confined and denied a variety of freedoms under the authority of the state as a form of punishment. The most common use of prisons is as part of a criminal justice system, in which individuals officially charged with or convicted of crimes are confined to a jail or prison until they are either brought to trial to determine their guilt or complete the period of incarceration they were sentenced to after being found guilty at their trial. Outside of their use for punishing civil crimes, authoritarian regimes also frequently use prisons and jails as tools of political repression to punish political crimes, often without trial or other legal due process; this use is illegal under most forms of

international law governing fair administration of justice. In times of war or conflict, prisoners of war may also be detained in military prisons or prisoner of war camps, and large groups of civilians might be imprisoned in internment camps. Nowadays the power of imprisonment mostly vests in the courts and Judicial systems have been recognized worldwide for bringing home the guilt of offender and awarding them punishment as per the law of land.

Legal imprisonment is devised as mode of punitive as well corrective method by the judicial systems evolved in the civilized society. It is closely linked to jurist theory of Pain and pleasures. Apart from other punishments awarded, imprisonment plays an important role in protecting the community against the most dangerous offenders and in punishing the most serious crimes. Law is continuous process and recent research and experience have shown the many disadvantages of over using imprisonment. Imprisonment can harm the chances of people to amend and fulfil their potential as reformed citizens. The Constitution of India, the Universal Declaration of Human Rights and the Standard Minimum Rules for Treatment of Prisoners clearly specify the standards of treatment with the prisoners in jails. The purpose of imprisonment is to confine the person to dissociate him from others and for preventing further crimes and at the same time restraint him from spreading his criminality. But it is now felt that prisons have its own shortcomings.

10.3. HISTORY OF PRISON SYSTEM IN INDIA

During Vedic period administration of a justice was not a part of the state duties. In this period offences such as theft, murder and adultery are mentioned but there is nothing which designate that the king or an authorised person as a judge have power to pass any judicial judgement either in criminal or civil cases. Even in the sutras and shastras we rarely come across the word prison or jail.

In general, the history of prison system is divided into three phases. In the first phase which lasted until the middle of the 16th century prison institution was chiefly cell of detention room in safe and secure parts of the cities or villages in which prisoner whose trial is pending or whose sentence is executed was kept. In the second phase there was experimentation with imprisonment a form of punishment for certain types of offenders specially juveniles. In the third phase there was universal adaptation of imprisonment as a substitute for all capital punishments.

Ancient India

In the ancient time, in India prison was only a place of detention where an offender was detained till his trial and judgment and the execution of the judgement. In ancient time, the structure of society was based on the principles pronounced by Manu and explained by Yagnavalkya, kautilya and others. Imprisonment was the easiest kind of penalty known importantly in ancient Indian Penology among the various kinds of bodily punishments such as branding, hanging, mutilation and death.

This type of punishment was suggested in Hindu scriptures that the wrongdoer or evildoer was put into prison to set aside him from the society. The main aim of imprisonment was to keep away the wrongdoer and not corrupt he members of social doer. These prisons were totally dark hole, cool and damp, unlighted and unarmed. There was also not proper arrangement for sanitation and no means of facility for human residence.

In ancient time fine, imprisonment, banishment, mutilation and death sentence were the modes of punishment. Fine was the most common punishment and when a person who was not able to pay the bill, was condemned to bondage until it was paid by his labour. Fines for murder of a Brahmin were 1000 cows, for murder of Kshatriya 500 cows, for murder of Vaishya 100 cows and for murder of Sudra or women of any caste.

The Indian law also gave some description of jail life. A few Smriti writers also gave some information related to the jail. Yagnavalkya stated that a person who assists the prisoner in escaping from the prison was liable for capital punishment. Vishnu suggested the penalty of imprisonment for that person who hurt the eye of a man. Kautilya described the place of prison and also the occasions on which prisoner was released. The officer of the jail was known as Bhandanagaradhyaksa who was the superintendent of jail and karka who was the assistant of superintendent. The jail department was worked under the charge of Sannidhata. Kautilya also described the duties of the jailor who always keeps eye on the movement of the prisoners and proper functioning of the prison.

In the post Ashokan age the jatakas said that prisoner should be released at the time of war. From Harshacharita it appears that the conditions of the prisoners were not satisfactory. At the time of the Royal coronation the prisoners were released from the jail. According to Hiuen Tsang the treatment with the prisoners was generally harsh. In ancient time the regular prison system as such was not in existence. Imprisonment as a mode of punishment was not a regular in comparison to Modern System in India.

Mediaeval India

The legal system in the mediaeval India is similar to Ancient India and existing Muslim rulers seldom. During the Mughal period source of law is the Quran. Crimes were divided into three groups that is crime against god, crime against state, crime against private person. The punishments for these crimes were divided into four categories that is Hadd, tazir, qisas and tasir. Imprisonment was not considered as a punishment in the case of ordinary criminals.

It was mostly used as a means of detention only. There were fortresses which were situated in different parts of the country in which criminals whose trial and judgement was pending, were detained. There were three Noble prisons or Castles in Mughal India. One was at Gwalior, second was at Ranathambore and the last one was at Rohtas.

The only redeeming feature of the prisoners was that the order for his release was issued on special occasions. In 1638 AD Shahjahan issued the order of release of prisoners on the occasion of the celebrations of recovery from illness of the favourite Princess Begum Sahib.

There were some rooms which were reserved for prisoners and culprits who commit the serious crimes. These rooms were known as Bhandhikhanas or Adab khanas. During the Maratha period also imprisonment was not a common form of punishment. At that time death, mutilation fine were the common forms of punishment. The form of punishment in Maratha period was also same as of Ancient and Mughal period.

The main features of the prison system that prevailed in the pre- British period are as follows:

- There were no prisons in Modern sense.
- There were no descriptions of internal administration of prisons.

- There were no rules for maintenance and functioning of prisons.
- There were no existence of separate prison service and courts were not feeding centre for prisons

Modern India

The present prison system of our country is a gift of the British rule. It was a creative creation of the colonial rulers our local penal system with the motive of making imprisonment a terror to wrong doers. There was a great leap in the history our penal reforms as it makes possible the abolition of our old system of barbarous punishment and substitution of imprisonment as the chief form of punishment for crimes.

In 1784 the British Parliament gave power to the East India Company to rule over the India. There were some attempts also made to introduce improvement in the administration of the law and justice. There were 143 civil jails, 75 criminal jails and 68 mixed jail presented at that time. These jails were the extension of Mughal rule which were managed by the members of the East India Company. The East India Company made their efforts to maintain peace and security and wanted to establish their trade. The British only believed in keeping the prisoners in custody as economically as possible and with the intention of making maximum profit of the government. The early British Administration formulated its prison policy easily with a view to serve it colonial interest alone.

In 1835 Lord Macaulay drew the attention of the Legislative Councils of India towards the unacceptable conditions of the Indian Jails and proposed to appoint a committee for the purpose of collecting information related to the condition of the Indian prisons and preparing on improved plan of prison discipline and also for the suggestion related to the reforms in the prison due to this the jail will become the model for other prisons.

The Legislative Councils of India accepted the proposal of Lord Macaulay and appointed 'The Prison Dis Discipline Committee'. Hon'ble H Shakespeare was the president of the committee and Lord Macaulay was one of the members of the committee. This committee submitted his report in 1838. The Enquiry Committee was the landmark in the history of the penal administration in India. After this the meaning, nature, and character of the prison institution was changed and also got different treatment but this change was basically penal in nature.

For the very first time, this committee directed the attention of the English rulers of India towards the variety of vices of the administration of the Indian jails. This report criticised the corruption of subordinate establishment, the carelessness of discipline and the system of employing prisoners in extra mural labour or public roads. This committee deliberately rejected all types of reforms which influenced moral and religious teaching, education or the system of giving reward for the good conduct.

The focus of the authority of committee is in favour of increased rigour of treatment and also proposed to engage all prisoners in dull, monotonous wear some and interesting task in which quicker relief was secured by working harder for a time. According to this committee the purpose of prison was to make the prison a place of dread through a brutal process of severe privation, really hard work, solitude, silence and separation. On the report, suggestion, and advice and in the pursuance of the recommendations of the committee a Central Prison was established at Agra in 1846. This was the first Central Prison in India after that a central prison

was established at Barilley and Allahabad in 1848, at Lahore in 1852, at Madras in 1857, at Bombay in 1864, at Alipore in 1864, at Banaras and Fatehgarh in 1864, and at Lucknow in 1867. This was a positive contribution in the history of the prison reforms in our country, along with its advocacy of the theory of retribution in prison administration.

In 1884 the first inspector General of prison was appointed on the experimental basis for two years in the North Western province and tenure was further extended. In 1850 the Government of India made this post as a permanent post and also recommended that each province should appoint an inspector General of prisons. In 1862 the North Western province employed civil surgeon as a Superintendent of District Jails. The Prison Act was passed by the Government of India in 1870. This Act laid down that there should be a Superintendent, a medical officer, a jailor and some other subordinate officers as the local government thinks necessary.

This Act also specified and categorised the duties of the prison officers. This Act also provide provision related to the separation of male prisoners from female, separation of children offenders from adult, and separation of criminal from civil offenders. In 1877 and 1889 third and fourth enquiry committee was constituted. On the recommendations of the committees the Prison Act 1894 was passed. Due to the effect of this Act there was a considerable material progress in the concept of jails during this period.

In 1919 the British government appointed a joint commission of officials which investigate about the management of jails and suggest improvement in the maintenance of jails. This commission gave recommendations related to the separate institution like Borstal school for juvenile delinquents. Offenders whose trial is pending should be kept separate from the convicted offender, there should be classification of habitual and casuals' offenders between the adults.

The report of the committee also through some light on the view of the transportation of offenders to the Andaman Island and recommended to stop this practise. Solitary confinement was also abolished after this report. All convicts who were the below of 29 years of age were to be cared under the adult education programmes and libraries were also established in the jails. The quality of food was also improved and two pairs of clothes should be provided to the prisoners. The main idea or purpose of the committee was the reformation of the inmates which was the ultimate object of imprisonment and rehabilitation of prisoners as social necessity.

This prison reform system received a sudden obstruction due to the constitutional changes which was brought by the Government of India Act, 1919. This Act transferred the control of the Jail Department from the Government of India to the Provincial Government.

After the Independence of India there was increase in the reforms of prison. Indian leaders were ready with blue print for the industrial development of the country, but the jail reforms could not escape their eyes as all of them passed their prime life in the jail. Under the Indian constitution prison administration was the subject of state. This organisation was headed by the Inspector General of Prisons. This organisation consists several central prisons, sub jails, district jails. All states adopt different patterns of jail administration. The central jails are intended for long term prisoners who were convicted in court.

10.4. PRISONS IN INDIA

India follows the international obligations and guidelines with respect to the care of prisoners and various steps are being taken towards prison reform. According to the UN Global Report on Crime and Justice 1999, the rate of imprisonment in our country is very low, i.e. 25 prisoners per one lakh of population, in comparison to Australia (981 prisoners), England (125 prisoners), USA (616 prisoners) and Russia (690 prisoners) per one lakh population. A large chunk of prison population is dominated by first offenders (around 90%) The rate of offenders and recidivists in prison population of Indian jails is 9:1 while in the UK it is 12:1, which is quite revealing and alarming. Despite the relatively low number of persons in prison as compared to many other countries in the world, there are some very common problems across prisons in India, and the situation is likely to be the same or worse in many developing countries.

International Guidelines

The International Covenant on Civil and Political Rights (ICCPR) remains the core international treaty on the protection of the rights of prisoners. India ratified the Covenant in 1979 and is bound to incorporate its provisions into domestic law and state practice. The International Covenant on Economic, Social and Cultural Rights (ICESR) states that prisoners have a right to the highest attainable standard of physical and mental health. Apart from civil and political rights, the so called second generation economic and social human rights as set down in the ICESR also apply to the prisoners.

On the issue of prison offences and punishment, the standard minimum rules are very clear. The rules state that, no prisoner shall be punished unless he or she has been informed of the offences alleged against him/her and given a proper opportunity of presenting his/her defence".

It recommends that corporal punishment, by placing in a dark cell and all „cruel, inhuman or degrading punishments shall be completely prohibited as a mode of punishment and disciplinary action“ in the jails. Prison Reforms in India The modern prison in India originated with the suggestions of TB Macaulay in 1835. A committee namely Prison Discipline Committee, was appointed, which submitted its report on 1838. The committee recommended increased rigorousness of treatment while rejecting all humanitarian needs and reforms for the prisoners. Following the recommendations of the Macaulay Committee from 1836-1838, Central Prisons were constructed from 1846. The contemporary Prison administration in India is thus a legacy of British rule. It is based on the notion that the best criminal code can be of little use to a community unless there is good machinery for the infliction of punishments.

In 1864, the Second Commission of Inquiry into Jail Management and Discipline made similar recommendations as the 1836 Committee. In addition, this Commission made some specific suggestions regarding accommodation for prisoners, improvement in diet, clothing, bedding and medical care. In 1877, a Conference of Experts met to inquire into prison administration. The conference proposed the enactment of a prison law and a draft bill was prepared. In 1888, the Fourth Jail Commission was appointed. On the basis of its recommendation, a consolidated prison bill was formulated. Provisions regarding the jail offences and punishment were specially examined by a conference of experts on Jail Management. In 1894, the draft bill became law with the assent of the Governor General of India.

Prisons ACT 1894

Prisons Act, 1894, is the basis on which the present jail management and administration is operated in India. This Act has hardly undergone any substantial change over such a long period. However, the process of review of the prison problems in India remained in continuation. For the first time in the history of prisons in Indian Jail Committee 1919-20, 'reformation and rehabilitation' of offenders were identified as the objectives of the prison administrator. After Independence several committees & commissions appointed by Central and State governments emphasized humanitarian conditions in the prisons. The need for considerable change and consolidating the laws relating to prison has been constantly highlighted.

The Government of India ACT 1935

Allowed the subject of jails from the centre list to the control of provincial governments and hence further reduced the possibility of uniform implementation of a prison policy at the national level. State governments thus have their own rules for the day-to-day administration of prisons, upkeep and maintenance of prisoners, and prescribing procedures. In 1951, the Government of India invited the United Nations expert on correctional work, Dr. W.C. Reckless, to undertake a study on prison administration and to suggest policy reform. His report titled 'Jail Administration in India' made a plea for transforming jails into reformation centers.

He also recommended the revision of outdated jail manuals. In 1952, the Eighth Conference of the Inspector Generals of Prisons also supported the recommendations of Dr. Reckless regarding prison reform. Accordingly, the Government of India appointed the All-India Jail Manual Committee in 1957 to prepare a model prison manual. The committee submitted its report in 1960. The report made forceful pleas for formulating a uniform policy and latest methods relating to jail administration, probation, after-care, juvenile and remand homes, certified and reformatory school, borstals and protective homes, suppression of immoral traffic etc. The report also suggested amendments in the Prison Act 1894 to provide a legal base for correctional work.

SUBSEQUENT DEVELOPMENTS

Following a Supreme Court direction (1996) in Ramamurthy vs State of Karnataka to bring about uniformity nationally of prison laws and prepare a draft model prison manual, a committee was set up in the Bureau of Police Research and Development (BPR&D). The jail manual drafted by the committee was accepted by the Central government and circulated to State governments in late December 2003. In 1999, a draft Model Prisons Management Bill (The Prison Administration and Treatment of Prisoners Bill- 1998) was circulated to replace the Prison Act, 1894 by the Government of India to the respective states but this bill is yet to be finalized. In 2000, the Ministry of Home Affairs, Government of India, appointed a Committee for the Formulation of a Model Prison Manual which would be a pragmatic prison manual, in order to improve the Indian prison management and administration.

The All-India Committee on Jail Reforms (1980-1983), the Supreme Court of India and the Committee of Empowerment of Women (2001- 2002) have all highlighted the need for a comprehensive revision of the prison laws but the pace of any change has been disappointing (Banerjea 2005). The Supreme Court of India has however expanded the horizons of prisoner's rights jurisprudence through a series of judgments. In its judgments on various aspects of prison

administration, the Supreme Court of India has laid down three broad principles regarding imprisonment and custody. Firstly, a person in prison does not become a non-person; secondly, a person in prison is entitled to all human rights within the limitations of imprisonment; and, lastly there is no justification for aggravating the suffering already inherent in the process of incarceration. The existing statutes which have a bearing on regulation and management of prisons in the country are:

- (i) The Indian Penal Code, 1860.
- (ii) The Prisons Act, 1894.
- (iii) The Prisoners Act, 1900.
- (iv) The Identification of Prisoners Act, 1920.
- (v) Constitution of India, 1950
- (vi) The Transfer of Prisoners Act, 1950.
- (vii) The Representation of People's Act, 1951.
- (viii) The Prisoners (Attendance in Courts) Act, 1955.
- (ix) The Probation of Offenders Act, 1958.
- (x) The Code of Criminal Procedure, 1973.
- (xi) The Mental Health Act, 1987.
- (xii) The Juvenile Justice (Care & Protection) Act, 2000.
- (xiii) The Repatriation of Prisoners Act, 2003.
- (xiv) Model Prison Manual (2003).

10.5.THE POWERS AND DUTIES OF OFFICERS & EMPLOYEES:

(a) Cases which are disposed of at the level of D.G. Prisons:

- (i) Overall general control and Superintendence over the Department of Prisons & Correctional Services.
- (ii) He exercises such financial powers as are delegated to him under the rules.
- (iii) Sanction of all kinds of leave except study leave to gazetted officers.
- (iv) He is authorized to grant special remission to prisoners as per provision in H.P Jail Manual.
- (v) Transfer of prisoners to Open Air Jail and grant of Parole.
- (vi) He exercises all disciplinary powers over non-gazetted staff.
- (vii) He orders transfers and promotions of non-gazetted staff.

(b) Cases which are disposed off at the level of Sr. A.I.G. Prisons/ S.P. (Prisons):

- (i) Assists the Director General of Prisons & Correctional Services in matters pertaining to the Department.
- (ii) He has been made Head of Office by the Director General of Prisons & Correctional Services.
- (iii) Financial sanctions in accordance with powers delegated to him by D.G. Prisons.
- (iv) He is departmental Vigilance Officer and appellate authority under the R.T.I. Act.
- (v) All other duties as may be assigned to him by D.G. Prisons from time to time.
- (vi) Inspection of Prisons.

(c) Cases which are disposed off at the level of Chief Welfare Officer (Prisons):

- (i) He assists the D.G /Sr. A.I.G. Prisons/S.P. (Prisons) in all matters relating to the welfare of prisoners.

- (ii) He is also the D.D.O.
- (iii) He is Public Information Officer under Right to Information Act.
- (iv) All other duties as may be assigned to him by the Director General of Prisons & Correctional Services from time to time.
- (v) He is responsible to look after Welfare of all prisoners in the Jails.
- (vi) Supervision of welfare activities & prisons factories in the prisons.

(d) Cases which are disposed of at the level of Deputy/Assistant District Attorney (Prisons):

- (i) He assists the Director General of Prisons & Correctional Services in all legal matters.
- (ii) Preparation of replies in the references received from the High Court.
- (iii) Action taken reports on the inspections of prisons by the District & Sessions Judges.
- (iv) Any other duty as may be assigned to him by the Director General of Prisons & Correctional Services from time to time.

(e) Superintendent Jail:

Subject to the orders of the Director General of Prisons & Correctional Services, the Superintendent of a jail is responsible for managing the prisons in all matters relating to security, discipline, expenditure, punishment and control. The officer-in-charge of a prison is responsible for receiving and detaining all persons duly committed to his custody under the Prisons Act or otherwise by any court, according to the exigency of any writ, warrant or order of the court by which such person has been committed or until, such person is discharged or removed in due course of law. He is responsible for exercising a vigilant supervision and control over all money and property, etc. of whatever kind received by him or by any subordinate officer, or on account of the Government, the Jail or any prisoners confined therein, entering and over all expenditure of every kind incurred by him or under his authority or orders on the upkeep and management of the Jail and the maintenance of prisoners. He is personally liable for all defalcations, loss or damage in any way due or attributable to any disobedience or misconduct on his part. He is duty bound to carry into effect all requisition in writing of the Medical Officer, as to the provision of extra bedding or clothing or the alteration of diet of any prisoners or with respect to any alteration of discipline or treatment in the case of any prisoner whose mind or body, may in the opinion of the Medical Officer, require it.

The Superintendent is responsible for submission of returns of statistical information, statements of accounts, assessment of the working of the Jail and other data as may be required or prescribed by the Director/Inspector General of the Prisons. He exercises such powers in regard to the appointment and punishment of subordinate officers as specified in the rules. He may at any time inquire into and record his opinion on the conduct of any subordinate officer. He exercises the power of the head of office in respect of the Jail establishment under his control. He is authorized to grant remission to prisoners as per the provisions of Jail Manual.

(f) Deputy Superintendent Jail:

He discharges his duties under the immediate direction and orders of the Superintendent. It is his duty to enforce or cause to be enforced all laws, rules, regulations, directions and orders, relating to the management of Jails and prisoners, and applicable to the Jails or to any prisoner confined there in, for the time being in enforce. He is responsible for ensuring the safe custody of prisoners confined in the Jail as well as enforcing and maintaining

discipline and order amongst prisoners and all subordinate officers of the Jail at any time serving under his orders or control. He is also responsible for the safe custody of the record to be kept, the commitment warrants and all other documents, confided to his care and for the money and other articles taken from prisoners.

(g) Medical Officer:

Subject to the control of the Jail Superintendent, he has the charge of sanitary and medical administration of the prison. He inspects the cook houses to test the weight and quality of the ration before and after cooking. He may in his discretion, make any addition to or alteration in the diet for the sick, convalescents, the aged and the young prisoners which he may deem necessary on medical grounds and record brief reasons therefore, in the history ticket of prisoners. It is his responsibility to ensure that all the medicines and instruments charged to the jail accounts are faithfully and solely used in the service of the jail. He is further responsible for taking of all measures and precautions to meet the emergency and prevent the spread of epidemic disease of any kind and to ensure that steps are promptly taken and that the rules and orders regulating such matters are fully enforced. He has to take special care of the mentally sick prisoners and ensure their proper treatment.

(h) Assistant Superintendent Jail:

He is a non-gazetted officer, who assists the Deputy Superintendent Jail in the discharge of his duties and takes the place of the Deputy Superintendent Jail, whenever the officer is temporarily absent from duty.

(i) Office Superintendent:

General supervision over office staff and other duties as defined in the Office Manual. Normally there are 02 posts of Office Superintendents and one each has been provided in Prisons Headquarter and in Central Jail. In Jails, for running the office, the posts of Senior Assistants have been provided in Central Jails, District Jail, and in Open Air Jail if any and Clerks in the remaining Jails/Sub Jails have been provided to assist the Superintendent Jails.

10.6. TYPES OF PRISONS

In India there are three levels of Prison such as Taluka level, district level and central level (sometime it is also known as zonal /range level). The jails in these levels are known as Sub jails, district jails and central jails respectively. In general the infrastructure, security, medical facilities, educational and rehabilitation facilities are better from sub jail to central jail. There are also some other types of jail such as women jails, Borstal school, open jails, and special jails.

Central Jail

The criteria for dividing a jail as a central jail are different from state to state. The common feature of all states central jail is that those prisoners are confined in the central jails who are sentenced to imprisonment for a long period that is more than two years. These jails are made for lifers and for those people who commit heinous crime. In this type of prison, effort is made to re-establish the morality and integrity of the prisoners.

The criminals in these jails earn their wages by doing some hard work. These jails have larger capacity of accommodation in comparison to other jails. These jails also have additional facility of rehabilitation. There are total 134 central jails. Delhi has the highest number of central jails that is 16, Madhya Pradesh have 11, Maharashtra, Punjab, Rajasthan and Tamil Nadu each have 9 central jails, Karnataka has 8 central jails, Gujarat has 4 central jails. Arunachal Pradesh, Meghalaya, Andaman and Nicobar Islands, Dadra and Nagar Haveli, Daman and Diu and Lakshadweep do not have a single central jail.

District Jail

There is not much difference between the central jails and district jails. District jails are the main jails for those states and union territories where there is no central jail. There are total 379 district jails in India. Uttar Pradesh has 57 district jails, Madhya Pradesh has 39, Bihar has 31, Maharashtra has 28, Rajasthan has 24, Assam has 22, Karnataka has 19, Jharkhand has 17, Haryana has 16, Gujarat has 11, Kerala has 11, West Bengal has 12, Chhattisgarh has 11, Jammu Kashmir and Nagaland each has 10 district jails.

Sub Jails

In India these sub jails play the role of the sub-divisional jails. These jails are the smaller institution situated at the sub-divisional level of the state. These jails have the well organised and better set up of prison because they are formed at the lower level. There are 9 states which have higher number of sub jails in India. These states are Maharashtra has 100 sub jails, Andhra Pradesh has 99, Tamil Nadu has 96, Madhya Pradesh has 72, Karnataka has 70, Odisha has 73, Rajasthan has 60, Telangana and West Bengal each has 33. Odisha had the highest capacity of inmates in various sub jails. There are 7 states or union territories which have no sub jails. The names of these states or union territories are Arunachal Pradesh, Haryana, Mizoram, Manipur, Meghalaya, Nagaland, Sikkim, Chandigarh and Delhi.

Open prisons

All prisoners are not dangerous criminals and not even some of those who have committed serious offences. Open prisons in one form or another have been in existence in India for a long time. First open jail in India was introduced in the Kerala by the Home Minister of Kerala P.T. Chacko in Nettukaltheri near Neyyar Trivandrum on 28 August 1962.

In India, there are 44 open prisons and more than half of them exist in the State of Rajasthan (23 in number). Open prisons have developed better in some states of India than in others for a variety of reasons. Prisoners serving life sentence on the basis of their good conduct are shifted to the open prisons. The Open Prisons restore the dignity of the individual and give a sense of self confidence and self-reliance by instilling a sense of responsibility in the individual. Several States in India have such opens prisons.

The positive effects of open prisons are - It lessens the damage to offenders and society It reduces the overcrowding in prisons It costs far less for the State to have people living in open prison than to pay for their upkeep in the jails and finally It inculcates a sense of social responsibility towards family and society The appreciation of open prison as an effective institution for rehabilitation of offenders have been highlighted by Supreme Court as late as 1979 in Dharambeer vs State of U.P. the court observed that the institution of open prisons has certain advantages in the context of young offenders who could be protected from some of the

well-known vices to which they were subjected to in ordinary jails. However, the concept of open prisons needs to be given more publicity in our country to bring the focus of society to reformed offenders. Apart from agricultural based open prisons it is suggested that there should be open prisons with an industrial / manufacturing base as well. Open Prisons for women should also be encouraged.

The name of these types of jails may appear contradictory but this is true. These jails are the minimum-security prisons. According to the Rajasthan Prison Rules open jails means the prison without walls, bars and locks. In these jails only those convicted prisoners are admitted who possess good behaviour and satisfying the norms which are prescribed in the prison rules. Minimum security is kept in these jails and prisoners are engaged in the agricultural activities and allowed to earn for their families.

Special Jail

These jails are the maximum-security prisons and have special arrangements for the prisoners. In these jails prisoners of particular class or classes are confined. Prisoners who are confined in special jails are those who are convicted for the offence of terrorism, violent crimes, habitual offenders, serious violation of prison discipline and inmates are violent and aggressive towards other inmates. There are total 43 special jails in India. Kerala has the highest number of special jails that is 16. Provisions related to the keeping female prisoners in the special jail are also available in the state of Tamil Nadu, Gujarat, West Bengal, Kerala, Assam, Karnataka and Maharashtra.

Women's Jails

Women's jails are those which are exclusively only for the female prisoners. These jails are established for the safety of the women prisoners. These jails comprise of female staff members. These jails are existing at sub-divisional, district and central level. There are total 20 women's jails in India. Women's jails have limited capacity so mostly female prisoners are confined in other forms of jail. Maharashtra has 5 women's jails; Kerala and Tamil Nadu each have 3 jails.

Borstal School

It is a type of youth detention centre and is used exclusively for the confinement of minors or juveniles. The main and primary object of these schools are to ensure care, welfare and rehabilitation of young offenders in which environment which is suitable for children and keep them away from infecting atmosphere of the prison. The juveniles in conflict with law are detained in Borstal School and provide various vocational and educational training with the help of trained teachers. For the reformation of juvenile and to prevent him from crime main emphasis given to the education, training and moral influence. Nine states have Borstal School.

The names of these states are Himachal Pradesh, Jharkhand, Karnataka, Kerala, Maharashtra, Punjab, Rajasthan, Tamil Nadu, and Telangana. Tamil Nadu has the highest capacity for keeping inmates in Borstal school. Himachal Pradesh and Kerala are the only states which have capacity to keep female inmates in 2 of their Borstal school. There are no Borstal school in union territories of India till the end of 2015.

Other Jails

Jails which do not fall under the above mentioned categories then these jails are come under the category of other jails. Only three states have other jails. The name of these states is Karnataka, Kerala and Maharashtra and each state have one other jail. Karnataka has the highest capacity to keep the inmates in other jail after that Kerala and then Maharashtra has. In spite of these state no other state or union territories of India have other jails.

10.7. PRISON FUNCTIONS

Social isolation and confinement –

To remove a criminal from society because he has shown to be a threat to society's organisation, stability, and cohesiveness, and to maintain him out of circulation and safely confined so that his breaking of the law does not bother the man on the street's peace of mind.

Protection of Society –

Safeguarding the community from criminals by identifying and stigmatising those who break the law so that others are warned.

Punishment –

To inflict pain and suffering on an offender (i.e., punishment) for violating legal norms, so that criminals are worse off than underprivileged honest citizens; law-abiding individuals must be satisfied that law-breakers are punished and secured against the threat of reoffending, and people in society may be refrained from committing crimes.

Reformation –

It entails changing the offender's values, motives, attitudes, and perceptions, as well as resocializing and reintegrating him into society.

The legal system of the India is always based on the non violence, mutual respect for each other and treating other human with dignity. If a person commits crime that does not means that the person stops or barred from been a human being or becomes a non- human or non-person, he cannot deprived from personal liberty. The prisoners are also entitled for the human rights because torture is a confession to the failure of the justice system. Article 21 of the Constitution of India guarantees personal liberty and prohibit all kinds of inhuman, cruel and degrading treatment towards any person whether an Indian national or an alien. The violation of this Article would attract the article 14 of the Constitution of India which talks about the right to equality and equal protection under the law. The rights of prisoners are covered under the Prison Act, 1894.

10.8. RIGHTS OF THE PRISONERS IN INDIA

If a person is arrested, it does not entail that he is no longer a human being or that he is no longer a person; he cannot be denied his personal liberty. Confession by torture shows the legal system's failure, hence inmates are also entitled to certain human rights. This is created under Article 21 of the Indian Constitution, which protects personal liberty and hence outlaws all forms of inhumane, cruel, and humiliating treatment of anybody, whether an Indian or an immigrant. Provision 14 of the Indian Constitution, which enshrines the rights of all people and equal treatment under the law, would be invoked if this article is violated. In addition, the Prison Act of 1894 addresses a prisoner's rights. Any excessive treatment of a prisoner by the

police would be met with the fury of the legislation and the courts. As a result, the Indian judiciary, particularly the Supreme Court, has become increasingly efficient and attentive in protecting prisoners' rights.

Right To Legal Aid:

The human rights and personal liberty are of no use if person not getting the proper legal aid to enable that they have proper access of justice in case of violation of their rights. Legal aid is a legal right of every person it is not a charity. The main purpose of legal aid is that justice should be administered properly and easily available and accessible.

It should be ensured that legal aid is available for all persons who want to enforce their rights. Legal aid provides an opportunity to the Indian society for the redressal of the damages of the poor and the needy and establishes the foundation of rule of law. Judiciary plays a important role in the development of the concept of legal aid and expand its scope.

Right To Speedy Trial:

This is one of a prisoner's most crucial fundamental rights, as stated in Article 21 of the Indian Constitution. This component encompasses both social and public interests. The constitutional provision of a swift trial is a crucial precaution to avoid unjust and oppressive confinement before trial, to reduce the anxiety that comes with public accusation, and to reduce the risk that protracted delays would harm an accused's capacity to defend himself.

The right to a speedy trial is originally recognised in the Magna Carta, England's most important legal instrument. Though the constitutional notion of the right to a speedy trial has been there for over two and a half decades, the objective it seeks to attain is still a long way off. It is a notion that deals with the expeditious resolution of cases in order to make the judiciary more effective and to deliver justice as quickly as feasible. No one shall, according to Article 21. When dealing with the bail petition in *Babu Singh v. State of UP*, Judicial Krishna Iyer said, "Even in major instances, our justice system suffers from a slow-motion syndrome, which is very against to the concept of a "fair trial," regardless of the end final judgement. Because the society as a whole is interested in the criminal being treated with dignity and eventually punished within a fair time frame, and the innocent being spared from the disproportionate anguish of criminal procedures, speedy justice is a component of social justice." The trial court have power to release the accused on bail on certain conditions if the accused was in jail for the half of the period of punishment as mention for that offence which was committed by accused. If the offence has been in trail is punishable with imprisonment for a period exceeding 7 years, then the prosecution must close the evidence within three years from the date of the recording of the plea, no matter accused was in jail or not.

Right Against Solitary Confinement and Protection from Torture:

There is a prohibition of separate or solitary confinement of the prisoner or the complete isolation of the prisoner from the entire society. Torture is the something that was consider normal by an investigating officer or agency for the confession. Morally it shows the burden of the stronger over the weaker. In the case of *D.K. Basu vs. State of West Bengal* 1997 1 SCC 416 the court held that torture during custody is a gross violation of human dignity and is degrading to the individual personality. The right to life and liberty is an expression of human right. So, the court held that no person who is arrested can be detained in custody without

giving him knowledge and information about the grounds of the arrest and he should not be denied for the right of the legal practitioner.

10.9. PROBLEMS IN THE PRISON

A. Violence

Prisons are often dangerous places for those they hold. Group violence is also endemic and riots are common. In a three-day riot and stand-off in the Chappra District prison in Bihar towards the end of March, 2002, 6 prisoners died in the shootout that occurred when commandos of the Bihar Military Police were called in to quell the riots. Incidents of internal violence are there where meek and first time offenders are tortured and made to do all menial tasks for their senior inmates. Failure of compliance many times increases their woes.

B. Criminalising effect of a prison

There are severe chances of contamination of the first time, circumstantial & young offenders into full-fledged criminals being huddled with hard core criminals of heinous crimes in the same prisons. It is an often-given quote that prisons are universities of crime, where people go in as under-graduates and come out with Ph.Ds. in crime. There should be scientific and psychological classification of inmates/prisoners. The courts in Delhi have taken leap bounding step in this regard by creation of separate Family Courts. As for the first time the subjects of family disputes are taken at distance from the regular criminals, this is the first step in avoiding their mixing with the other criminals.

C. Over crowding

Prisons are overcrowded and there is shortage of adequate space. Congestion in jails, particularly among under trials has been a matter of concern. Majority of the inmates constitute those who are awaiting trial. To decrease the prison overcrowding the under-trial population has to be reduced drastically. The three wings of the criminal justice system would have to act in harmony to achieve this goal.

Jail overcrowding has long been an issue in this nation, high occupancy levels in the middle of a pandemic can only spell disaster. The Supreme Court has intervened on several occasions to resolve this issue, but its most recent ruling requiring the interim release of eligible convicts takes on added importance in light of the raging pandemic's uncontrolled second surge. Last year, the Court issued such an injunction ahead of schedule — on March 23, 2020, the order was issued even before the nationwide lockdown. Across India, it was seen a total of 4,78,600 prisoners in different prisons but the maximum capacity of these prisons was just 4,03,700 which causes overcrowding which leads to a poor condition of living. It also results in the transmission of many communicable diseases.

D. Sexual abuse

Prisons are institutions that lodge people of same sex together. Being removed from their natural partners, forces the prisoners to look for alternative ways to satisfy their sexual urges. This often finds vent in homosexual abuses where young and feeble are targeted. Resistance leads to aggravated violence. At times, prisoners are subjected to massive homosexual gang-rapes. Apart from causing severe physical injuries and spreading sexually transmitted diseases including HIV/AIDS, it also induces severe trauma in prisoners forcing some of them to commit suicide. The victims carry a lot of anger and frustration in themselves, which they take out on the next innocent person

E. Corruption and extortion

Extortion by prison staff, and its less aggressive corollary, guard corruption, is common in prisons around the world. The guards exercise substantial power over the inmates and the lust for easy money allures them for these evils. In exchange for contraband or special treatment, inmates supplement guards' salaries with bribes. There are incidents where powerful inmates enjoyed cellular phones, rich diets, and comfortable lodgings even in prisons.

F. Health and hygiene

Many prisons lack adequate medical facilities. As a result, the prisoners are neglected, and the majority of them go undiagnosed. The convicts' hygiene is likewise deplorable. It has been noted that attorneys defending inmates must apply for basic necessities. In Delhi, it was discovered that in the dead of winter, inmates were not given adequate clothing. In Indian jails, the most money is spent on food. During that year, West Bengal, Punjab, Madhya Pradesh, Uttar Pradesh, Bihar, and Delhi reported considerably greater medical spending, whereas Bihar, Karnataka, and West Bengal reported relatively higher vocational and educational spending. Tamil Nadu, Orissa, and Chattisgarh have reported considerably larger spending on prison-related social initiative.

When the common citizen of country cannot enjoy the safe and healthy condition it is farce to think of the same in the prisons meant for criminals. Most of the prisoners already come from socio-economically disadvantaged sections of the society where diseases, malnutrition and absence of medical services are prevalent. When such people are cramped in with each other in unhealthy conditions, infectious and communicable diseases spread easily.

G. Drug abuse

Besides murder, attempt to murder and other serious anti-personal offences, people booked under the anti-drug laws constitute a substantial percentage of the prison population. Being in prison and cut off from the free world, sees an increased desperation to get the banned substances to satisfy their addictions to drugs. Since prison is an environment where there is a captive, bored, largely depressed population eager for release from the grim everyday reality, this also increases the danger of fresh prisoners being inducted into drug abuse.

H. Custodial torture

Custodial torture is a type of torture that occurs when a person suspected of committing a crime is being held in the custody of law enforcement officers. Custodial torture, according to the Supreme Court, is a flagrant breach of human dignity and humiliation that destroys, to a considerable part, human individuality. Prisoners are subjected to a lot of torture in their cells. Despite the fact that third-degree police torture is no longer permitted following the historic D.K. Basu case, there is still a high level of brutality in jails.

I. Mental illness of prisoners

It has been estimated that the prevalence of severe mental illness in jails and prisons is three to five times higher than that in the community (Lamb et al 1998). Mental illness may develop during imprisonment or be present even before admission to the prison. Among people who are biologically prone to mental disorders, the stress of being in prison can precipitate the illness. Such disorders can also develop due to the prevailing prison conditions (structural and social factors such as overcrowding, dirty and depressive environment, poor food quality, inadequate medical care, lack of meaningful activity, enforced solitude or lack of privacy, isolation from social networks, etc), due to torture or other human rights violations. In addition, prisoners are deprived of their liberty leading to deprivation of choices taken for granted in the

outside community: they can no longer freely decide where to live, with whom to associate and how to fill their time, and must submit to discipline imposed by others. Communication with families and friends is often limited. Moreover, prisoners may have guilt feelings about their offences and anxiety about how much of their former lives will remain intact after release in addition to the stigma associated with having been in a prison.

J. Women and children

The number of female criminals is quite low. They encounter both physical and emotional challenges, such as a lack of sanitary facilities, prenatal care, and educational training. The women are also subjected to sexual assault, incarcerated rape, and physical violence. Correctional houses, rather than jails, are used to house children so that they might rehabilitate and return to their normal lives. They are, nevertheless, subjected to a great deal of abuse and psychological suffering.

Apart from stigma and humiliations the women has to take care of their children, few of which give birth within the boundaries of the prison itself. The Hon'ble Supreme Court of India after going through the various reports, affidavits of various State Governments, Union Territories, the Union of India, issued exhaustive guidelines for the protection of the women and child rights within 4 walls of prison: - This included non-treatment of child as an under-trial/convict while in jail with his/her mother and such child entitlement to food, shelter, medical care, clothing, education and recreational facilities as a matter of right. At least minimum facilities were directed to be provided to pregnant inmates and proper prenatal and post-natal care to the prisoner as per medical advice. Specific directions to avoid childbirth in prison were given and when it is not possible in exceptional cases constituting high security risk or cases of equivalent grave descriptions, the births in prison, when they occur, shall be registered in the local birth registration office. But the fact that the child has been born in the prison shall not be recorded in the certificate of birth that is issued. Only the address of the locality shall be mentioned.

Female prisoners shall be allowed to keep their children with them in jail till they attain the age of six years and no female prisoner shall be allowed to keep a child who has completed the age of six years. Upon reaching the age of six years, the child shall be handed over to a suitable surrogate as per the wishes of the female prisoner or shall be sent to a suitable institution run by the Social Welfare Department. As far as possible, the child shall not be transferred to an institution outside the town or city where the prison is located in order to minimise undue hardships on both mother and child due to physical distance. Such children shall be kept in protective custody until their mother is released or the child attains such age as to earn his/her own livelihood and shall be allowed to meet their mother at least once a week.

K. Poor Budget for Prison

In India, prison officials spent an average of US\$ 333 (INR 10 474) per offender per year in 2005, with funds going toward food, clothes, medical bills vocational & educational programmes, welfare activities, and other items (National Crime Records Bureau (NCRB) 2005). In 2001, the average yearly operational cost per state inmate in the United States was \$ 22,650. (it also includes salaries of prison staff). In Indian jails, the most money is spent on food. During that year, West Bengal, Punjab, Madhya Pradesh, Uttar Pradesh, Bihar, and Delhi reported considerably greater medical spending, whereas Bihar, Karnataka, and West Bengal reported relatively higher vocational and educational spending. Lack of communication - In reality, jails are a place of punishment where offenders may rehabilitate and reintegrate into society. However, they get traumatised owing to a lack of access to the outside world or their

family members. They are always afraid of not being welcomed back into society or their families. This causes mental disease, and instead of rehabilitating, many of them become violent criminals

10.10. SUMMARY

Prisons are an important element of the criminal justice system that punishes a miscreant's deviant behaviour in our society. India's jails and prisoners' legislation is just one of those laws that go overlooked and neglected all the time. In today's context, they are not given the priority that they should be for reform. There is a perpetual gap and vacuum since there are no rigorous laws in place for persons who are incarcerated, who have the same right to live a life of dignity and fundamental respect as all other inhabitants of the country. There have been several occasions when inmates have been subjected to inhumane treatment and have been denied basic necessities such as appropriate sanitary conditions and adequate meals.

The Central Government grants the State Government various laws and regulations on prison rules in order to ensure effective administration and maintain the safety of inmates within the prison's four walls. Special orders made by state governments examine the imprisonment of convicts, including the land and property that has been linked to them. The management of prisons is specified in the State Lists as part of item 4 of the Constitution of India's seventh schedule. In accordance with the Prisoners Act of 1894 and the Prison Manuals that various states would have independently produced, the process of administration and management of prisons falls under the jurisdiction of the state. Also, with the help of the central government states keep improving prison security, repairing and renovating old prisons, improving healthcare facilities, developing borstal schools, giving helpful facilities for women offenders, providing vocational training, modernising prison industries, training prison personnel, and building high-security enclosures.

The prison system as it operates today is legacy of the British rule in our country. It was the creation of the colonial rulers over our penal system with the motive of making imprisonment a terror to wrong doers. The Indian criminal administration also includes prison administration. It is true to say that a man is not a criminal by birth but the social and economic conditions make him criminal.

Proper food, shelter and health care treatment must be given to prisoners by the prison authority. Prisoners should not be treated inhuman because the main motive of imprisonment is not to punish but to reform a criminal due to which he will be able to live in society normally after the completion of his punishment. The punishment system in Indian is also based on the reformatory theory. There were many reforms in the Prison system in India but still there is need of some other reforms because the condition of prisoners in prison is degradable.

There was also no strong legislation for the prisoners. In present days there is many cases in which prisoner suicide or murdered in the prison and he was tortured or beaten up by the prison officers and these cases are increasing day by day so there is need of proper legislation for the protection of prisoners because prisoners are also human being and they also have all rights which other citizens have. There were also needs of the more numbers of the jails or prison because the capacity of all prisons is less than the number of prisoners. Some reforms in the prison system also suggested by legislative member or the jurists.

10.11. KEY WORDS

- A) Prisons
- B) Custodial torture
- C) Abuse
- D) Speedy trial

10.12. SELF ASSESSMENT QUESTIONS

1. Give an overview of Prisons in India
2. Explain the history of Prison system in India
3. Discuss the Rights of Prisoners in India.

10.13. REFERENCES

1. "Prisons in India: Types and Functions" (Latest Laws) <https://www.latestlaws.com/articles/prisons-in-indiatypes-and-functions/> accessed January 22, 2022
2. "Major Problems of Prison System in India" (Times of India Blog January 1, 2022) <https://timesofindia.indiatimes.com/readersblog/shubham-kashyap/major-problems-of-prison-system-in-india40079/> accessed January 22, 2022
3. "System of Prison, Its History and Types in India" (Legal Service India - Law, Lawyers and Legal Resources) <https://www.legalserviceindia.com/legal/article-4501-system-of-prison-its-history-and-types-in-india.html> accessed January 22, 2022
4. "What Are the 5 Basic Functions of Prisons?" (PreserveArticles.com: Preserving Your Articles for Eternity May 1, 2012) <https://www.preservearticles.com/articles/what-are-the-5-basic-functions-of-prisons/28943> accessed January 22, 2022

Prof. D. Sai Sujatha

LESSON 11

REMAND HOMES, BORSTAL SCHOOLS, JUVENILE COURTS

OBJECTIVES

The objective of this lesson is to make the student understand the about observation homes, Borstal schools, Juvenile courts, Juvenile Justice Board and their structure and functions.

STRUCTURE

- 11.1 Observation Homes-Introduction
- 11.2 Role and Importance of Observation Homes
- 11.3 Legal Framework and Guidelines of Observation Homes
- 11.4. Objective of Residential Care in Observation Home
- 11.5. Functions of Observation Homes
- 11.6. Challenges Faced by Observation Homes
- 11.7. Borstal Schools- Introduction
- 11.8. What Are Borstal Schools?
- 11.9. Reformation System
- 11.10. Salient Features of Andhra Pradesh Borstal Schools Act, 1925
- 11.11. Juvenile Courts –Introduction
- 11.12. What Is Juvenile Court
- 11.13. Types of Cases in Juvenile Court
- 11.14. Juvenile Justice Boards and Their Importance in India
- 11.15. Functions and Responsibilities of JJBs
- 11.16. Summary
- 11.17. Keywords
- 11.18. Exercise
- 11.19. Reference Books

11.1. OBSERVATION HOMES (OH) INTRODUCTION

Children are greatest national asset and resource. Children should be allowed and provided opportunity to grow up to become healthy, skilful and robust citizens for the society. But in today's world children are exposed to mental pressures due to parental illiteracy, ignorance, competitions in various fields, extreme poverty or affluence, losing morals in adult populations and to variety of sources of easily accessible information and which is at times beyond their scope of understanding and reason. In such situation if we do not provide them satisfactory answers, they develop fantasy explanations that may be more dangerous than the actual reality. So it's our responsibility to mould and shape their present conditions in the best possible way because children have a right to grow up in a nutritious environment, only then can they realize their full potential.

Observation Home is an institution, where neglected and delinquent juveniles are kept for a few weeks or pending decision of the cases. Children are brought by the police or

probation officers or parents voluntarily admit them. During their stay in the institutions, all services are provided including food, clothing and shelter. In the institution, children may be disposed of either by committing them to a Juvenile Home for long term treatment or may be handed over to their parents based on the nature of the case. In Observation Home, Juvenile Justice Board decides juvenile's cases and handover to the parents on conditions of attending to Juvenile Justice Board sittings.

The Observation Home has to be place for changing attitudes and behaviour of the inmates. It has a major role to play in rehabilitating the delinquent children, by turning their mind set up to become a worthy citizen of the country. Children living in Observation Homes shall be provided a better social environment for their growth in the absence of parental care and affection.

Observation Home is an institution, where neglected and delinquent juveniles are kept for a few weeks or pending decision of the cases. Children are brought by the police or probation officers or parents voluntarily admit them. During their stay in the institutions, all services are provided including food, clothing and shelter. In the institution, children may be disposed of either by committing them to a Juvenile Home for long term treatment or may be handed over to their parents based on the nature of the case. In Observation Home, Juvenile Justice Board decides juvenile's cases and handover to the parents on conditions of attending to Juvenile Justice Board sittings.

Observation home or Remand home means a place where a child is temporarily sheltered and cared for with the intention of tracing and observing the child and his or her family so as to develop guidelines for appropriate provisions of assistance and safety protection to each individual child. Remand home is a British institution to which juvenile offenders may be committed by the court for temporary detention of children from 8 to 16 sent to *remand homes* for periods up to one month.

11.2. ROLE AND IMPORTANCE OF OBSERVATION HOMES

The juvenile justice system heavily relies on observation homes. These homes serve as temporary residential facilities where young people are housed while their cases are pending. The main goal of observation homes is to evaluate the needs and behaviour of young people and offer them a secure and encouraging environment for recovery and reintegration.

Observation homes act as a link between the judicial process and the juveniles' rehabilitation. They offer foundational services like instruction, medical care, counselling, and skill-building programmes that are specifically designed to meet the needs of young people. The goal of observation homes is to support juveniles' physical, mental, and emotional development and enable their successful reintegration back into society by providing a structured and nurturing environment.

11.3. LEGAL FRAMEWORK AND GUIDELINES OF OBSERVATION HOMES

The Juvenile Justice (Care and Protection of Children) Act of 2015 provides a legal framework that controls the operation of observation homes. In addition to outlining the roles of the State Government, Juvenile Justice Boards (JJBs), and Child Welfare Committees (CWCs) in overseeing their operation, this legislation outlines the establishment, management, and regulation of observation homes.

A number of rules and regulations have also been published to guarantee the efficient operation of observation homes. The Model Guidelines for Homes under the Juvenile Justice Act, developed by the Ministry of Women and Child Development, offer thorough guidance on the facilities, staffing, services, and legal rights of juveniles residing in observation homes.

In order to protect the rights of children, including their right to an education, access to healthcare, protection from abuse, and opportunities for rehabilitation. They focus on child-centric strategies, individualized care plans, and the participation of qualified experts in overseeing observation homes. Observation Homes (Section 8 of the Juvenile Justice)

Legal provisions regarding observation Homes under Section 8 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

1. Any State Government may establish and maintain either by itself or under an agreement with voluntary organizations, observation homes in every district or a group of districts, as may be required for the temporary reception of any juvenile in conflict with law during the pendency of any inquiry regarding them “under this Act.
 2. Where the State Government is of opinion that any institution other than a home established or maintained under sub-section (1), is fit for the temporary reception of juvenile in conflict with law during the pendency of any inquiry regarding them under this Act, it may certify such institution as an observation home for the purposes of this Act.
 3. The State Government may, by rules made under this Act, provide for the management of observation homes, including the standards and various types of services to be provided by them for rehabilitation and social integration of a juvenile, and the circumstances under which, and the manner in which, the certification of an observation home may be granted or withdrawn.
 4. Every juvenile who is not placed under the charge of parent or guardian and is sent to an observation home shall be initially kept in a reception unit of the observation home for preliminary inquiries, care and classification for juveniles according to his age group, such as seven to twelve years, twelve to sixteen years and sixteen to eighteen years, giving due consideration to physical and mental status and degree of the offence committed, for further induction into observation home. The observation homes may be established by the state itself or with an agreement with any voluntary organizations. The number of such observation homes in any district or for more than one district can be decided by the state after considering the necessity. The purpose of establishing such observation homes is provided in sub-section
- (1) to section 8 as for the temporary reception of any juvenile in conflict with law during the pendency of any inquiry regarding then under this Act. This sub-section makes clear that the observation homes are only for juvenile delinquents whose case is pending before a Board.
 - (2) Sub-section (2) of section 8 gives powers to the state government to certify any other institution other than formed under sub-section (1) as observation homes if the government is of opinion that it is necessary and such institution is fit for the purpose.
 - (3) Sub-section (3) of section 8 deals with the management, control and the manner of certification and rejection of any institution as observation homes. This sub-section mandates that all these things may be done by the state after making rules under this Act.
 - (4) As per sub-section (4) of section 8, the persons send to the observation homes shall be initially kept in the reception unit of the observation homes for the following purpose:

1. for conducting preliminary inquiries;
2. for care; and
3. for classifying the juveniles according to their age.

Three age groups are provided in the Act for classifying juveniles:

1. Seven to Twelve;
2. Twelve to Sixteen; and
3. Sixteen to Eighteen.

The sub-section (4) says that due consideration shall be given to the physical, mental condition of the offender and the degree of the offence committed.

The number of observation homes, being funded under ICPS, in India. The top 10 States/UTs in terms of the number of observation homes were: Maharashtra, Rajasthan, Uttar Pradesh, Madhya Pradesh, Karnataka, Kerala, Chhattisgarh, Bihar, Jharkhand and Nagaland. The number of observation homes in Maharashtra was 53 as on 31.03.2016. It accounted for 18.15% of the number of observation homes in India. The number of observation homes in Rajasthan was 36, It accounted for 12.33%, Uttar Pradesh was 30, It accounted for 10.27% Madhya Pradesh was 18, It accounted for 6.16%, Karnataka was 16, It accounted for 5.48% of all India, Kerala was 14 (4.79% of All India), Chhattisgarh was 13 (4.45% of All India), Bihar was 12 (4.11% of All India), Jharkhand was 10 (3.42% of All India), Nagaland was 10 (3.42% of All India). The above-mentioned top 10 states accounted for 72.58% of the total number of observation homes in India as a whole as on 31.03.2016.

11.4. OBJECTIVE OF RESIDENTIAL CARE IN OBSERVATION HOME:

Objectives of residential care in an OH :

- To ensure the safety, protection, and care of the alleged CCL during the period of inquiry.
- To support the child through the period of inquiry by ensuring that legal aid is accessible to the child, ensure attendance on every hearing, and explaining to the child the process and progress on the case.
- To formulate an Individual Care Plan for each child based on understanding the child's background (familial situation, peer and neighbourhood influences, positive influences), needs and interests, through the use of appropriate methods including counselling sessions, interaction with the child's family, home visits, aptitude testing for education and vocational training, and consultation with physical and mental health professionals.

Approach to provision of services in an OH

Since an OH is a temporary residential care facility for a child who is alleged to be in conflict with law, the approach to provision of services in the institution as a whole, and its duty bearers must be one which ensures that:

- There is no presumption at any level that the alleged CCL is guilty. Therefore, an OH shall not resemble a prison in terms of its infrastructure, services or in how duty bearers conduct interactions with children.
- Services and care are provided in a manner which facilitate finding out the unique needs of each alleged CCL using appropriate methods and in consultation with professionals.
- At the end of the period of stay the child is on a path to rehabilitation with a clear monitor able individualized plan for rehabilitation.

Key messages to children in OH care:

Key messages which must come through to children in Observation Home which includes care-through the nature of infrastructure, manner of provision of services, tone of interactions between staff and children are:

- The OH does not presume child as guilty.
- The role of the OH and staff is to support the child.
- The OH will explore as many options as possible to help the child get on a path towards rehabilitation and reintegration in society.

Observation homes are meant for temporary reception of juveniles who are alleged to have come in conflict with law. Section 8 of JJ Act, 2000, provides for establishment and maintenance of observation homes in every district or in group of districts such homes house the juveniles during the pendency of any enquiry.

11.5. FUNCTIONS OF OBSERVATION HOMES

Observation homes are essential to the juvenile justice system because they offer a secure and encouraging setting for the rehabilitation and reintegration of young offenders. These facilities are made to meet the unique requirements of young offenders and to advance their general wellbeing.

Rehabilitation and Reintegration of Juvenile Offenders

Primarily they have been established with the objective of rehabilitating juvenile offenders and preparing them for successful reintegration into society. The goal of rehabilitation programs in observation homes is to deal with the root causes of delinquency and give young people the tools and support they need to live law-abiding lives. These programs frequently offer counselling, educational, and vocational services that are catered to the specific requirements of each young offender.

The development of pro-social behaviours, good values, and life skills is prioritized during the rehabilitation process in observation homes. It may include therapeutic interventions, counselling sessions, mental health interventions, vocational training, and treatment for substance abuse. The objective is to provide young offenders with the opportunities and resources they need to reintegrate into their communities as responsible and productive citizens.

Residential Facilities and Services

For the duration of their stay, juvenile offenders are given a safe and encouraging residential environment in observation homes. These facilities frequently have sufficient amenities and infrastructure to satisfy residents' basic needs. The living arrangements in observation homes are intended to foster a supportive environment that encourages healing and personal development.

There may be dormitory-style living quarters, recreation areas, educational facilities, dining areas, as well as medical and psychological support services inside observation homes. The physical setting is intended to support the juveniles' rehabilitation and reintegration while ensuring their safety, comfort, and well-being.

Staffing and Training Requirements

For observation homes to effectively serve the needs of young offenders, they need a committed and trained staff. Depending on the facility's size and capacity, the staffing needs may change. Typically, social workers, counsellors, psychologists, educators, medical professionals, and security personnel make up the multidisciplinary teams that work in observation homes.

Employees in observation homes should be qualified, skilled, and trained to deal with juvenile offenders. They ought to be knowledgeable about child development, trauma-informed care, counselling methods, and behaviour control techniques. The staff members must participate in ongoing professional development and training programmes to stay informed about the most effective methods for juvenile rehabilitation and to help foster a supportive and therapeutic environment (Roberts, 2017).

When observation homes adhere to established guidelines and standards, they can efficiently provide care and carry out their responsibilities within the juvenile justice system.

The successful reintegration of young offenders into society is facilitated by carefully planned residential facilities, extensive rehabilitation programmes, and a well-trained staff.

11.6. CHALLENGES FACED BY OBSERVATION HOMES

Observation homes, despite playing a significant role in the juvenile justice system, encounter a number of difficulties that make it difficult for them to successfully carry out their mandate of rehabilitating and reintegrating young offenders. These difficulties range from poor staffing and infrastructure to a dearth of specialized programmes and bureaucratic restrictions. To ensure that observation homes operate effectively and that the young people in their care have positive outcomes, these issues must be resolved.

Overcrowding and Infrastructure Issues

Overcrowding and poor infrastructure are two issues that observation homes frequently encounter. Due to a lack of space and a high influx of juvenile offenders, living conditions are frequently crowded, endangering the juveniles' health and chances of rehabilitation. The issue is made worse by the absence of adequate infrastructure, such as separate dormitories, common spaces, and educational facilities.

In India, judicial oversight of observation home overcrowding has been a topic of discussion. The Supreme Court of India emphasized the need for adequate infrastructure in observation homes in *Sampurna Behura v. Union of India*, and it instructed the government to take the necessary action to address the issue of overcrowding. Similar provisions exist in international agreements like the United Nations Convention on the Rights of the Child (UNCRC), which emphasizes the significance of offering young offenders adequate and suitable housing.

Inadequate Staffing and Training

Understaffing and inadequate staff training are frequent problems at observation homes. Low staff-to-youth ratios can make it difficult to give each child the individualized attention,

care, and supervision they need for effective rehabilitation. Inadequate training in child psychology, counselling techniques, and child rights further compromises the quality of the guidance and support provided to the youth.

The National Commission for the Protection of Child Rights (NCPCR) has emphasized the necessity of adequate staffing and training in observation homes and has recommended routine training programmes for the staff to improve their skills and comprehension of juvenile psychology and rehabilitation strategies. Young offenders need a supportive environment for their growth and rehabilitation, which can only be accomplished with properly trained and motivated staff.

Lack of Specialized Programs and Services

Observation homes frequently struggle to offer specialized services and programmes that cater to the various needs of young offenders. For a juvenile's holistic development and a successful reintegration, programmes like vocational training, skill development, educational support, mental health counselling, and substance abuse rehabilitation are crucial.

In order to meet the specific needs of young offenders, the Juvenile Justice (Care and Protection of Children) Model Rules, 2016, emphasize the necessity of offering specialized programmes and services in observation homes. However, the accessibility and efficacy of such programmes are frequently constrained by a lack of funding, resources, and qualified personnel.

Legal and Procedural Challenges

Observation homes also encounter procedural and legal difficulties that affect how well they operate. The prompt and effective resolution of cases and the provision of suitable remedial actions can be hampered by delays in the judicial process, inconsistent interpretation and application of the law, and procedural complexities. Legal obstacles that make it difficult to obtain the clearances, grants, or permissions required for the implementation of programmes and services can also be problematic.

Through legal reforms, attempts have been made to address these difficulties. In India, the Juvenile Justice (Care and Protection of Children) Act, 2015, put in place measures to speed up the adjudication process and guarantee that cases involving juvenile offenders are resolved promptly. However, ongoing efforts are needed to make the legal system stronger and address the unique difficulties observation homes face.

11.7. BORSTAL SCHOOLS

Borstal Schools are a type of youth detention centres in India that is used exclusively for the imprisonment of minors or juveniles. They are maintained and organized uniquely since their primary objective is to ensure the welfare and rehabilitation of young offenders in an environment suitable for children. Young offenders are intentionally kept away from conventional prisoners because of the contaminating atmosphere of those prisons which act as a barrier to reform and rehabilitation. Borstal Schools derive their identity from Borstals, youth detention centers that have existed in the United Kingdom in 1885. The system was nationalized in 1908 as a means to protect young offenders from harmful prison environments. This concept was soon adopted by many English colonies including Ireland India.

Juveniles who are found guilty of committing crimes are detained in Borstal Schools and are provided various educational facilities under the guidance of trained teachers. Education is oriented towards training and moral influence conducive for their reformation and prevention of crime. Vocational education and skills training is also concentrated on. This is because most children who end up in Borstal Schools come from economically weaker backgrounds. Training them for semi-skilled employment is an effective way to prevent them from committing crimes to earn money.

Nine states in India, namely, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Maharashtra, Punjab, Rajasthan, Tamil Nadu, and Telangana have borstal schools in their respective jurisdictions. Tamil Nadu had the highest capacity for keeping 678 inmates. Himachal Pradesh and Kerala are the only states that can lodge female inmates in 2 of their Borstal Schools. However, Borstal Schools are non-existent in some of the most populous states like Uttar Pradesh and all Union Territories.

11.8. WHAT ARE BORSTAL SCHOOLS?

Borstal schools are youth reformation centres in India, where delinquent minors are managed with a special focus on their rehabilitation. These schools are unlike the prison system, as well as different from observation homes. Although observation homes perform similar functions, they may be government-regulated or privately-owned.

"Borstal school" is a corrective institution wherein adolescent offenders, whilst detained in pursuance of this Act, are given such industrial training and other instruction and are subjected to such disciplinary and moral influences as will conduce to their reformation and the prevention of crime.

Borstal schools follow the constitutional scheme enshrined in Article 15(3), whereby they are a special provision for children to ensure their reformation and well-being. In recent times, borstal schools have seen great success in the reformation of young offenders—a borstal school in Chennai reported less than 1% recidivism in the inmates it released in 2018. The reformatory approach enabled by the Bombay Borstal School Act, 1929, under which the borstals in Maharashtra are established, together with the older JJ Act align with numerous international guidelines on children's rights such as the United Nations Convention on Rights of the Child and the Beijing and Riyadh rules, which define a child as anyone aged less than 18 years.

Borstal system, English reformatory system designed for youths between 16 and 21, named after an old convict prison at Borstal, Kent. The system was introduced in 1902 but was given its basic form by Sir Alexander Paterson, who became a prison commissioner in 1922. Each institution consists of houses containing, ideally, not more than 50 young offenders, with a housemaster or housemistress and house staff. Training is exacting, based on a full day's hard and interesting work. There are vocational-training courses, with six hours a week of evening education either in the Borstal or in local technical colleges. The period of training, governed by the progress of the inmate through a grade system, averages about 15 months. On release, the inmate comes under the supervision of the Central Aftercare Association and may be recalled for further training if necessary. Borstal School is a place in which young offenders were detained in pursuance of training and they are subjected to discipline. The minimum period of detention was two years and the maximum period was five years and an inmate cannot be detained after he attains 23 years of age. The primary objective of Borstal Schools is to

ensure care, welfare and rehabilitation of young offenders and cannot be treated as either a miniature jail or a substitute of it.

Borstal schools were set-up under the Madras Borstal Schools Act of 1926, for delinquent boys and girls. This Act was amended several times regarding the powers of the state government regarding this Act, classification of inmates into various grades for purposes of discipline and control, and also the procedure for releasing the inmates on license. The Juvenile delinquents sentenced to more than three months imprisonment were generally transferred to the nearest central jail where there were given separate accommodation. Those sentenced to shorter terms of imprisonment were confined in the district jails, a separate block has been provided to accommodate. Whenever the accommodation in a Borstal School was not immediately available, he was detained in a special ward or such other suitable part of a prison on the advice of the State Government.

The number of inmates detained in Borstal schools during 1929 were 913 out of which 478 were received by direct committal and 49 by transfer, 61 were transferred, 247 release, three escaped and remained, at large and two died. It was found necessary during 1929 to convert the District Jail, Palamcottah, into a complete Borstal school. This second Borstal school was therefore established with, effect from the 15th May 1929. Adolescent sections have been opened in the central jails at Rajahmundry, Yellore, Trichinopoly, Cannanore and Salem, where the Borstal school system was modified as Certified Schools. The medium of instruction was the mother tongue, vocational training was imparted in the schools in weaving, carpentry, tailoring, blacksmithing, masonry, book binding and laundry. Music was also taught, Carnatic music in the curriculum.

Visiting Committee and Advisory Board Management of Borstal Schools was under the Inspector-General and every Borstal School had a Superintendent appointed by the State Government. Visiting Committees were appointed who consisted of the Sessions Judge, the District Magistrate, the District Educational Officer within whose respective jurisdictions the Borstal School was situated and four non-official members were also appointed by the State Government. They visit the Borstal School either individually or collectively to make suggestions for the improvement of the training from time to time and also advice regarding their release on license and detention after examining the records of the Borstal School. The visiting committees classify the inmates according to their industry and good conduct. The Inspector-General of Police on the recommendation of the Visiting Committee, if he was satisfied that the offender would give up crime and lead a useful and industrious life, discharge him from the Borstal School granting him a written license under surveillance of government, secular institution, religious society or any responsible person in the society. When the authorities were not satisfied with the conduct or progress of any offender detained, shall remain under the supervision for a further period even after the end of the term of detention not exceeding one year under the supervision of such authority and discharge on license under supervision.

The conditions for release of convicts on the recommendations of the Advisory Board were placed before the government, for their consideration or rejection. This work of the Advisory board was a means for improving the conduct of the prisoners and discipline generally.

11.9. REFORMATION SYSTEM

The system of education imparted to the offenders detained in Borstal Schools includes physical training, industrial and agricultural training, school education and active outdoor games. An attempt is made to equip these offenders with a sound practical grounding in some useful industry. Organized games are part of the school curriculum and Scout work forms a special feature of the training, ambulance work and first aid are taught in the three Government certified schools. Primary education was compulsory, they were provided with necessary books and were taught English. Subjects of the general interest connected with agriculture, hygiene, industrial training was normally given. Female inmates were also received similar instruction and were trained in knitting, sewing, weaving and the like. Training was imparted to juvenile criminals in several trades depending on their interest and this training appeal to the boys and had an inspiring effect on them. The object of technical training was for their reformation and rehabilitation and were given certificates to enable them to seek employment after release. The dramatic entertainments put-up by the Borstal schools in the jail premises generated considerable collections. These entertainments were freely held and, it not only relieved the monotony of prison life but also had educative value. They were taken care of by providing better living conditions with sufficient accommodation, ventilation, food facilities, potable drinking water, better diet, medical and sanitation facilities interview and communication facilities, entertainment, etc.

Medical care was provided in the Borstal School inmates suffering from any illness and the Inspector-General may send the offender to any civil hospital for proper medical treatment. There was a separate kitchen for sick persons in these Borstal schools.

Reformative programmes were regularly conducted with the help of officials from the educational departments, non- official and philanthropic organizations. Spiritual discourses, lectures and preaches on issues of health, social life and literacy classes were some of the regular features. Such correctional programmes not only break the monotony of prison setting but also change the atmosphere with an urge for betterment.

11.10. SALIENT FEATURES OF ANDHRA PRADESH BORSTAL SCHOOLS ACT, 1925

An Act to make provision for the establishment and regulation of Borstal school for the detention and training of adolescent offenders and whereas the previous sanction of the Governor General under section 80-A of the Government of India Act has been obtained to the passing of this Act ;

It is hereby enacted as follows: -

This Act may be called the Andhra Pradesh Borstal Schools Act, 1925. For the purposes of this Act, the State Government may establish one or more Borstal schools. For every Borstal school a Visiting Committee shall be appointed by the State Government.

Rules. - The State Government without prejudice to the generality of the foregoing power, such rules may be made with regard to -

- (a) the appointment, powers and duties of officials in such schools;
- (b) the treatment, maintenance, education, industrial training and control of the inmates;
- (c) the grant of permission to the inmates to absent themselves for short periods;
- (d) visits to and communications with the inmates;

- (e) the temporary detention of adolescent offenders until arrangements can be made for sending them to Borstal schools;
- (f) the powers and duties of probation officers under this Act;
- (g) the constitution, procedure, powers and duties of the Investigating Committee.

Courts empowered under this Act. - The powers conferred on Courts by this Act shall be exercised only by (a) the High Court, (b) a court of Session, (C) a District Magistrate, (d) a Sub-divisional Magistrate and any Magistrate of the first class or any bench of Magistrates constituted under section 15 of the Code of Criminal Procedure, 1898 invested with the powers of a Magistrate of the first class specially empowered by the State Government in that behalf and may be exercised by such Courts whether the case comes before them originally, on appeal, or in revision .

Power of Inspector-General to transfer prisoners to Borstal school. - The Inspector-General may, subject to rules made by the State Government, if satisfied that any adolescent offender undergoing imprisonment in consequence of a sentence passed either before or after the passing of this Act might with advantage be detained in a Borstal school, direct that such person shall be transferred from prison to Borstal school, there to serve the whole or any part of the unexpired residue of his sentence. The provisions of this Act shall thereupon apply to such person as if he had been originally sentenced to detention in a Borstal school.

Power of State Government to transfer offenders sentenced to transportation to Borstal schools. –

1. The State Government may, if satisfied that any offender who has been sentenced to transportation either before or after the passing of the Madras Borstal Schools (Amendment) Act, 1939 and who at the time of conviction was not less than 16 and not more than 21 years of age, might with advantage be detained in a Borstal school, direct that such offender shall be transferred to a Borstal school, there to serve the whole or any part of the unexpired residue of his sentence. The provisions of this Act shall apply to such offender as if he had been originally sentenced to detention in a Borstal school.
2. Notwithstanding anything contained in Section 8, the term of detention of an offender who is transferred to the Borstal School under Sub-Section(1) shall be for a minimum period of two years.

Government to determine the Borstal school to which adolescent offender shall be sent. – Every adolescent offender directed by a Court to be sent to a Borstal school shall be sent to such Borstal school as the State Government may, by general or special order, appoint for the reception of adolescent offenders as dealt with by such Court;

Provided that if accommodation in a Borstal school is not immediately available for such adolescent offender, he may be detained in a special ward or such other suitable part of a prison as the State Government may direct until he can be sent to a Borstal school. The period of detention so undergone shall be treated as detention in a Borstal school.

Removal from one school to another. - The Inspector-General may at any time order an inmate to be removed from one Borstal school to another, provided that the whole period of his detention in a Borstal school shall not be increased by such removal.

Reception of offenders from and transfer of offenders to, other States in India. - The State Government may, by general or special order notified in the Andhra Pradesh Gazette, direct

that any specified Borstal school in this State shall be available for the reception of adolescent offenders in respect of whom a sentence of detention in a Borstal school or other school of a like nature has been passed by any court or magistrate in any other part of India; and thereupon, provision may be made for the removal of the adolescent offenders concerned accordingly: Provided that no such order shall be made without the consent of the Government of the other State concerned.

Power to release on licence. - Subject to the prescribed conditions, the Inspector-General may, on the recommendation of the Visiting Committee, at any time, after the expiration of six months from the commencement of the detention of an offender in a Borstal school, if he is satisfied that there is a reasonable probability that the offender will abstain from crime and lead a useful and industrious life, discharge him from the Borstal school and grant him a written licence, permitting him to live under the supervision and authority of such-

- (a) officer of the State Government;
- (b) secular institution;
- (c) religious society; or
- (d) responsible person; as may be approved by the Inspector-General and willing to take charge of the offender.

(2) The Inspector-General may, subject to the prescribed conditions, discharge any offender who had been previously granted a licence but whose licence was subsequently revoked under section 17 and grant him a fresh written licence and in such case the provisions of this Act shall apply as if such fresh licence had been granted under sub-section.

Revocation of licence. - Subject to the prescribed conditions, the Inspector General may, at any time, and in the case of a request made by the officer, institution, society or person, under whose supervision and authority the offender has by licence been permitted to live, shall, after considering the report of the Investigating Committee submitted to him under Section 19-F, revoke a licence granted under Section 15, and upon such revocation the offender shall be detained in a Borstal school until the expiration of the term for which he was ordered to be detained in such school.

Escape and failure of licence. - If any inmate escapes from a Borstal school or if any inmate absent on licence from a Borstal school removes himself from the supervision of the officer, institution, society or person under which he was by licence permitted to live or fails to return from such supervision to the Borstal school, a police officer not below the rank of a Sub-Inspector of Police, may without orders from a Magistrate and without warrant, arrest him and take him back to the Borstal school and his licence shall be forfeited with effect from the date of his escape or failure to return as the case may be.

Management of Borstal schools. - Subject to the orders of the Inspector-General and subject also to the rules made by the State Government the control and management of every Borstal School shall vest in a Superintendent appointed by the State Government.

Constitution, powers and duties of visiting Committees. -

(1) (a) Every Visiting Committee appointed under sub-section (2) of section 3 shall consist of the Sessions Judge, the District Collector, the District Educational Officer of the district in which the school is situated and four non-official members appointed by the State Government.

(b) The non-official members shall hold office for a period of two years but shall be eligible for reappointment on the expiry of that period.

(2) It shall be the duty of the Visiting Committee and its members.

(a) to visit the school either individually or collectively on such occasions as may be fixed by the rules made under this Act in that behalf for the purpose of ensuring that the provisions of this Act are duly given effect to;

(b) to make such suggestions for the improvement of the training therein as are considered necessary and to report to the State Government or to the Inspector-General from time to time, any matter, which, in their opinion, should receive attention and annually on the progress of the school;

(c) to interview the inmates immediately after their arrival and to make suggestions, if any, as to the special training which each should receive;

(d) to consider cases of release on licence under sub-section (1) of section 15 placed before them by the Superintendent; and

(e) to consider such action as may be necessary in regard to the inmates whose term of detention is about to expire.

(3) Subject to such rules as may be made in that behalf by the State Government every member of the Committee shall be entitled to call for information from the Superintendent, to examine the records of the school and to take such other action as he deems necessary for the due discharge of his duties.

Punishments for offences. –

(1) The punishments which may be inflicted on an inmate of a Borstal school for offences specified in the Prisons Act, 1894, and the rules made thereunder, shall be in the following forms and in no other:-

(i) Formal warning.

(ii) Extra drill.

(iii) Deprivation of any of the privileges of the grade.

(iv) Reduction in grade.

(v) Cuts on the hand by a rattan not exceeding six on each hand.

(2) No punishment shall be awarded to any inmate by any official of the school except by the Superintendent or in his absence the official exercising his functions.

Limitation of hours of work. - No inmate of a Borstal school shall be made to work for more than eight hours a day:

Provided that extra drill awarded as a punishment under sub-section (1) of section 19-D shall not be deemed, for the purpose of this section, to be work.

Minimum age-limit of adolescents in areas to which the Andhra Pradesh (Andhra Area) Children Act, 1920 has not been extended.

Power of State Government to discharge inmates. - The State Government may at any time order the discharge of an inmate of any Borstal school either absolutely or subject to such conditions as they may think fit.

Removal of disqualification attaching to convictions for offences. - The conviction of an adolescent shall not be regarded as a conviction for the purposes of any disqualification attaching to a conviction for any offence.

11.11. JUVENILE COURTS

Introduction

Each state has special courts—usually called juvenile courts—devoted to handling cases where minors are accused of violating a criminal statute. But, instead of being formally charged with a crime, juvenile offenders are accused of committing a delinquent act.

A juvenile case normally gets started when a prosecutor or probation officer files a petition charging the juvenile with violating a criminal statute and asking that the court determine that the juvenile is delinquent. If proven, the court enters a delinquency adjudication (similar to an adult conviction) and may order a disposition (sentence) aimed at rehabilitating the juvenile.

Often, the juvenile court retains legal authority over the minor for a set period of time—until the juvenile becomes an adult, or sometimes even longer. Juvenile courts are the courts wherein cases generally go when a minor is accused of committing a crime. The proceedings are civil rather than criminal. As a result, rather than being charged with a crime, juvenile offenders are accused of committing a delinquent act. In addition to this a juvenile case generally gets started when a prosecutor or probation officer files a civil petition, charging the juvenile with violating a criminal statute and thus further asking that the court determine that the juvenile is delinquent.

If the charges are proved and a delinquency determination is made, the juvenile offender comes under the courts broad powers. At that particular point, the juvenile court has the authority to do what it considers to be in the best interest of the juvenile.

Now talking about the legibility criteria of the juvenile courts it is 17 years of age. In addition to this not all cases heard in juvenile court are delinquency cases (those involving the commission of a crime). There are two other types of cases also which are dependency cases and status offenses. Further the juvenile court is a judicial tribunal distinguished by unique procedures and methods of dealing with juveniles.

11.12. WHAT IS JUVENILE COURT

Juvenile courts are the courts wherein cases generally go when a minor is accused of committing a crime. The proceedings are civil rather than criminal. As a result, rather than being charged with a crime, juvenile offenders are accused of committing a delinquent act. In addition to this a juvenile case generally gets started when a prosecutor or probation officer files a civil petition, charging the juvenile with violating a criminal statute and thus further asking that the court determine that the juvenile is delinquent.

If the charges are proved and a delinquency determination is made, the juvenile offender comes under the court's broad powers. At that particular point, the juvenile court has the authority to do what it considers to be in the best interest of the juvenile.

Now talking about the legibility criteria of the juvenile courts it is 17 years of age. In addition to this not all cases heard in juvenile court are delinquency cases (those involving the commission of a crime). There are two other types of cases also which are dependency cases

and status offenses. Further the juvenile court is a judicial tribunal distinguished by unique procedures and methods of dealing with juveniles.

A unique branch of the criminal justice system is called juvenile court. It specifically addresses criminal proceedings involving minor defendants. Anyone under the age of 18 is included in this in the majority of states.

When a juvenile defendant is tried, juvenile courts frequently consider a number of different factors. For instance, the defendant's age, prior juvenile offenses, and social or psychological considerations are frequently taken into account by the court.

Juveniles who commit crimes are typically not arrested but instead held informally. As soon as the person is detained, the authorities will create a petition stating the jurisdictional powers of the juvenile court that will hear the case. The juvenile and their family are also given notice of the offense and the justifications for any compulsory court appearances in the petition.

A judge for the juvenile court will decide the case when the minor appears in court. The possible repercussions for the juvenile defendant will be stated in a disposition or judgment that will be issued. For instance, the judge can mandate that the young offender pay a fine or complete community service. The minor might have to spend some time in a juvenile facility.

Records from juvenile criminal court procedures are typically sealed, making them inaccessible to the public in order to protect youngsters.

Juvenile court judges have significantly more latitude to impose rehabilitative measures as an alternative to jail time than adult criminal sentencing judges do. In cases involving adolescent offenders, judges will frequently recommend the choice with the least negative sentencing consequences.

For instance, the juvenile's behaviour may be thoroughly observed while serving a sentence to ascertain whether they have been successfully rehabilitated. A court may order an early release if the young offender can show that they are in good standing and are following the terms of their sentence. Or, they might first impose different sentencing guidelines.

When a juvenile offender successfully completes his sentence requirements and reaches adulthood, their criminal record may be sealed or erased (18 years old in most states). The purpose of sealing juvenile records is to help the individual reintegrate back into society while safeguarding their identity and reputation.

The defendant is tried in juvenile court, much like in adult criminal courts, and may receive punishment if proven guilty. It does, however, differ in a number of ways. For instance, rather than imprisoning juvenile offenders, the juvenile court system tends to place more emphasis on returning them to a normal status in society.

With the juvenile court system, diversionary programs that include community service and other kinds of alternative sentencing choices are more prevalent. Sometimes, a combination of multiple sentencing techniques may be used. The juvenile offender could serve a brief period of time in jail before being regularly forced to complete community service. Everything depends on the specifics of each instance.

To be eligible for juvenile court, a young person must be considered a "juvenile" under state law. In most states, the individual must be 17 or younger to fall under the jurisdiction of the juvenile court. Anyone older than the "juvenile age" will go to adult criminal court.

Along with this upper age limit, some states set lower age limits for juvenile court eligibility. This lower age limit reflects a policy decision that children under a certain age are incapable of determining the difference between right and wrong, or forming a "guilty mind." States with a lower age limit set it anywhere between six and 12 years old. (Children under this age are usually excused from responsibility for acts they commit. Their cases may end up in child protection or dependency court where a judge will evaluate the parents' fitness in raising their child.)

11.13. TYPES OF CASES IN JUVENILE COURT

Not all cases heard in juvenile court are delinquency cases (those involving the commission of a crime). There are two other types of cases: dependency cases and status offenses. Different procedures typically apply to all three types of juvenile court cases.

Juvenile delinquency cases. These cases involve minors who have allegedly committed crimes—meaning that if the crime had been committed by an adult, the matter would have been tried in regular criminal court. But the procedures in juvenile court differ significantly from those in adult criminal court.

Juvenile protection or dependency cases. Cases involving minors who are abused or neglected by their parents or guardians are also heard in juvenile court. In a juvenile dependency or protection case, the judge will ultimately decide whether a minor should be removed from a problematic home environment.

Cases involving status offenses. A status offense is a violation that applies only to minors. Examples include truancy (skipping school), curfew violations, running away, and, in some cases, underage drinking. Juvenile courts typically deal with less serious criminal offenses like misdemeanors and citations that don't carry jail time. These include situations like:

- Minimal theft
- Vandalism
- Trespassing
- Basic assault
- Drug and alcohol-related offenses
- A number of traffic violations

However, there are some felony cases, particularly those involving violent crimes and large-scale thefts.

Over half of all juvenile arrests are made for theft, simple assault, drug abuse, disorderly conduct, and curfew violations, according to the federal Office of Juvenile Justice and Delinquency Prevention. In an average year, only around 6-7% of cases heard in juvenile court involved violent offenses such as robbery, rape, murder, and aggravated assault.

How Does a Case Against a Child Begin?

A juvenile matter can start when the police detain a child for breaking the law, but it usually starts when a school official, parent, or guardian brings a child's issue to court. The

case, which is sometimes referred to as a “juvenile delinquency” case, is then assessed by the court intake officer to determine whether any further action is required, whether the child should be referred to a social service organization, or whether the case should be formally heard in juvenile court.

A juvenile may be detained pending trial.

The youngster may be moved to an alternate placement facility, such as a shelter, group home, or foster family, or imprisoned in a juvenile correctional facility while the problem is being resolved. It is not possible for juveniles to deposit a bond or post bail in order to be released.

Do Juvenile Court Formal Hearings Have Any Alternatives?

The intake officer may arrange for support from school counsellors, mental health providers, or other youth service organizations if she determines that a formal hearing in juvenile court is not required. The nature of the alleged offenses, the minor’s delinquency and social background, and the degree of regret displayed by the minor are some of the elements the intake officer will take into account when determining whether informal proceedings are suitable.

Beginning of Official Proceedings

A petition is submitted to the court listing the laws that the kid is claimed to have broken if the intake officer determines that the matter should be considered in juvenile court. This petition serves as the adult criminal court system’s equivalent of a criminal complaint. If a child is prosecuted as an adult, tried in adult criminal courts, and even sentenced to an adult correctional facility in circumstances of heinous felonies like rape and murder, the case may be sent to the district or county attorney’s office.

A treatment program is mandated if the case is taken to juvenile court and the youngster agrees to the charges made in the petition. If the child disputes the claims made in the petition, a hearing similar to an adult’s criminal prosecution is held. The youngster has the privilege against self-incrimination and the right to counsel at this hearing.

To assess whether the juvenile has committed the acts specified in the petition, a judge hears the case rather than having it tried before a jury. The judge dismisses the case if the claims are not sufficiently established before the court.

Ruling

The judge may declare the youngster to be a status offender or a delinquent if the charges are found to be true. The outcome of the case is then decided at a second juvenile court session. The youngster may be placed on probation if it is determined that they pose no threat to others. The youngster is required to abide by the court’s guidelines while on probation and keep in regular contact with the probation officer. However, serious offenders might be transferred to a juvenile detention center.

Procedures in a juvenile court case

When a juvenile is suspected of violating a criminal statute, the procedures are very different from those used in adult criminal court. Most significantly, the police, prosecutors, juvenile court intake officials, and juvenile court judges all have broad discretion to take more informal steps in handling the case. As a result, many young offenders never reach the point of a formal adjudicatory hearing.

Likewise, the constitutional rights of juveniles are different from those of adults who have been accused of committing a crime. For example, although juveniles have the right to an attorney at an adjudicatory hearing, in most states they do not have the right to have their case heard by a jury.

Some juvenile cases are transferred to adult court in a procedure called a "waiver." Typically, juvenile cases that are subject to waiver involve serious offenses, like rape or murder, or juveniles who have been in trouble before. Juveniles have a right to a hearing to determine if their case should be transferred to adult court. Juveniles tried as adults face adult criminal convictions and penalties, such as prison time.

Juvenile courts have a broad range of sentencing options (usually called "disposition orders") if they find that a juvenile is delinquent. Courts can confine the juvenile in a variety of ways—from sending the minor to a traditional juvenile detention facility to placing the juvenile under house arrest. More importantly, juvenile courts can order a whole range of punishments that do not involve confinement—including counselling, curfews, and probation.

11.14. JUVENILE JUSTICE BOARDS AND THEIR IMPORTANCE IN INDIA

Juvenile Justice Board is the Juvenile Court created under Section 4 of the Juvenile Justice Act (2015). Criminal justice administration is a state subject as per Schedule VII of the Indian Constitution.

Section 4 of the Act starts with a non-obstante clause i.e. which has an overriding effect over the Code of Criminal Procedure, 1973. It mandates the establishment of at least one Juvenile Justice Board in each district. This board will comprise of a Principal Magistrate and 2 social workers at least one of whom should be a woman. The decision of the Principal Magistrate will be final. This principle is discussed under Section 4(2) of the Act.

Powers and functions of the board

- The Board is empowered to deal with the cases under its jurisdiction and cases dealing with children in conflict with the law.
- The power exercised by the Board can also be exercised by the High Court or the Session Court when the appeals from the Board come to them.
- The Board has the power to inquire into heinous offenses as per Section 15 of the Act and such a preliminary assessment can be disposed of within 3 months of bringing the juvenile in front of the board.
- The Board has to inform the parent or guardian of the child at every step of the process.
- The Board shall ensure that the rights of the child are protected throughout the process of inquiry and rehabilitation and ensuring legal aid for the child.
- The Board shall, whenever necessary, provide the child with a translator if there is difficulty in understanding the language, on payment of fees if required.
- It is the duty of the Board, wherever deemed necessary, to transfer a child in conflict with the law to a committee stating that the child is in need of care.
- It also has a provision regarding filing and First Information Report (FIR) in case of an offense against a child in conflict with the law.
- Periodically conducting inspection of residential facilities for children in conflict with the law and recommending various measures for improvement in the quality of services.

Juvenile Justice Board:

This chapter of the Act enumerates all regulatory aspects of Juvenile Justice Board (JJB).

1. It mandates setting up of at least one JJB in every district.
2. It shall consist of a Metropolitan Magistrate or a First-Class Judicial Magistrate (but not Chief Metropolitan Magistrate). Additionally, two social workers will be on the Bench of the Board, out of them one shall be a woman. The JJBs shall have the powers conferred by the Code of Criminal Procedure, 1973 on a Metropolitan Magistrate.
3. The social workers appointed to JJBs shall have to be an active participant in the field of health, education, or welfare of children; or a practicing professional in the field of child psychology, psychiatry, sociology or law.
4. No person having any criminal record shall be eligible for selection as a member of the Board.
5. Induction training and sensitization of all members regarding care, protection, rehabilitation, legal provisions and justice for children, shall be ensured by the State government. . If an inquiry initiated in favour of a child and during the course of inquiry if he completes 18 years of age, then also the Board shall continue the inquiry as if he was a child.
6. In case the child is not released on bail by the Board, then he shall be placed in a 'place of safety' during the process of inquiry.
7. (1) The JJBs shall have the power to deal exclusively with all the proceedings under this Act, relating to children in conflict with law.
(2) Under section 19 or in appeal, revision or otherwise, if such proceedings come before the High Court and the Children's Court, the powers conferred on the Board by or under this Act, may also be exercised by them.

11.15. FUNCTIONS AND RESPONSIBILITIES OF JJBS:

Continuous participation of the child and the parent or guardian; Protecting the child's right throughout the process; Ensuring legal aid for the child; Provide an interpreter or translator, if needed. Direct the Probation Officer to undertake a social investigation into the case and submit a report within 15 days. Adjudicate and dispose of cases of children in conflict with law in accordance with the process of inquiry specified in section 14. Transfer those cases to the Committee, where the Board realizes that the child in conflict with law needs care and protection. Dispose of matter and pass a final order for the child's rehabilitation. Conduct inquiry for declaring fit persons regarding care of children in conflict with law. Conduct at least one inspectional visit every month of residential facilities where the children in conflict with law are kept. Order the police to file an FIR for offences committed against any child in conflict with law. Order the police to file an FIR for offences committed against any child in need of care and protection. Conduct inspection of adult jails and if any child is lodged there then take immediate action to transfer the child to observation home. Any other functions as may be prescribed.

Chapter IV. Procedure in Relation to Children in Conflict with Law:

Chapter IV of the Act states all regulations related to the procedure to deal with a child in conflict with law, to be followed by various authorities.

- Whenever a child in conflict with law is apprehended by the police, he shall be placed under the charge of the special juvenile police unit or the designated child welfare police officer, and produced before the Board within a period of twenty-four hours. Under no

circumstances. a child alleged to be in conflict with law, shall be placed in a police lockup or lodged in a jail.

- Any person under whose charge such a child is placed, shall bear the responsibility of him as if it were his own child.
- A child who is alleged to have committed a bailable or non-bailable offence, shall be released on bail, with or without surety, or placed under the supervision of a probation officer, etc. (3) During the pendency of the inquiry of such cases, if the child is not released on bail then, he shall be put in an observation home or a place of safety.
- When a child is apprehended for any crime, then, the Child Welfare Police Officer shall immediately inform the parent or guardian about the Board before which the child is produced. A social investigation report shall be performed by the Child Welfare Officer or probation officer, containing information regarding the antecedents and family background of the child and other material circumstances, within 15 days.
- When a child is produced before the Board, the Board shall hold an inquiry and pass orders in relation to such a child under sections 17 and 18 of this Act. (2) The Board shall complete the process of inquiry within four months, unless extended, to two more months, at the maximum. (3) In case of heinous offences under section 15, a preliminary assessment shall be disposed of by the Board within a period of three months. (4) For petty offences, if the inquiry by the Board under sub-section (2) remains inconclusive, even after an extended period, then the proceedings shall stand terminated. But in cases of serious or heinous offences, extensions can be granted by the Chief Judicial Magistrate or, the Chief Metropolitan Magistrate. (5) The Board shall take all the required steps to ensure fair and speedy inquiry.
- In cases where a child, who has completed or is above the age of sixteen years, and has been alleged to have committed a heinous offence, the Board shall conduct a preliminary assessment with regard to his mental and physical capacity to commit such offence, ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence. The Board is free to seek assistance of experienced psychologists or psycho-social workers or other experts in this matter. Further, it is clarified that preliminary assessment is not a trial, but just an assessment. If the Board is satisfied on preliminary assessment that the matter should be disposed by it, then the Board shall follow the procedure, as far as may be, for trial in summons case under the Code of Criminal Procedure, 1973.
- The pendency of cases of the Board shall be reviewed by The Chief Judicial Magistrate or the Chief Metropolitan Magistrate, once every three months, and he shall direct the Board accordingly, or even recommend additional Boards if need be.
- (1) If a Board is satisfied after inquiry that the child has not committed any offence, it shall pass order to that effect.
(2) But in case, it appears to the Board that the child referred to in sub-section
(3) needs care and protection, then it may refer the child to the Committee with appropriate directions.
- When a Board is assured after inquiry that a child (irrespective of his age) has committed a petty offence, or a serious offence, or even a child below the age of sixteen years has committed a heinous offence, then the Board may- (a) allow the child to go home after advice or admonition; and counselling such child and his parents or guardian; (b) direct the child to participate in group counselling and similar activities; (c) order the child to perform community service under the supervision of an organization or institution; (d) order the child or parents or the guardian of the child to pay fine; (e) direct the child to be released on probation of good conduct and placed under the care of any parent, guardian or fit person; (f) direct the child to be released on probation of good conduct and placed under

the care and supervision of any fit facility, for a period not exceeding three years; (g) direct the child to be sent to a special home, for a period not exceeding three years.

(2) The Board may, in addition pass orders for the child to attend a school, vocational training, or undergo a de-addiction program, etc.

(3) If the Board, after conducting the preliminary assessment, under section 15 passes an order that there is a need for trial of the said child as an adult, then it may order transfer of the trial of the case to the Children's Court.

- (1) After receiving preliminary assessment from the Board under section 15, the Children's Court may decide if- (i) there is a need for the child to be tried as an adult as per the provisions of the Code of Criminal Procedure, 1973 and pass appropriate orders regarding the special needs of the child, the tenets of fair trial and maintaining a child friendly atmosphere; (ii) there is no need for trial of the child as an adult then, the Board may conduct an inquiry and pass appropriate orders in accordance with the provisions of section (2) The Children's Court shall ensure that the final order, regarding such a child, shall include an individual care plan for his rehabilitation, including follow up by the probation officer or the District Child Protection Unit or a social worker.

(3) The Children's Court shall further ensure that the child is sent to a place of safety, with reformatory services, till he attains the age of twenty-one years and thereafter, he shall be transferred to a jail.

(4) The Children's Court shall also ensure a period follow-up.

(5) The reports shall be forwarded to the Children's Court for record and follow-up.
- When such a child attains the age of twenty-one years and is yet to complete the term of stay, then it is for the Children's Court make the call. After an evaluation, the Children's Court may decide either to release the child or that the child shall complete the remainder of his term in a jail.
- No such child shall be sentenced to death or life imprisonment without the possibility of release, for any such offence, either under the provisions of this Act or under the provisions of IPC.
- No proceeding shall be instituted and no order shall be passed against any child under Chapter VIII of the said Code.
- There shall be no joint proceedings of a child, with a person who is not a child. If the child attains twenty-one years of age and is yet to complete the prescribed term, then he shall stay in place of safety.
- (1) No disqualification shall arise for the child from any conviction under this Act. The only exception shall be in case of a child who has completed or is above the age of sixteen years and is found to be in conflict with the law by the Children's Court.

(2) Except in cases of heinous crimes, all records of any conviction of juveniles shall be destroyed after the period of appeal expires.
- All proceedings in respect of a child alleged or found to be in conflict with law pending before any Board or court on the date of commencement of this Act, shall be continued in that Board or court as if this Act had not been enacted.
- (1) A child who has run away from a special home or an observation home, etc. any police officer may take charge of such a child.

(2) The child referred to in sub-section (1) shall be produced, within twenty-four hours, preferably before the Board which passed the original order or to the nearest Board where the child is found.

(3) The Board shall ascertain the reasons for the child having run away and pass appropriate orders in the best interest of the child.

(4) No additional proceeding shall be instituted in respect of such child.

11.16. SUMMARY

Observation Home is an institution, where neglected and delinquent juveniles are kept for a few weeks or pending decision of the cases. Children are brought by the police or probation officers or parents voluntarily admit them. During their stay in the institutions, all services are provided including food, clothing and shelter. In the institution, children may be disposed off either by committing them to a Juvenile Home for long term treatment or may be handed over to their parents based on the nature of the case. In Observation Home, Juvenile Justice Board decides juvenile's cases and handover to the parents on conditions of attending to Juvenile Justice.

The Observation Home has to be the place for changing attitudes and behaviour of the inmates. It has a major role to play in rehabilitating the delinquent children, by turning their mind set up to become a worthy citizen of the country. Children living in Observation Homes shall be provided a better social environment for their growth in the absence of parental care and affection. A Programme for Juvenile Justice for children in need of care and protection and children in conflict with law. The Government of India provides financial assistance to the State Governments/UT Administrations for establishment and maintenance of various homes, salary of staff, food, clothing, etc. for children in need of care and protection and juveniles in conflict with law.

The objective of the Borstal school was to detain juvenile delinquents for a period sufficiently long to enable them to receive education and to develop physical and moral health so that they could lead a systematic life. Through the process of reformation they developed habits of obedience, truth speaking, regularity, industry, order, cleanliness, and with the help of a judicious system of rewards and punishments. Juvenile justice system provides welfare along with criminal justice functions in safeguarding the rights of children, the Indian Juvenile Justice system passed through many phases to make the young criminals recognize the responsibility of society and also to protect them from all sorts of exploitation and abuses. After Independence Juvenile Justice Act of 1986 is an important land mark in the history of juvenile justice system.

The main function of juvenile courts is to have a special and distinctive procedure to look into juvenile offenders. As opposed to what earlier criminal courts used to do, wherein there was no distinction made between juveniles and adults, the juvenile courts in present times give necessary protection to children as they are not in a position to properly defend themselves. The need was realized to make the process more reformatory for juveniles rather than punitive.

11.17. KEYWORDS

- A) Observation home
- B) Juvenile
- C) Borstal School
- D) Juvenile Justice Board

11.18. SELF ASSESSMENT QUESTIONS

1. Define Observation homes and discuss its role and importance?
2. Explain in detail about Borstal Schools and Reformation system.
3. Discuss the functions and responsibilities of Juvenile Justice Boards

11.19. REFERENCE BOOKS

1. Coombes. J. W., The Juvenile Criminal in Southern India, printed at the Lawrence Asylum press, Mount Road, Madras, 1908. 4. G.O. No. 3565, Home Department, dated 7th September, Home Department, Government of Madras, 1937.
2. Juvenile Justice Act, 1986, printed by the Superintendent, Government press, Madras. 7. Madras in 1947, Madras Administrative Report, 1947, part-I, printed by the Superintendent, Government press, Madras, 1948.
3. 3.Satyaprakas Sangara, Crime and Punishment in Mughal India, Reliance Publishing House, 1998. <https://vidhilegalpolicy.in/blog/the-case-for-borstal-schools-in-india/>

Prof. D. Sai Sujatha

LESSON 12

PRISON REFORMS, PROBATION AND PAROLE, AFTER CARE SERVICES

OBJECTIVES

The objective of this lesson is to make the student understand about prison reforms, probation and parole and after care services.

STRUCTURE

- 12.1 Prison Reforms – Introduction
- 12.2 Historical background of Prison Reforms
- 12.3. Historical background of Prison Reforms in India
- 12.4. Reform Approaches
- 12.5. Probation and Parole
- 12.6. Origin and Development of Probation System
- 12.7. History and Development of Probation in India
- 12.8. Parole
- 12.9. Objective of Parole
- 12.10. Kinds of Parole
- 12.11. Power to Grant Parole
- 12.12. After Care Services
- 12.13. Brief Historical Background
- 12.14. Scope of After-Care Assistance
- 12.15. After care practices in India
- 12.16. Governmental Initiatives
- 12.17. Impediments in the implementation of Aftercare programmes in India
- 12.18. Summary
- 12.19. Keywords
- 12.20. Self-Assessment Questions
- 12.21. Reference Books

12.1 PRISON REFORMS

The British Colonial rule marked the beginning of Penal Reforms in India. The British prison authorities made arduous efforts to improve the condition of Indian prisons and prisoners. They introduced radical changes in the existing prison system with looking after the sentiments of the indigenous people. The prison administration who were mostly British officials, classified the prisoners into 2 heads namely – Violent and non violent prisoners. The Prison Enquiry committee appointed by the government of India in 1836 recommended for the abolition of the practice of prisoners working on roads. Adequate steps were also taken to eradicate corruption among the prisons staff. Inspector General of Prisoners was appointed for the first time in 1855 who was the Chief Administration of Prison in India. His main function was to maintain discipline among the prisoners and the prison authorities. Conditions

of Prisoners were harsher than animals in India and prisoners were treated with hatred.

There was no uniform civil code to give punishment. The meaning of the punishment itself was to crush the prisoner. Jailors were also cruel persons. But in 1835, some thought of reformation arose. The second jail enquiry committee in 1862 expressed concern for the unhygienic conditions of Indian prisoners which resulted into death of several prisoners due to illness and disease. It emphasized the need for proper food and clothing for the prison inmates and medical treatment of ailing prisoners. Prisoners Act was enacted to bring uniformity in the working of the prisoners in India.

The act provided for classification of prisoners and the sentences of whipping was abolished. The first half of the 19th century represented a watershed in the history of state punishment. Capital punishment was now regarded as an inappropriate sanction for many crimes. The 19th century saw the birth of the state prison with introduction of many models.

12.2 HISTORICAL REVIEW OF PRISON REFORMS

Broadly speaking, the existence of prisons in our society is an ancient phenomenon since Vedic period where the anti-social elements were kept in a place identified by the rulers to protect the society against crime. Prisons were considered as a 'House of Captives' where prisoners were kept for retributory and deterrent punishment. John Locke, the great English political theorist of seventeenth century expressed that men were basically good but laws were still needed to keep down 'the few desperate men in society'. The aim of the society as expressed in its criminal law is to safeguard its own existence to maintain order and to make it possible for all citizens to lead a good life, free from molestation of others. The law enforcement agencies have been given the powers by the society to curtail the freedom of its citizens by taking them into custody in connection with their deviant conduct.

Before the 1700's, governments seldom imprisoned criminals for punishment. Instead, people were imprisoned while awaiting trial or punishment. Common punishments at that time included branding, imposing fines, whipping, and capital punishment (execution). The authorities punished most offenders in public in order to discourage other people from breaking the law. Some criminals were punished by being made to row the oars on ships called galleys. However, English and French rulers kept their political enemies in such prisons as the Tower of London and the Bastille in Paris. In addition, people who owed money and defaulted on payments were held in debtors' prisons. In many such cases, offenders' families could stay with them and come and go as they pleased. But the debtors had to stay in prison until their debts were settled.

During the 1700's, many people including British Judge Sir William Blackstone criticized use of executions and other harsh punishments. As a result, governments turned more and more to imprisonment as a form of punishment. Early prisons were dark, dirty and overcrowded. They locked all types of prisoners together, including men, women, children, dangerous criminals, debtors and the insane. During the late 1700's, the British reformer John Howard toured Europe to observe prison

conditions. His book *The State of the Prisons in England and Wales (1777)* influenced the passage of a law that led to the construction of the first British prisons designed partly for reform. These prisons attempted to make their inmates feel penitent (sorry for doing wrong) and became known as penitentiaries. In 1787, a group of influential Philadelphians, mostly Quakers, formed the Philadelphia Society for Alleviating the Miseries of Public Prisons (now the Pennsylvania Prison Society). They believed that some criminals could be reformed through hard work and meditation. The Quakers urged that dangerous criminals be held separately from nonviolent offenders and men and women prisoners be kept apart. These ideas became known as the Pennsylvania System, and were put into practice in 1790 at Philadelphia's Walnut Street Jail. This prison is considered the first prison in the United States.

The Pennsylvania System was the first attempt to rehabilitate criminals by classifying and separating them on the basis of their crimes. As a result, the most dangerous inmates spent all their time alone in their cells. In time, however, the system failed, chiefly because overcrowding made such separation impossible. During the eighteenth century, New York prison officials developed two major systems of prison organization—the Auburn System and the Elmira System.

The Auburn System, introduced at Auburn (N.Y.) Prison in 1821, became widely adopted. Under this system, prisoners stayed in solitary confinement at night and worked together during the day. The system emphasized silence. Prisoners could not speak to, or even look at one another. Prison officials hoped that this silence and isolation would cause inmates to think about their crimes and reform. They believed that the prisoners' spirit must be broken before reform could take place. However, the system failed partly because the rigid rules and isolation drove inmates insane.

12.3. HISTORICAL REVIEW OF PRISON REFORMS IN INDIA

The contemporary prison administration in India is a legacy of the British Rule. Lord Macaulay, while presenting a note to the Legislative Council in India on December 21, 1835, for the first time, pointed out the terrible inhumane conditions prevalent in Indian prisons and he termed it as a shocking to humanity. He recommended that a committee be appointed to suggest measures to improve discipline in prisons.

Consequently, on 2nd January, 1836, a Prison Discipline Committee was constituted by Lord William Bantick for this purpose. The committee submitted their report in 1838 to Lord Auckland, the then Governor General which revealed prevalence of rampant corruption in the subordinate establishments, the laxity in discipline and the system of employing prisoners on extramural labour on public roads. The committee recommended more rigorous treatment of prisoners and rejected all notions of reforming criminals lodged in the prison through moral and religious teaching, education or any system of rewards for good conduct. Sir John Lawrence, a renowned jurist, again examined the conditions of Indian prisons in 1864.

Consequently, Second Commission of Enquiry to look into prison management and discipline was appointed by Lord Dalhousie. The commission in their report did not dwell upon, the concept of reformation and welfare of prisoners. It, instead, laid down a system of prison regimentation occasioned with physical

torture in the name of prison discipline. However, the commission made some specific recommendations in respect of accommodation, diet, clothing, bedding, medical care of prisoners only to the extent that these were incidental to discipline and management of prisons and prisoners.

A Conference of Experts was held in 1877 to inquire into the prison administration in detail. The conference resolved that a Prison Law should be enacted which could secure uniformity of system and to address such basic issues which were to be reckoned for deciding term of sentence. In pursuance to the resolution passed in this conference, a draft Prison Bill was actually prepared but finally postponed due to unfavourable circumstances.

The Fourth Jail Commission was appointed by Lord Dufferin in 1888 to inquire into the prison administration. This commission reiterated that the uniformity could not be achieved without the enactment of a single Prisons Act. Again, a consolidated Prisons Bill was prepared providing some rigorous prison punishments such as gunny clothing's, imposition of irons on hands and feet, penal diet, solitary confinement and whipping. This Bill was circulated to all local Governments by the Home Secretary to the Government of India on 25th March, 1893 with a view to obtaining their views. It was later presented to the Governor General in Council and ultimately Prisons Act of 1894 came into existence which is the current law governing management and administration of prisons. It has remained into force for over 112 years including 58 years after our independence. It has hardly undergone any substantial change during all these years despite lot of new thinking having emerged respecting objectives, management and administration of prisons. The process of review of prison problems in the country, continued even after the enactment of Prisons Act, 1894.

The first ever comprehensive study was launched on this subject with the appointment of All India Jail Committee (1919-1920). It is indeed a major landmark in the history of prison reforms in India and is appropriately called the corner stone of modern prison reforms in the country. For the first time, in the history of prison administration, reformation and rehabilitation of offenders were identified as one of the objectives of prison administration. The committee made following recommendations: -

- (i) The care of prisoners should be entrusted to the adequately trained staff drawing sufficient salary to render faithful service.
- (ii) The separation of executive/custodial, ministerial and technical staff in prison service.
- (iii) The diversification of the prison institutions i.e. separate jail for various categories of prisoners and a minimum area of 675 Sq. Feet (75 Sq. Yards) per prisoner was prescribed within the enclosed walls of the prison. It is ironical that the recommendations made by this Committee could not be implemented due to uncondusive political environment. The constitutional changes brought about by the Government of India Act of 1935, which resulted in the transfer of the subject of prisons in the control of provincial governments, further reduced the possibilities of uniform implementation of the recommendations of the Indian Jails Committee 1919-1920 in the country. However, the period from 1937 to 1947 was important in the history of Indian prisons because it aroused public consciousness and general

awareness for prison reforms at least in some progressive States like, West Bengal, Tamil Nadu, Maharashtra etc. Efforts of some of the eminent freedom fighters who had known first hand the conditions in prisons succeeded in persuading the governments of these progressive States to appoint committees to further enquire into prison conditions and suggest improvements in consonance with their local conditions.

Some of the Committees appointed during the period were

- (i) The Mysore Committee on Prison Reforms, 1940-41;
- (ii) The U.P. Jail Reforms Committee, 1946; and
- (iii) The Bombay Jail Reforms Committee, 1946-48.

It was around this period that such progressive legislations as

- (i) The Bombay Probation of Offenders Act, 1936;
- (ii) The C.P. and Berar Conditional Release of Prisoners Act, 1936; and
- (iii) The U.P. First Offenders Probation Act, 1938, were passed.

In the late thirties, the U.P. Government appointed a Jail Enquiry Committee and in pursuance of its recommendations, the first Jail Training School in India was established at Lucknow in 1940 for the training of jail officers and warders. When India gained independence in 1947, the memories of horrible conditions in prisons were still fresh in the minds of political leaders and they, on assumption of power, embarked upon effecting prison reforms.

However, the Constitution of India which came into force in 1950 retained the position of the Government of India Act, 1935 in the matter of prisons and kept 'Prisons' as a State subject by including it in List II—State List, of the Seventh Schedule (Entry 4). The first decade after independence was marked by strenuous efforts for improvements in living conditions in prisons.

A number of Jail Reforms Committees were appointed by the State Governments, to achieve a certain measure of humanization of prison conditions and to put the treatment of offenders on a scientific footing. Some of the committees which made notable recommendations on these lines were:-

- (i) The East Punjab Jail Reforms Committee, 1948-49;
- (ii) The Madras Jail Reforms Committee, 1950-51;
- (iii) The Jail Reforms Committee of Orissa, 1952-55;
- (iv) The Jail Reforms Committee of Travancore and Cochin, 1953-55;
- (v) The U.P. Jail Industries Inquiry Committee, 1955-56; and
- (vi) The Maharashtra Jail Industries Reorganization Committee, 1958-59.

While local Committees were being appointed by State Governments to suggest prison reforms, the Government of India invited technical assistance in this field from the United Nations.

Dr. W. C. Reckless, a U.N. Expert on Correctional Work, visited India during the years 1951-52 to study prison administration in the country and to suggest ways and means of improving it. His report 'Jail Administration in India' is another landmark document in the history of prison reforms. He made a plea for transforming

prisons into reformation centres and advocated establishment of new prisons. Some of the salient recommendations made by Dr. W. C. Reckless are as under :-

- i. Juvenile delinquents should not be handed over by the courts to the prisons which are meant for adult offenders.
- ii. A cadre of properly trained personnel was essential to man prison services.
- iii. Specialized training of correctional personnel should be introduced.
- iv. Outdated Prison Manuals be revised suitably and legal substitutes be introduced for short sentences.
- v. Full time Probation and Revising Boards be set up for the aftercare services and also the establishment of such boards for selection of prisoners for premature release.
- vi. An integrated Department of Correctional Administration be set up in each State comprising of Prisons, Borstals, Children institutions, probation services and after-care services.
- vii. An Advisory Board for Correctional Administration be set up at the Central Government level to help the State Governments in development of correctional programmes.
- viii. A national forum be created for exchange of professional expertise and experience in the field of correctional administration.
- ix. A conference of senior staff of correctional departments be held periodically at regular intervals.

The year 1952 witnessed a significant break-through in national coordination on correctional work as in that year the Eighth Conference of the Inspectors General of Prisons was held after a lapse of 17 years. In pursuance to the recommendations made by the Eighth Conference of the Inspectors General of Prisons and also by Dr. W. C. Reckless, the Government of India appointed the All-India Jail Manual Committee in 1957 to prepare a Model Prison Manual. The All-India Jail Manual Committee was also asked to examine the problems of prison administration and to make suitable suggestions for improvements to be adopted uniformly throughout the country. In pursuance to the recommendations made by Dr. W. C. Reckless and also by the All India Jail Manual Committee, the Central Bureau of Correctional Services was set up under the Ministry of Home Affairs in 1961 to formulate a uniform policy and to advise the State Governments on the latest methods relating to jail administration, probation, after-care, juvenile and remand homes, certified and reformatory schools, Borstals and protective homes, suppression of immoral traffic, etc.; The Central Correctional Bureau observed the year 1971 as "Probation Year" all over the country.

The purpose was to create a general awareness amongst the principal branches of the criminal justice system, viz., the judiciary, the police, the prosecution and the correctional administration about the use of probation as an effective non-institutional mode of treatment for the convicts.

In 1972, the Ministry of Home Affairs, Government of India, appointed a Working Group on Prisons which presented its report in 1973. This Working Group brought out in its report the need for a National Policy on Prisons. Its salient features are as under: -

- i. To make effective use of alternatives to imprisonment as a measure of sentencing policy.
- ii. Emphasized the desirability of proper training of prison personnel and improvement in their service conditions.
- iii. To classify and treat the offenders scientifically and laid down principles of follow-up and after-care procedures.
- iv. That the development of prisons and the correctional administration should no longer remain divorced from the national development process and the prison administration should be treated as an integral part of the social defence components of national planning process.
- v. Identified an order of priority for the development of prison administration.
- vi. The certain aspects of prison administration be included in the Five Year Plans.

An amendment to the Constitution be brought to include the subject of prisons and allied institutions in the Concurrent List, the enactment of suitable prison legislation by the Centre and the States, and the revision of State Prison Manuals be undertaken.

In 1964, the Central Bureau of Correctional Services was transferred from the Ministry of Home Affairs to the newly created Department of Social Security, now known as Department of Social Justice and Empowerment under the Ministry of Human Resource Development. However, the Bureau continued to be attached to the Ministry of Home Affairs for various matters concerning prison administration and reforms. Its Director was latter designated as Ex-officio Prison Advisor. In 1971, the Bureau was re-organized into the National Institute of Social Defence to review policies and programmes in the field of Social Defence. In spite of the fact that the administration and management of prisons falls under the jurisdiction of State Governments and Union Territory Administrations, the Government of India, has, of late, been seriously concerned about the highly unsatisfactory prison conditions obtaining in many parts of the country. The scheme for the modernization of prisons and improvement in the living conditions of prisoners initiated by the Ministry of Home Affairs during 1977-79 was indicative of a growing awareness for providing a thrust towards the development of prisons in keeping with certain minimum norms.

This trend took a definite shape when the Seventh Finance Commission went into the question of upgrading the standards of prison administration on the basis of a comprehensive assessment of the requirements in this regard.

The Seventh Finance Commission in its Report of 1978, on an analysis of the material received from the Ministry of Home Affairs and the Department of Social Welfare in the Government of India and that obtained by it from State Governments, recognized that prisons had been neglected for far too long and that there had been practically no improvement in their physical environments or in the method of handling inmates.

Although the Commission did not regard itself competent to lay down the requirements of modernization of prisons and correctional services, it did identify certain basic areas needing urgent attention.

The Seventh Finance Commission took a view that priority should be given:-

- (a) To ensure that adequate direct expenditure was incurred on the prisoners;
- (b) To bring improvements in amenities in respect of water supply, sanitary facilities, electrification, etc. and,
- (c) To provide the construction of additional prison capacities in States where these were found short of the minimum requirements.

The Seventh Finance Commission considered it necessary that a norm of Rs. 3 per head for diet and Rs. 1 per prisoner for other items like, medicine, clothing etc per day should be a minimum, and that inclusive of prison overheads (not including the headquarters cost of direction and administration) a minimum of Rs. 6 per day per prisoner should be provided for in all the States. Accordingly, the Commission recommended an allocation of Rs. 48.31 crores for the States which were found lagging behind in these respects.

The Government of India convened a Conference of Chief Secretaries of all the States and Union Territories on April 9, 1979, in order to assess the gaps in the existing prison management system and to lay down guidelines for standardization of prison conditions throughout the country. This Conference made a detailed examination of the issues pertaining to prison administration and on the basis of the consensus arrived at the Conference, the Government of India requested the State Governments and Union Territory Administrations:-

- to revise their prison manuals on the lines of the Model Prison Manual by the end of the year;
- to appoint Review Committees for the undertrial prisoners at the district and state levels;
- to provide legal aid to indigent prisoners and to appoint whole-time or part-time law officers in prisons;
- to enforce existing provisions with respect to grant of bail and to liberalize bail system after considering all its aspects ;
- to strictly adhere to the provisions of the Code of Criminal Procedure, 1973, with regard to the limitations on time for investigation and inquiry;
- to ensure that no child in conflict with law be sent to the prison for want of specialized services under the Central Children Act, 1960.
- to have at least one Borstal School set up under the Borstal Schools Act, 1929 for youthful offenders in each State;
- to create separate facilities for the care, treatment and rehabilitation of women offenders;
- to arrange for the treatment of lunatics in specialized institutions;
- to provide special camp accommodation under conditions of minimum security to political agitators coming to prisons;
- to prepare a time bound programme for improvement in the living conditions of prisoners with priority attention to sanitary facilities, water supply, electrification and to send it to the Ministry of Home Affairs for approval;
- To develop systematically the programmes of education, training and work in prisons;
- To strengthen the machinery for inspection, supervision and monitoring of prison development programme and to ensure that the financial provisions made for upgradation of prison administration by the Seventh Finance Commission are properly utilized;

- To organize a systematic programme of prison personnel training on State and Regional level;
- To abolish the system of convict officers in a phased manner;
- To mobilize additional resources for modernization of prisons and development of correctional services in prison;
- To set up a State Board of Visitors to visit prisons at regular periodicity and to report on conditions prevailing in the prisons for consideration of the State Government;
- To examine and furnish views to Government of India on proposal for setting up of the National Board of Visitors.

The Government of India has constituted an All India Committee on Jail Reforms under the chairmanship of Mr Justice A. N. Mulla in 1980 the committee submitted their report in 1983. This committee examined all aspects of prison administration and made suitable recommendation respecting various issues involved.

A total of 658 recommendations made by this committee on various issues on prison management were circulated to all States and UTs for its implementation, because the responsibility of managing the prisons is that of the State Governments as 'Prisons' is a 'State' subject under the List II—State List of the Seventh Schedule (Entry 4) of the Constitution of India.

The Committee has also suggested that there is an immediate need to have a National policy on prisons and proposed a draft National Policy on Prisons as per the brief details given as under:-

GOALS AND OBJECTIVES

Prisons in the country shall endeavour to reform and assimilate offenders in the social milieu by giving them appropriate correctional treatment.

MODALITIES

- i. Incorporation of the principles of management of prisons and treatment of offenders in the Directive Principles of the State Policy embodied in Part IV of the Constitution of India;
- ii. Inclusion of the subject of prisons and allied institutions in the Concurrent List of the Seventh Schedule to the Constitution of India; and
- iii. Enactment of uniform and comprehensive legislation embodying modern principles and procedures regarding reformation and rehabilitation of offenders.
- iv. There shall be in each State and Union Territory a Department of Prisons and Correctional Services dealing with adult and young offenders – their institutional care, treatment, aftercare, probation and other non-institutional services.
- v. The State shall endeavour to evolve proper mechanism to ensure that no undertrial prisoner is unnecessarily detained. This shall be achieved by speeding up trials, simplification of bail procedures and periodic review of cases of undertrial prisoners. Undertrial prisoners shall, as far as possible, be confined in separate institutions.
- vi. Since it is recognized that imprisonment is not always the best way to meet the objectives of punishments the government shall endeavour to provide in law new

alternatives to imprisonment such as community service, forfeiture of property, payment of compensation to victims, public censure, etc., in addition to the ones already existing and shall specially ensure that the Probation of Offenders Act, 1958, is effectively implemented throughout the country.

- vii.** Living conditions in every prison and allied institution meant for the custody, care, treatment and rehabilitation of offenders shall be compatible with human dignity in all aspects such as accommodation, hygiene, sanitation, food, clothing, medical facilities, etc. All factors responsible for vitiating the atmosphere of these institutions shall be identified and dealt with effectively.
- viii.** In consonance with the goals and objectives of prisons, the State shall provide appropriate facilities and professional personnel for the classification of prisoners on a scientific basis. Diversified institutions shall be provided for the segregation of different categories of inmates for proper treatment.
- ix.** The State shall endeavour to develop the field of criminology and penology and promote research on the typology of crime in the context of emerging patterns of crime in the country. This will help in proper classification of offenders and in devising appropriate treatment for them.
- x.** A system of graded custody ranging from special security institutions to open institutions shall be provided to offer proper opportunities for the reformation of offenders according to the progress made by them.
- xi.** Programmes for the treatment of offenders shall be individualized and shall aim at providing them with opportunities for diversified education, development of work habits and skills, change in attitude, modification of behaviour and implantation of social and moral values.
- xii.** The State shall endeavour to develop vocational training and work programmes in prisons for all inmates eligible to work. The aim of such training and work programmes shall be to equip inmates with better skills and work habits for their rehabilitation.
- xiii.** Payment of fair wages and other incentives shall be associated with work programmes to encourage inmate participation in such programmes. The incentives of leave, remission and premature release to convicts shall also be utilized for improvement of their behaviour, strengthening, of family ties and their early return to society.
- xiv.** Custody being the basic function of prisons, appropriate security arrangements shall be made in accordance with the need for graded custody in different types of institutions. The management of prisons shall be characterized by firm and positive discipline, with due regard, however, to the maintenance of human rights of prisoners. The State recognizes that a prisoner loses his right to liberty but maintains his residuary rights. It shall be the endeavour of the State to protect these residuary rights of the prisoners.
- xv.** The State shall provide free legal aid to all needy prisoners.
- xvi.** Prisons are not the places for confinement of children. Children (under 18 years of age) shall in no case be sent to prisons. All children confined in prisons at present shall be transferred forthwith to appropriate institutions, meant exclusively for children with facilities for their care, education, training and rehabilitation. Benefit of non-institutional facilities shall, whenever possible, be extended to such children.
- xvii.** Young offenders (between 18 to 21 years) shall not be confined in prisons meant for adult offenders. There shall be separate institutions for them where, in

view of their young and impressionable age, they shall be given treatment and training suited to their special needs of rehabilitation.

- xviii.** Women offenders shall, as far as possible, be confined in separate institutions specially meant for them. Wherever such arrangements are not possible they shall be kept in separate annexes of prisons with proper arrangements. The staff for these institutions and annexes shall comprise of women employees only. Women prisoners shall be protected against all exploitation. Work and treatment programmes shall be devised for them in consonance with their special needs.
- xix.** Mentally ill prisoners shall not be confined in prisons. Proper arrangements shall be made for the care and treatment of mentally ill prisoners.
- xx.** Persons courting arrest during non-violent socio-political economic agitations for declared public cause shall not be confined in prisons along with other prisoners. Separate prison camps with proper and adequate facilities shall be provided for such non-violent agitators.
- xxi.** Most of the persons sentenced to life imprisonment at present have to undergo at least 14 years of actual imprisonment. Prolonged incarceration has a degenerating effect on such persons and is not necessary either from the point of view of individual's reformation or from that of the protection of society. The term of sentence for life in such cases shall be made flexible in terms of actual confinement so that such a person may not have necessarily to spend 14 years in prison and may be released when his incarceration is no longer necessary.
- xxii.** Prison services shall be developed as a professional career service. The State shall endeavour to develop a well-organized prison cadre based on appropriate job requirements, sound training and proper promotional avenues. The efficient functioning of prisons depends undoubtedly upon the personal qualities, educational qualifications, professional competence and character of prison personnel. The status, emoluments and other service conditions of prison personnel should be commensurate with their job requirements and responsibilities. An All India Service namely the Indian Prisons and Correctional Service shall be constituted to induct better qualified and talented persons at higher echelons. Proper training for prison personnel shall be developed at the national, regional and state levels.
- xxiii.** The State shall endeavour to secure and encourage voluntary participation of the community in prison programmes and in non-institutional treatment of offenders on an extensive and systematic basis. Such participation is necessary in view of the objective of ultimate rehabilitation of the offenders in the community. The government shall open avenues for such participation and shall extend financial and other assistance to voluntary organizations and individuals willing to extend help to prisoners and ex-prisoners.
- xxiv.** Prisons are hitherto a closed world. It is necessary to open them to some kind of positive and constructive public discernment. Selected eminent public-men shall be authorised to visit prisons and give independent report on them to appropriate authorities.
- xxv.** In order to provide a forum in the community for continuous thinking on problems of prisons, for promoting professional knowledge and for generating public interest in the reformation of offender, it is necessary that a professional non-official registered body is established at the national level. It may have its branches in the States and Union Territories. The Government of India, the State Governments and the Union Territory Administrations shall encourage setting up

- of such a body and its branches, and shall provide necessary financial and other assistance for their proper functioning.
- xxvi.** Probation, aftercare, rehabilitation and follow-up of offenders shall form an integral part of the functions of the Department of Prisons and Correctional Services.
- xxvii.** The development of prisons shall be planned in a systematic manner keeping in view the objectives and goals to be achieved. The progress of the implementation of such plans shall be continuously monitored and periodically evaluated.
- xxviii.** The governments at the Centre and in the States / Union Territories shall endeavour to provide adequate resources for the development of prisons and other allied services.
- xxix.** Government recognizes that the process of reformation and rehabilitation of offenders is an integral part of the total process of social reconstruction, and, therefore, the development of prisons shall find a place in the national development plans.
- xxx.** In view of the importance of uniform development of prisons in the country the Government of India has to play an effective role in this field. For this purpose the Central Government shall set up a high status National Commission on Prisons on a permanent basis. This shall be a specialized body to advise the Government of India, the State Governments and the Union Territory Administrations on all matters relating to prisons and allied services. Adequate funds shall be placed at the disposal of this Commission for enabling it to play an effective role in the development of prisons and other welfare programmes. The Commission shall prepare an annual national report on the administration of prisons and allied services, which shall be placed before the Parliament for discussion.
- xxxi.** As prisons form part of the criminal justice system and the functioning of other branches of the system – the police, the prosecution and the judiciary have a bearing on the working of prisons, it is necessary to effect proper coordination among these branches. The government shall ensure such coordination at various levels.
- xxxii.** The State shall promote research in the correctional field to make prison programmes more effective. The draft of the proposed National Policy on Prisons, quoted above, would require some changes in view of the developments that have taken place in the intervening period. For instance, the present committee is of the opinion that the enactment of a uniform and comprehensive legislation on prisons would be possible within the existing provisions of the Constitution of India, as India is a party to the International Covenant on Civil and Political Rights, 1966. The question of inducting alternatives to imprisonment such as community service, forfeiture of property, payment of compensation to victims, public censure, etc involves certain amendments in the substantive law.

The enactment of the Juvenile Justice (care and protection of children) Act, 2000, has raised the upper age limit of children to be kept away from prisons up to the 18 years in case of boys as well, so as to bring parity with girls. Similarly, the issues relating to the establishment of an All India Service, namely the Indian Prisons and Correctional Service, bringing Probation, Aftercare, Rehabilitation and follow-up of offenders within the functions of the Department of Prisons and Correctional Services

and the setting-up of a high level National Commission on Prisons on a permanent basis requires a thorough review of the existing policy.

Thereafter, Government of India has constituted another committee on 26th May, 1986, namely, National Expert Committee on Women Prisoners under the chairmanship of Justice Krishna Iyer who has submitted its report on 18th May, 1987.

This report has also been circulated to all States for taking necessary follow-up action. The Government of India has shown serious concern over the growing threats to the security and discipline in prisons posing a challenge as how to make prisons a safe place. Consequently, the Ministry of Home Affairs, Government of India has constituted a All India Group on Prison Administration-Security and discipline on 28th July, 1986 under the chairmanship of Shri R.K. Kapoor who submitted their report on 29th July, 1987. In pursuance to the recommendations made by the All India Committee on Jails Reforms, the Government of India identified Bureau of Police Research & Development (BPR&D) as a nodal agency at the national level in the field of Correctional Administration on November 16, 1995.

The Government of India has constituted All India Model Prison Manual Committee in November, 2000 under the chairmanship of Director General of BPR&D to prepare a Model Prison Manual for the Superintendence and Management of Prisons in India in order to maintain uniformity in the working of prisons throughout the country. This manual has been circulated to all States/UTs for adoption after the acceptance by Government of India in January, 2004. It would not be out of place to mention here that the draft national policy on prisons as proposed by the All India Committee on Jail Reforms which is enumerated in the preceding account was given due consideration by this committee while preparing the Model Prison Manual under reference. Government of India has constituted a high powered committee under the chairmanship of Director General, BPR&D for drafting a national policy paper on Prison Reforms and Correctional Administration on 1st December, 2005 with following terms of reference:-

- i. To review the present status of the legal position and suggest amendments if required on the prison related laws enacted by the Centre and States.
- ii. To review the recommendations made by various Committees & cull out tangible recommendations which are required to be implemented by the Centre and the States.
- iii. To review the status of implementation of these recommendations with reference to the following: -

A) Physical conditions of prisons

- (i) Overcrowding and Congestion
- (ii) Hygienic conditions
- (iii) Other Basic amenities

B) Condition of prisoners

- (i) Under trials
- (ii) Convicts
- (iii) Detentes

- C) Correctional Administration
 - (i) Programme for welfare of convicts/undertrials
 - (ii) Rehabilitation after release
 - (iii) Involvement of Community

- D) Prison Personnel
 - (i) Overall development of Prison Personnel
 - (ii) Training

- E) Any other issues related to modernization of prisons and correctional administration.

(IV) Suggestions regarding alternatives to imprisonment. The Committee has deliberated upon these identified terms of reference in its various meetings and workshops held in the BPR&D Headquarters and also in various regional workshops.

The draft recommendations on these terms of reference have been circulated among all the States/UTs and a copy of the same was sent to the MHA with a view to obtaining their views and suggestions to finalize this draft policy paper in order to evolve national consensus by involving NGOs and other concerned social organizations who are actively involved in prison management issues. In addition to it, BPR&D has also placed this draft policy paper in the meeting of Advisory Committee on Prison Reforms held on 3rd November, 2006 for discussion to make this document more viable. Finally, BPR&D has finalized this draft national policy on prison reforms in the light of views/suggestions received from the States and the Advisory Committee on Prison Reforms of the BPR&D which is being presented in detail in respective chapters of this draft national policy paper on prison reforms and correctional administration.

12.4 REFORM APPROACHES

- **Socialistic Approach**

The prisoners are human beings like us. The society still looks down upon them. They are socially outcast from every sphere of society. It is not only the prisoners' reformation which is required but most importantly it is the mind-set of the society which needs reformation. If the society neglects it then it fails to accord equal status to human being irrespective of various terms. Society, as an important institution, endeavours the development of an individual. The aftercare programmes will give an impetus to the growth and development of an offender. Community basis participation will help the offender to interact with the community and to pace his degree of rehabilitation and reformation.

- **Educational Approach**

The mechanism for achieving this revolution in approach to prisons is to confer responsibility for education and freedom to design their own curriculum. Education will be a key part of prison life. The educational approach will not only help the illiterate ones but also the literate ones. Incarceration should not act as a hindrance in the overall development of the personality of the offender. The prisoners should be provided with ample opportunities to pursue his education and furthermore if any training or special teaching is required for pursuing; the same should be made

available. The Universities should collaborate with prison authorities and can start ahead with distance learning programs, degree courses, etc. so that the prisoners do not feel differentiated from being a citizen who has right to education.

- **Reformative and Therapeutic Approach**

India still holds and believes in its spirit, the reformative theory of punishment. The reformative approach is a holistic one and focuses on reforming the individual through various channels. This approach has been devised to reform the individuals to repent for a crime committed and it works as a device of self-realization of one's mistake. Furthermore, the therapeutic approach deals with the offender being under the continuous supervision and care of the counsellor or the psychoanalyst. In this way, the prisoner will share his grievances and his behaviour will be understood in a clear manner. The alternative of meditation can help achieve mental peace to the prisoners, it can be sought to construe as a channel of relief for them.

Psychoanalysis is a school of psychology founded by Sigmund Freud. This school of thought emphasized the influence of the unconscious mind on behaviour. Freud believed that the human mind was composed of three elements:

- The id – The id consists of primal urges
- The ego – The ego is the component of personality charged with dealing with reality.
- The superego – The superego is the part of personality that holds all the ideals and values we internalize from our parents and culture.

Freud believed that the interaction of these three elements was what led to all the complex human behaviors. Freud's school of thought was enormously influential, but also generated considerable debate. This controversy existed not only in his time but also in modern discussions of Freud's theories.

- **Recreational Approach**

Recreational activities should be given equal impetus. These activities include outdoor activities like sports, cultural programs, handling prison industries. The prisoners who are interested in developing a career through these activities should be supported. These activities not only would develop prisoners' physique but would refresh his mental state and would serve as a break from the tiresome work and would imbibe in him a spirit of sportsmanship. The inclination towards the literature should be given due consideration by making available various books on self-help, motivation, novels, etc. The library should be available 24*7 to the prisoners. The most innovative is the idea of setting up souvenir shops and handling the prison business; this would not only serve as an activity but would also generate income for the prison.

Nowadays imprisonment does not mean to break the stones or grind the chakkies but the sense has changed. Undoubtedly, the condition of modern prison system is far better than that in the past but still much remains to be done in the direction of prison reforms for humane treatment of prisoners.

The following modification in prison administration can be suggested for improving the efficiency of these institutions:

- 1) The maintenance of prison establishment is an expensive affair. It is in fact a burden on the public. Therefore the offender should be confined to the prison for only a minimum period which is absolutely necessary for their custody. The elimination of long term sentences would reduce undue burden on prison expenditure. It is further suggested that where the term of imprisonment exceeds one year, a remission of one month or so per year be granted to the inmate so as to enable him home town and meet his relatives. This will help in his rehabilitation and after his release he can face the outside world courageously casting aside the stigma attached to him on account of imprisonment.
- 2) The women prisoners should be treated more generously and allowed to meet their children frequently. This will keep them mentally fit and respond favourably to the treatment methods. The woman who fall prey to sex offence should be treated with sympathy and their illegitimate children should be assured an upright life in the society. Women prisoners should also be allowed to meet their sons and daughters more frequently, particularly the attitude in this regard should be more liberal in case of under-trial prisoners . Women prisoners should be handled only by women police or prison officials. The idea of setting up separate women jails exclusively for women however does not seem to be compatible keeping in view the heavy expenditure involved in the process.
- 3) The prisoners belonging to peasant class should be afforded an opportunity to go to their fields during harvesting season on temporary 'ticket on leave' so that they can look after their agriculture. This would enable them to keep in touch with their occupation and provide means of living to the other members of their family. Thus the unity of family life can be maintained which would help rehabilitation of the prisoner after his release from jail.
- 4) Though the prisoners are allowed to meet their close relatives at a fixed time yet there is further need to allow them certain privacy during such meeting. The meeting under supervision of prison guards are really embarrassing for inmates as well as the visitors and many thoughts on the both sides remain unexpressed for want of privacy. The rights of prisoners to communicate and meet their friends, family, relatives and legal advisers should not be restricted beyond a particular limit.
- 5) The present system of limiting the scope of festivals and other ceremonial occasions merely to delicious dishes for inmates need to be changed. These auspicious days and festivals should be celebrated through rejoicings and other meaningful programmes so that the prisoners can atleast momentarily forget that they are leading a fettered life.
- 6) The existing rules to the restrictions and scrutiny of postal mail of inmates should be liberalised. This shall infuse trust and faith among inmates for the prison officials.
- 7) The prison legislation should make provision for remedy of compensation to prisoner who are wrongfully detained or suffer injuries to callous or negligent acts of the prison personnel. It is gratifying to note that in recent decades the Supreme Court has shown deep concern for prisoners right to justice and fair treatment and requires prison officials to initiate measures so that prisoners basic right are not violated and they are not subjected to harassment and inhuman conditions of living .

- 8) The education in prisons should be beyond three R's and there should be greater emphasis on vocational training of inmates. This will provide them honourable means to earn their livelihood after release from jail. The facilities of lessons through correspondence courses should be extended to inmates who are desirous of taking up higher or advanced studies. Women prisoners should be provided training in tailoring, doll making, embroidery etc. The prisoners who are well educated should not be subjected to rigorous imprisonment, instead they should be engaged in some mental cum manual work .
- 9) On completion of term of sentence, the inmates should be placed under an intensive 'After Care'. The process of After Care will offer them adequate opportunities to overcome their inferior complex and save them from being ridiculed as convicts. Many non penal institutions such as Seva Sadans, Nari Niketans and Reformation Houses are at work in different places in India to take up the arduous task of After Care and rehabilitation of criminals.
- 10) There is dire need to bring about a change in the public attitude towards the prison institutions and their management. This is possible through an intensive publicity programmes using the media of press, platform and propaganda will. It will certainly create a right climate in society to accept the released prisoners with sympathy and benevolence without any hatred or distrust for them. The media men should be allowed to enter into prison so that their misunderstanding about prison administration may be cleared. In *Prabhu Dutta v. Union of India*, the petitioner a newspaper correspondent filed a petition to interview two condemned prisoners Ranga and Billa for which permission was refused to hereby Tihar Jail authorities. The Supreme Court allowed the interview upholding right of the press to have access to prison inmates.
- 11) Last but not the least, the existing Prison Act, 1894 which is more than a century old, needs to be thoroughly revised and even re-stated in view of the changed socioeconomic and political conditions of India over the years. Many of the provisions of this Act have become obsolete and redundant.

12.5. PROBATION AND PAROLE

Probation in criminal law is a period of supervision over an offender, ordered by the court instead of serving time in prison. In some jurisdictions, the term probation applies only to community sentences (alternatives to incarceration), such as suspended sentences. In others, probation also includes supervision of those conditionally released from prison on parole. An offender on probation is ordered to follow certain conditions set forth by the court, often under the supervision of a probation officer.

Etymologically probation means "I prove my worth" derived from the Latin word 'probatus' meaning 'tested' or 'proved'.

Don M. Got Fredson observed probation as "a procedure by which a convicted person is released by the court without imprisonment, subject to conditions imposed by the court. Thus probation is part of the decision- making process of judges at the time of sentencing".

In U.S. A the Advisory Committee on Penal Institutions defines probation as follows :-" " Probation is a process of treatment, prescribed by the Court for persons

convicted of offences against the law, during which the individual on probation lives in the community and regulates his own life under conditions imposed by the court and is subject to supervision by a probation officer. Edwin H. Sutherland says, probation is a status of a convicted offender during a period of suspension of the sentence by the court.

In India, the system of probation finds its statutory recognition at present in section 4 (1) of the Probation of Offenders Act, 1958 (20 of 1958) which runs as follows :-

“ When any person found guilty of having committed an offence not punishable with death or imprisonment for life and the court by which the person is found guilty is of opinion that having regard to the circumstance of the case including the nature of the offence and the character of the offender, it is expedient to release him on probation of good conduct, then notwithstanding anything contained in any other law for the time being in force, the court may instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period, not exceeding three years, as the court may direct, and in the meantime to keep the peace and be of good behaviour.”

During the period of probation, an offender faces the threat of being incarcerated if found breaking the rules set by the court or probation officer. Offenders are ordinarily required to maintain law-abiding behavior, and may be ordered to refrain from possession of firearms, remain employed or participate in an educational program, abide a curfew, live at a directed place, obey the orders of the probation officer, or not leave the jurisdiction. The probationer might be ordered as well to refrain from contact with the victims (such as a former partner in a domestic violence case), with potential victims of similar crimes (such as minors, if the instant offense involves child sexual abuse), or with known criminals, particularly co-defendants. Additionally, offenders can be subject to refrain from use or possession of alcohol and drugs and may be ordered to submit alcohol/drug tests or participate in alcohol/drug psychological treatment. Offenders on probation might be fitted with an electronic tag (or monitor), which signals their movement to officials. Some courts permit defendants of limited means to perform community service in order to pay off their probation fines.

12.6. ORIGIN AND DEVELOPMENT OF PROBATION SYSTEM

Historical Antecedents in U.S.A. and England.

Although probation system has its statutory recognition in last century yet it has some historical antecedents.

Pardons

In 12th Century in the criminal justice system, ‘Pardon’ was one aspect of “King’s authority to determine the punishment to be imposed for various offences. The pardon includes the power to commute or remit prescribed penalty”

Suspension of Sentences

It is said that probation evolved from the common law procedure of suspended sentence. At common law the courts has an inherent power to temporarily suspend sentences. In the United States “the courts could indefinitely suspend a sentence as a

Common Law” practice. “The suspension of sentence, nevertheless, was the early stage of what was known today as formal probation.” By this system the defendant was allowed to appeal to the crown for a pardon.

Benefit of Clergy

Historically the probation system has some similarity with the English system of Benefit of Clergy in the sense that both reflect a criminal justice method for lessening punishment. Most writers in the field accepted benefit of clergy as “a primary historical influence in the rise of probation”

Recognizance and Bail

In the 14th Century the practice of recognizance (recall to mind) evolved. In recognizance the offender has to keep peace and to recall minding that he was subsequently to appear in court. It is still in vogue in Irish Probation system. Bail at that time involved placing the offender under custody of another. So, some relation lies between probation and recognizance and bail.

Filing of Cases

In 19th Century in U.S.A. at Massachusetts a practice was in vogue which was called filing of case where “aim was to lessen the sentence or to recognize extenuating circumstances”. Filing required consent of both parties and the court may take further action at any time upon a motion of either party. Thus the two conditions, (1) suspension of sentence, and (2) imposed conditions, make filing of causes one of the forerunners of contemporary probation.

Historical Forerunners of Probation

According to Newman probation both in conception and development is America’s distinctive contribution to progressive penology. But there is a controversy.

Though John Augustus of U.S.A. is called the Father of Probation’ yet an Englishman Mathew Davanport Hill is also acclaimed for the same, and incidentally, the pioneering activities of both the men took place in the same year. 1841.

John Augustus.

The first probation officer in this world is said to be John Augustus, a Boston Cobbler, who in 1841 volunteered to assist offenders if the court would release them to his care. Augustus wrote, “I was in court one morning in which the man was charged with ‘being common drunkard’. He told me that if he could be saved from the house of correction, he would never taste intoxicating liquors. I bailed him, by permission of the Court”. They began the work of the first probation officer – a volunteer. After his death in 1859 his friends were credited with providing voluntary supervision service to the released offenders for over 2000 Persons with very few failures.

Mathew Davanport Hill

In Britain it is claimed that the practice of voluntary supervision in ‘suspended –sentence’ cases occurred well before the work of John Augustus by Hill. In 1820 onwards an unusual practice of sentencing process was going on in the Warwickshire Quarter Sessions. The young offenders were given one day token sentence with the condition that they be placed under supervision of a parent or

guardian. It thus introduced two elements of probation: (i) Lessening of punishment, and (ii) supervision. When Hill became magistrate in 1841 he suspended even one day jail sentence and used to consider the prior status of the offender.

12.7 HISTORY AND DEVELOPMENT OF PROBATION IN INDIA

Ancient Period.

Dr. P.K. Sen in his Tagore Law Lecture on 'Penology old and new' and rightly pointed out that the idea of releasing an offender after due admonition (i.e. the basic idea of probation system) is not borrowed in India from U.S.A. or England.

The Hindu Law givers laid down that punishment must be regulated by consideration of the motive and nature of the offence, the time and place, the strength, age, conduct, learning and economic position of the offender and above all, by the fact whether the offence was repeated. These ideas were envisaged by the Smriti writers as early as 300 B.C. The Smriti writers were aware of the complexities of human nature and they paid due attention to individuality of an offender in criminology. Their foresight was remarkable. Though in their writings there was no direct reference of release of offenders on probation yet their views seem to support the modern concept of probation.

In Manusmriti we found the modern idea of releasing an offender after gentle admonition. Manu also told that after scientifically considering the tendencies of repeated inclination in the offender, his antecedents and capacity the punishment should be awarded. (Manusmriti, Vol . VIII, Sloka -129).

About 2000 years. Ago Brahaspati in his ' Dandabheda Vyavastha' referred to admonition as punishment. "According to Brahaspati a gentle admonition should be administered to a man for light offence". The ideas revealed in Brahaspati Samhita clearly shows that modern idea of individualization of punishment was thought in those days too. The caste and social status of the offender, his knowledge and education, his pecuniary and other circumstances and all that went to make up his individuality were duly considered in awarding punishment. Brihaspati suggested that a king should punish elders, domestic priests and persons commanding respect with gentle admonition only.

In Bridharit Smriti also we found the punishment of admonition. Narada remarked that the nature of the offence, its times and place should be carefully considered and ability and motive of the offender should be thoroughly examined before inflicting punishment.

Yajnavalkya also laid down that having ascertained the guilt, the place and time, as also the capacity, the age and means of the offender, punishment should be given to those deserving it. Kautilya in this Arthashastra advised the king to award punishment which should neither be mild nor severe. Narada prescribed a lesser punishment for the first offender found guilty of cut –purse. Vishnu said that the king should pardon no one for having offended twice. Apashtamba said that a spiritual teacher, a priest and a prince may protect a criminal from punishment by their intercession in case of grave offence. Thus the Smriti writers were aware of the principle that a reformation or correction of offender. They also prescribed

punishment of expiation for petty offences. Thus we found that the philosophy of probation is not entirely new in Indian Criminal Law and views of our ancient law – givers had support for the modern probation system. In Brahmbaibarta Purana Lord Mahadev told to Brahmba that if people commit offence it is the duty of pious man to forgive him.

Maurya rulers were in favour of mild punishment. One of the edicts of the Emperor Ashok contains provision for remission of punishment. He advised his officers to examine and reduce punishment awarded to prisoners and consideration of circumstances which substantially coincide with those mentioned by Smriti writers.

Medieval Period

During the Muslim reign in India upto advent of British rulers the administration of criminal justice was based on Islamic criminal law which did not recognize principles of correctional method or admonition. But during Maratha rule and Peshwa period we get traces of principles of probation if we take the concept of probation in a very broad sense so as to include cases where an offender was not at once awarded punishment but given a chance to improve himself. The cases are :

i) Case of Vishwanath Bhatt Patankar

In 1775 -76 one Vishwanath Bhatt Patankar of Mouje Khed, was arrested for committing thefts. As he was unable to furnish security, the district officer sent him to Huzur, Janardan Bhatta Bhide stood surety for him promising that he would not again commit theft or any other offence.

(ii) Case of Janki Lagadin

In 1785 -86, one Janki Lagadin was imprisoned at Fort Visapur for adultery. Her father Shivaji Gaikwad prayed for her release. The prayer was granted on his standing as surety for her future good conduct.

Modern Period before Independence

Though the probation system almost rooted in ancient Indian criminology but found its legal recognition for the first time in 1898 by section 562 of the Cr. P.C. (Act XX of 1898). The said section was actually taken from the English Probation of First Offenders Act, 1887. This S.562 was amended by the amendment of Cr. P.c. in 1923 which radically changed the law of Probation in India. The period of Probation under old section of 1898 was not to exceed one year. Moreover under the new Section 562 of 1923 Amended Cr.P.C. a court may grant probation in case of offender not under age of 21 years for offences punishable with not more than 7 years and in case of offender below 21 years as a woman for offences punishable with death or imprisonment for life. In the year 1973 the new Cr, P. C. provides almost the same provision in section 360.

Thereafter in 1931 the Government of India circulated a proposed draft of Probation of Offender Bills to the then local governments for their views. However, owing to preoccupation with other important matters the Bill could not be proceeded with and in 1934 the Government of India informed the Provincial governments that as there was no immediate prospect of central legislation on the subject, so there would be no objection if the provinces undertake such legislation themselves. In pursuance of the above suggestion some provinces enacted their own probation laws. The

enactments are: The C.P. & Berar Probation of offenders Act, 1937, the Bombay Probation of Offenders Act, 1938, the U.P. 12 First Offenders' Probation Act, 1938, The West Bengal First Offenders Probation Act, 1954.

The National law on Probation

After independence the Joint Committee on the Bill to provide for release of offenders on probation was presented to Lok Sabha on the 25th February 1958. Mr. Hukum Singh was the Chairman of that joint Committee. The dissenting views on the Bill were expressed by Rajendra Pratap Singh, Jagdish Awasthi, Yadav Narayan Jadhav, Abdur Rezzak Khan, Sushila Nayar and Y.S. Parmar. Thus new era in the field of probation started in India by enactment of the Probation of Offenders Act, 1958 (Act 20 of 1958) by the Parliament of India on 16th May, 1958. The Act provides for different dates for different states and different parts of the states to apply the Act (except Jammu and Kashmir) so that they will have an opportunity to create the necessary infrastructure before the Act is applied.

Section 4 of the P O Act provides conditions to be considered to extend the benefit of probation to any convicted offenders. If we analyze Section 4 of the PO Act we will get the following objective criteria provided to the Court for releasing an offender on Probation.

These are:

- (i) Nature of Offence,
- (ii) Circumstances of the Case,
- (iii) Character of the Offender,
- (iv) Age of the Offender.

Offences are generally divided into two groups :

- (i) indictable offence , and
- (ii) non – indictable offence or petty offence.
- (iii) Circumstances of the Case.

The PO Act does not envisage of letting off every offender committed minor offences regardless of circumstances in which offence was committed. Therefore, the expression “having regard to circumstances of the case” means having regard to both. Aggravating and mitigating circumstances of the Case and the Court should exercise its discretionary power.

However, the Supreme Court refused to grant probation in the following cases where the accused connected for offences of – (i) Food Adulteration Act (ii) Smuggling of Gold. (iii) Offences under Defence of India Act, 1962 (iv) Abduction of a teenager girl (v) Offence relating to insult of member of Lower Caste, etc

- (iii) Character of the Offender.

Courts in India naturally not giving much weightage on character of the offenders. Gauhati High Court in Bhadreswar Loring V. State of Assam (1989 Cri L J 151 Gauhati) considered character of the offenders for releasing them under probation.

(iv) Age of the Offender.

In the PO Act there is no minimum or maximum age limit to grant probation to a convicted offender. But tender the age more is likelihood of amenability to correction. Therefore, it has been provided in Section 6 of the Act that : “ When any person under twenty –one years of age is found guilty of having committed an offence punishable with. Imprisonment (but not with imprisonment for life), the Court by which the person is found guilty shall not sentence him the imprisonment unless it is satisfied that having regard to the circumstances of the case including the nature of the offence and the character of the offender, it would not be desirable to deal with him under Section 3 or Section 4, and if the Court passes any sentence of imprisonment on the offender, it shall record its reasons for doing so.” That the Courts in India generally give much attention about the age of the offender can be ascertain from the fact that on an average 20% of the Probationers are belonging to the age group 12 -30 years.

12.8. PAROLE

Parole is the early release of a prisoner who agrees to abide by certain conditions, originating from the French word "parole" ("speech, spoken words" but also "promise"). The term became associated during the Middle Ages with the release of prisoners who gave their word. This differs greatly from pardon, amnesty or commutation of sentence in that parolees are still considered to be serving their sentences, and may be returned to prison if they violate the conditions of their parole.

In India, there are no statutory provisions dealing with the question of grant of parole. The Code of Criminal Procedure does not contain any provision for grant of parole. By administrative instructions, however, rules have been framed in various States, regulating the grant of parole. In our Country, the action for grant of parole is generally speaking, an administrative action. According to section 2(p) of the Delhi Prisons Act, 2000 „Parole system“ means the system of releasing prisoners from prison on parole by suspension of their sentences in accordance with the rules. Since the term „Parole“ has not been defined by the legislature anywhere, its meaning can be understood and extracted from the interpretation given in various dictionaries.

According to the Law Lexicon, „A parole“, is a form of conditional pardon, by which the convict is released before the expiration of his term, to remain subject during the remainder thereof, to supervision by the public authority and to return to imprisonment on violation of the condition of the parole.

According to Words and Phrases, „Parole“ ameliorates punishment by permitting convict to serve sentence outside of prison walls, but parole does not interrupt sentence.

Parole has been defined in Black“s Law Dictionary, as „release from jail, prison or other confinement after actually serving part of the sentence“. Further Sunil Fulchand Shah“s case [6] the Apex Court describes “parole” as a form of “temporary release” from custody, which does not suspend the sentence or the period of detention, but provides conditional release from custody and changes the mode of undergoing the sentence.

12.9. OBJECTIVE OF PAROLE

In the absence of any specific provision in the Code of Criminal procedure regarding parole; judgments of the Hon^{ble} Supreme Court, various High Courts as well as the rules framed in various States, regulating the grant of parole has led to the development of parole system in India. Parole has now become an integral part of Criminal Justice System in India. The focus of interest in penology is the individual and the goal is salvaging him for Society.

Time to time the Apex Court has held that all aspects of Criminal justice fall under the umbrella of Articles 14, 19 and 21 of the Constitution. Further the Apex Court has sought to humanize prison administration to some extent through its various pronouncements and it has also laid great emphasis on the right of a prisoner to the integrity of his physical person and mental personality.

The Apex Court views sentencing as a process of reshaping a person who has deteriorated into criminality and the modern community has a primary stake in the rehabilitation of the offender as a measure of social defence. Further in *Inder Singh v. State* [8] the Apex Court has held that if the behaviour of these two prisoners shows responsibility and trustworthiness, liberal though cautious, parole will be allowed to them so that their family ties may be maintained and inner tensions may not further build up. After every period of one year, they should be enlarged on parole for two months....." In view of the aforesaid, it is evident that the main objective and purpose of granting parole is to the rehabilitate the prisoners and to provide them an opportunity to reform themselves into a better human being, to allow them to develop a positive attitude and interest in life and also to provide them with an opportunity to maintain their social ties.

12.10. KINDS OF PAROLE

1. Custody and Parole
2. Regular

1. Custody Parole

The custody parole is a temporary parole that is limited only to the emergency circumstances like, death in a family, the marriage of a family member, serious illness etc. Custody parole is of a limited time span of six hours, during which the prisoner is allowed to visit the desired place and return back to the prison therefrom. The prisoners are generally escorted by police constables for public safety and assertion of the prisoner's timely return. The grant of the parole is subjected to verification of the circumstances from the concerned police station. The final decision of parole allocation is taken by the Superintendent of the Jail and the petition is moved ahead for final approval

2. Regular Parole

Regular Parole is granted for a maximum period of one month, except in some cases, to the convicts who have served at least one year of imprisonment. Regular Parole is allotted on certain grounds like:

- The marriage of a family member of the convict
- Accident or Death of a family member of the convict

- Serious Illness of a family member of the convict
- Delivery of Child by the wife of the convict
- Severe damage to life or property of the family of convict due to natural calamities.
- Filing of a special leave petition by the convict or his family.

However, there are some convicts that or not eligible for being released on Parole those are:

- Prisoners who have been or are involved in criminal activities against the state
- Prisoners who are threats to national security
- Prisoners who are not citizens of India Also, Prisoners who are convicted of multiple murders or for murder & rape of a child or children are also exempted to Parole. However, in some cases, these convicts can still get parole at the discretion of the granting authority.

The procedure of obtaining Parole

1. A convict seeks parole and files a petition regarding the same.
2. Jail authority (Superintendent) asks for a report from the police station that had made the arrest
3. A report including all the necessary papers like case history of the convict, his behaviour in the prison, his medical report (in case of illness being a reason for parole) are collected by Superintendent
4. The report is then sent to the Deputy Secretary, Home (General), State Government who decides on the application either accepting or rejecting it in some states, the application of the parole along with the detailed police report and recommendation is sent to the Inspector General of the Prison, which is further forwarded to the District Magistrate. The District Magistrate along with the consultation of The State Government takes the decision of either accepting or rejecting the application of the Parole.

12.11. POWER TO GRANT PAROLE

The power to grant Parole is essentially the function of the executive and to consider the request made by the prisoner for his release on parole is the prerogative of the executive only. Rules have been framed in every State regulating the grant of parole. Every prisoner before his entitlement for his release on parole has to meet certain eligibility criteria.

The period of release on parole shall not, ordinarily, exceed one month at a time except in special circumstances to be mentioned in the order granting parole. The Government shall decide the period of release on the merits of each case, for reasons to be specified in the order granting parole.

Parole was introduced as a way to encourage responsible behavior in rehabilitating the prisoners and at the same time to provide them an opportunity to reform themselves into a better human being and also to provide them with an opportunity to maintain their social ties. Some of the major concepts that underlie the parole system include the reduction of jail term after good and responsible behavior in prison and to allow the prisoners to develop a positive attitude, self confidence and interest in life.

Power to grant parole is purely an administrative decision, however, the executive must exercise the discretion vested in it judiciously and not arbitrarily and always keeping in mind the objectives of the parole and also taking into consideration that regardless of the crime a man may commit, he still is a human being and has human feelings also. Therefore the nature and length of sentence or the magnitude of the crime committed by the prisoner are not relevant for the purpose of grant of parole

Practice and Procedure of Granting Parole

Parole is granted to a prisoner in certain Special circumstances. It is subjected to certain limitations and conditions imposed by the releasing authority. The underlying idea behind the concept of parole is the realisation by the society that the man behind the bars is still the member of his family and society, that he has the same human wants, urges, duties and obligations.

The rehabilitative purpose of sentencing would be promoted by permitting him to fulfill those basic human needs and social duties by occasionally permitting him to live for short periods in his home as well as in the community where he has his roots. There are certain recognised circumstances under which parole is usually granted. If a member of the prisoner's family dies or become seriously ill, or the marriage of his son or daughter is to be celebrated, the authority used to release the prisoner.

Certain categories of convicts or prisoners are not eligible for being released on parole. Prisoners involved in offences against the State, or threats to National Security, Terrorism, Non-Citizens of India etc. People convicted of murder and rape of children or multiple murders etc. are also exempted except at the discretion of the granting authority.

Parole is not a matter of right and may be denied to a prisoner even when he makes out sufficient case for release on parole if the competent authority is satisfied on valid grounds that release of a prisoner on parole would be against the interest of society or the prison administration. It is treated as a period spent in prison.

Parole is essentially an executive function and instances of release of detentes on parole were literally unknown until this Court and some of the High Courts in India in recent years made orders of release on parole on humanitarian considerations.

The prisoners are temporarily released on parole to enable them to carry on agricultural operations. The release on parole for whatever reason shall, however, be subject to the discretion of authorities. These various grounds indicate that the law on the subject of parole recognises that incarceration should not lead to the prisoner's total alienation from the family or community and ensures his continuing participation.

The procedure adopted for releasing a person under parole consists of two steps selection and supervision. A properly constituted parole committee has to select carefully those inmates who are to be set free on parole. They assess both the eligibility and the suitability of the inmates to be released on parole. The eligibility is decided by the statutes dealing with the parole of inmates.

The Authorities weigh the positive and negative factors in each case and on the basis of that parole is granted. It involves a balancing of the interests of the prisoner and those of the public. Factors considered relevant in deciding whether the offender should be released may include such matters as the likelihood of the offender committing further offences while on parole; the offender response to prison treatment; the offender's needs and especially the nature and gravity of the offence for which he was imprisoned.

Generally before granting parole, the authorities take into consideration the reports from social agencies, pre-parole investigation reports, and comments by the judge or prosecuting counsel, the studies and observations made by the trained prison staff during the inmate's stay in the prison. These studies may include psychiatric and psychological reports, extensive social history, and intensive pre-parole investigation reports prepared by the field officers, education in prison, his conduct, attitude and many other things relevant for the purpose.

In India there exists no system to prepare all these elaborate reports as done in some Western Countries. Here the authorities depend upon only those factors and reports which the penal system is able to provide. The treatment meted out to the prisoners since their entry into the prison should be tailored to suit their rehabilitative needs. They should be mentally prepared to get into the mainstream after a period of detention. Parole should be decided in such a manner that the parolee may do the ground work for his rehabilitation after this during this period so as to cushion the impact of the society on his injured personality on his final release from prison.

12.12. AFTER CARE SERVICES

The concept of aftercare and rehabilitation of released prisoners from the correctional institutions owes its origin to the penological thought that regards reformation and rehabilitation as the ultimate aim of the Criminal Justice Administration. Aftercare being a vital link in the correctional cycle, has been conceived as an approach and as a service designed: to reduce the offender's social isolation and dependence; to help him to get over his social handicaps; to remove the stigma that darkens his/her present and future life because of institutionalization and finally to accelerate the process of his/her rehabilitation as a mentally, socially and vocationally well adjusted person. It also contemplates to provide a set of predesigned programmes which are organized for the care, supervision and guidance of an ex-institutionalized prisoner and also to the various activities that are directed towards his/her acceptance by the family and the community.

CONCEPT

Aftercare is a measure for rehabilitation and social reintegration of young adults who leave institutional childcare system on attaining certain age, as specified in law. It is still an evolving area in the domain of child and youth care in India. According to the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act 2015), aftercare in India means 'making provision of support, financial or otherwise, to persons, who have completed the age of eighteen years but have not completed twenty-one years, and have left any institutional care to join the mainstream of society' [Section 2(5)].

This system is based on the premise that children aging out from child care institutions (CCIs) are vulnerable to unemployment, psychological stress, physical and mental illness, homelessness and dependency, in view of the absence of family or dependable adults who can act as a pillar of support. Unless they are assisted in key matters like finance, employment, accommodation etc., the process of their transition from protected institutional care to independent adulthood and life thereafter may derail.

Aftercare can be termed as a preparatory stage for young adults during which they are provided financial support, training in skills, handholding for career development, counselling for managing emotions and such other measures that contribute to the process of their social mainstreaming. It is the final stage in the continuum of care of institutionalized children. They are not left alone after completion of stay in institutions, but are helped for certain duration in order to make them reintegrated with the society.

Aftercare of prisoners is an extension of the care and attention meted out to them when they had been in a jail. The person in a prison is often a victim of circumstances and his detention period needs to be utilized for giving him/her training and equipping him with skills which would help him to rehabilitate himself and function as an efficient and useful member of the society. The training has to be continued and the aftercare programme needs to be viewed as a necessary step in the complete rehabilitation of the individual. Aftercare is not a kind of benevolent activity intended to rescue neither a fallen individual nor a sort of patronage extended by superior persons.

Aftercare is rather based on the understanding of the needs and outlook of the person who is going out of a correctional Institution to face an unkind and inhospitable world outside. The released prisoner starts with a trauma, a psychological damage to 20th year of Juvenile Correctional (Annual Report) 1955-56, The Children Aid Society, Bombay; p. 2.30 his personality, he/she is conscious of having been rejected.

Aftercare services have to heal this rejection trauma by way of restoring his lost self-confidence and rehabilitate him back in the community as a productive and useful citizen. More recently new Model Prison Manual (2003) has rightly observed that the process of aftercare and rehabilitation of offenders is an integral part of institutional care and treatment. These two should never be de-linked. The aftercare of a prisoner is an extension of the institutional treatment programme; hence the administrative machinery for carrying out these programmes should be effectively integrated with the department of prisons.

12.13. BRIEF HISTORICAL BACKGROUND

Despite indisputable importance of the aftercare services for the rehabilitation of ex-inmates of prisons, until the beginning of the 20th Century, no significant work was undertaken in this country except for some sporadic efforts made by some philanthropic organizations who organized some small Societies for the help of the ex-convict.

The earliest recorded effort is reflected in the starting of small funds called the Claude Martin Funds, the first of which was raised in 1893 in the United Provinces. The Indian Jail Conference, 1877 although considered this issue but did not support the idea of setting up of discharged Prisoners Aid Society in this country, as the Conference maintained that “ The prisoners here find much less difficulty in finding their place in the society then they do in England”. The Uttar Pradesh, then known as the North West Province and Oudh took the initiative under the leadership of Sir John Taylor, the then Inspector General of Prisons, to organize a Central Society in 1894 for extending help by way of affording aid financial or otherwise to needy prisoners on their discharge. The Society ceased to function since 1902 because of discontinued public interest and sympathy. This Society was revived again in 1930 in Luck now.

The name of the Society subsequently changed as the U.P. Crime Prevention Society. The Society is still functioning with its branches in every district known as District Crime Prevention Society.

Prisoners' Aid Societies came into existence in Calcutta, Bombay and Madras in 1907, 1914 and 1921 respectively. In Bengal, the West Bengal Aftercare Association for juveniles and adolescent offenders was established in 1928 with a view to supervising and organizing the rehabilitative work for juvenile and adolescent offenders released from Borstal and reformatory schools. In Maharashtra, in addition to Prisoner's Aid Society which was established in 1914, another Aftercare Association was set up in 1916 for providing assistance to the juvenile offenders discharged from the reformatory school in Bombay. The Sheppard Aftercare Association which was merged in 1951 with the Bombay State Probation and Aftercare Association was the continuation of earlier effort. One released Prisoner's Aid Society is functioning at Pune by the name 'Nav Jeevan Mandal'. Similar societies were formed in Central Provinces and Berar in 1925, in the Punjab in 1927 and in Delhi, in 1935.

Since the inception, these Societies functioned as voluntary agencies. However, in some states, they received some financial grant from their respective State Government. Mostly, these societies rendered assistance to discharged indigent prisoners, with view to reclaim habitual offenders from a life of crime; casual and juvenile offenders from becoming habitual and carrying on researches and public education in all matters relating to prisoners and prisons.

The Indian Jails Committee (1919) and the U.P. Jails Committee (1929) stressed the need for shifting the emphasis from the punishment of offenders to their reformation and recommended the adoption of such measures in allotting prison labour which will ultimately be useful for them in obtaining jobs on being released from the prisons.

In 1954 the Central social Welfare Board appointed an advisory Committee on Aftercare with a view to: assess the extent to which the existing aftercare services met the requirements for the rehabilitation of socially and physically handicapped person after their release from the Institutions; to suggest the ways and means to overcome the problems of rehabilitation and to indicate the manner in which pre-discharge policies and practices of institutions might be modified for the effective implementation of aftercare programmes, The main recommendations of the

Committee relating to social and vocational rehabilitation were (i) issuing of letters of recommendations by the aftercare agencies, (ii) finding suitable placement for the discharged inmates, (iii) removal of restriction on the employment of ex-convicts, (iv) reservation of jobs for the physically handicapped, (v) Providing small loans to promote employment and organizing producers co-operatives, (vi) setting up small scale industrial units and providing free legal aid. The Committee observed that there was no coordination between the training imparted inside the institution and the employment opportunities available outside. The Committee recommended that aftercare service should be organized on a national basis.

The All India Jail Manual Committee, 1957 emphasized the importance of aftercare services and recommended that these services should be developed as an essential requisite in the correctional field. The All India Seminar on Correctional Services, held in New Delhi in March, 1969 recommended several steps to improve the aftercare services.

Model Prison Manual (2003) has recommended that the Industries Department of the State Government should formulate schemes for the employment of released convicts in small scale industrial unit. This aside, big industrial houses should be motivated at the level of Prisons Headquarters to give preference in jobs to released prisoners in the interest of their rehabilitation and social adjustment. More recently, New Model Prison Manual, 2016 prepared by Ministry of Home

Affairs, Government of India stated that “The Process of after-care and rehabilitation of offenders is an integral part of institutional care & treatment. These two should never be de-linked. The aftercare of a prisoner is an extension of the institutional treatment programme; hence the administrative machinery for carrying out these programmes should be effectively integrated with the department of prisons. It is clear that after-care, and follow-up service is not required by each and every inmate leaving the prison. A large number of prisoners coming from the rural areas and agrarian and business communities are generally accepted back into their family.

They are re-assimilated in the social milieu without much difficulty. They require only some continued contact with their kin and some pre-release counselling to bridge the gap between their life in the prison and that in the free society. There are other prisoners who resist follow-up action as they consider it a kind of surveillance on them. But majority of the inmates would welcome such programmes which help them settle in the society after their release, and get themselves rehabilitated beyond the possibility of reverting to crime.

Objectives

According to New Model Prison Manual, 2016 the objectives of the after-care services are:

- 1) Extending help, guidance, counseling, support and protection to all released prisoners, whenever necessary.
- 2) Helping a released person to overcome his/her mental, social and economic difficulties.
- 3) Helping in the removal of any social stigma that may have been attached to the inmate or his/her family because of his incarceration.

- 4) Impressing upon the individual the need to adjust his/her habits, attitudes, approaches and values to a rational appreciation of social responsibilities and obligations and the requirements of community living.
- 5) Helping the individual in making satisfactory readjustment with his/her family, neighbourhood, work group, and the community.
- 6) Assisting in the process of the individual's physical, mental, vocational, economic, social and attitudinal post-release readjustment and ultimate rehabilitation.

12.14. SCOPE OF AFTER-CARE ASSISTANCE

The scope of after-care assistance will be determined by the District Committee and may include the following matters:

1. Subsistence money to cover initial expenditure after release, till such time as the released person reaches his/her family or obtains employment.
2. Provision of food.
3. Temporary accommodations till housing arrangements are made.
4. Stay in a District Shelter/After-care Hostel/State Home, wherever available.
5. Assistance in securing housing in urban areas. institute/industry/trade.
6. Assistance in securing apprenticeship in a workshop/technical
7. Supply of artisan's tools or trade equipment.
8. Assistance in starting a cottage industry, any small business trade, a small or a stall.
9. Assistance in getting employment.
10. Assistance in getting land, agricultural equipment, draught or milk cattle, and seeds for those opting to take up agriculture.
11. Assistance in starting a small dairy, poultry, duck, or sheep farm/piggery/vegetable gardening/sericulture/bee-keeping.
12. Liaison with and assistance to prisoner's family during the period he/she is serving a prison sentence.
13. Help in maintaining continuity in relationship with family, neighbours, employers and community.
14. Preparing the family, employer and neighbours for receiving the individual after release.
15. Guidance in getting married and setting up a home and resettling in life.
16. Liaison with local police so that he/she is not harassed unnecessarily.

Legal and Policy Instruments

Aftercare is a recent inclusion into the India's legal and policy framework. It was first stated in the now repealed the Juvenile Justice (Care and Protection of Children) Act, 2000 as an alternative measure for rehabilitation and social reintegration, applicable for children leaving institutional care. Presently, aftercare services are prescribed in the following legal and policy instruments. Besides, there is an international legal instrument that acts as a guide for the system of aftercare.

Indian Legal and Policy Instruments

Juvenile Justice (Care and Protection of Children) Act, 2015

Integrated Child Protection Scheme (ICPS), 2014

Juvenile Justice (Care and Protection of Children) Model Rules, 2016

International legal instrument

UN Guidelines for the Alternative Care of Children (UNGACC), 2009

The prescriptions of the United Nations Guidelines for the Alternative Care of Children for strengthening aftercare programme are the following:

- Childcare agencies and facilities should 'systematically aim at preparing children to assume self-reliance and to integrate fully in the community'. The focus of actions should be on acquisition of social and life skills through participation in the life of the local community.
- The process of transition from care to aftercare should take into consideration children's gender, age, maturity and particular circumstances.
- Children leaving care should be encouraged to take part in the planning of aftercare life. Children with special needs, such as disabilities, should benefit from an appropriate support system. Both the public and the private sectors should be encouraged to employ children from different care services, particularly children with special needs.
- Special efforts should be made to allocate to each child, whenever possible, a specialized person who can facilitate the child's independence when leaving care.
- Aftercare should be prepared as early as possible, well before the child leaves the care setting.
- In order to make the young people financially independent, they should be imparted educational and vocational training. This should be considered as part of their life skills education.
- Young people should have access to social, legal, health and financial services.

12.15. AFTERCARE PRACTICES IN INDIA

As noted earlier, the system of aftercare is a recent one in India. It is important to note that the CCI that implement aftercare programme as a continuum of care are old institutions that take care of children up to the age of 18, as children leaving such institutions can be eligible for aftercare services. Also, because of the nascent nature of aftercare system, the number of institutions and organizations providing these services is few in the country. The sections below contain examples of aftercare systems, as implemented by governmental and non-governmental initiatives, which highlight the dynamic aspects of the system.

SOS Children's Villages of India

Since the establishment of first SOS Children's Village in 1964, SOS Children's Villages of India has been providing care and support services to thousands of orphaned and abandoned children in a family-like environment in its Children's Villages located in different parts of the country. With so many years of existence, many of its former children are now leading settled life. The organization's Youth Programme, which is part of its flagship programme called Family Based Care, implements various activities for youth who leave Children's Villages after certain age.

The highlights of the Youth Programme are noted below.

- The youth facility wing of a SOS Children's Village has three divisions namely Arunodaya, Sopan and Gharonda, as explained below.

- Arunodaya Stage: Arunodaya stands for care. It is meant for boys aged 14-18 years.
- Sopan Stage: Sopan stands for exposure. It is meant for youth in college or undergoing professional/ higher education
- Gharonda Stage: Gharonda stands for integration. It is meant for working professionals.
- The upper limit of extending support to under Youth Programme is 25 years of age.
- Under each of the three phases, children/youth are counseled and guided by professionals for adjusting well to a new family environment. During Arunodaya, the focus of counseling remains on quality of education and career planning. The Sopan Stage assists the youth in exploring various career options. They receive vocational training, coaching for entrance examinations and higher education in this stage. Gharonda offers learning and growth opportunities to young boys. During this stage, the adult boys acquire attitudes, confidence and skills that are needed to take on responsibility of building their own future independently.
- Unlike boys who are moved out to Youth Homes and are supported under the three stages noted above, the girls continue to live with their SOS Mothers in the homes till they move out for higher studies or other forms of settlement like marriage or employment. However, they are provided all types of assistance leading to settlement in life like boys.
- The support provided by SOS Children's Villages of India under the Youth Programme includes, inter alia, employment, medical insurance, marriage and continuing education.
- There is a provision called Money Gift Balance under which money deposited in the name of the child is disbursed when the child turns 25 years old or within five years from departure notice, whichever is earlier. This money is often used as seed capital for procuring assets or starting own enterprise.
- During the process of settlement, boys and girls are given stipend up to Rs. 2000 per month in order to supplement their income, considering the critical situations that people generally face during this phase.

Udayan Care

Udayan Care has been working for empowerment of vulnerable children, women and youth since 1996 when it's first Udayan Ghar (home) started functioning in Delhi for orphaned and abandoned children. Since then the organization has expanded its activities to 14 cities across nine Indian States. It has an elaborate aftercare programme for children who leave Udayan Ghars on completing 18 years of age.

The following are the highlights of the organisation's aftercare system:

- The young adults are provided handholding support under the guidance and supervision of their Mentor parents and the overall organizational support of Udayan Care.
- While there is an aftercare residential facility for older girls called Jagshanti Udayan Ghar, the boys stay in flats or hostels of their educational institutions.
- These youth are provided support for higher education, professional training and career development. They are encouraged to take up part time jobs and manage an independent kitchen as part of the process of equipping them for future independent life.

- Aftercare support of Udayan Care is not limited to three years as prescribed under the JJ Act, but it continues till final settlement of youth. The organization makes sustained efforts with the help of Mentor Parents for successful social reintegration of young adults.

Prayas Juvenile Aid Centre Society

Prayas Juvenile Aid Centre Society (Prayas) has been working since 1988 in nine Indian States/ Union Territories in the domain of care, protection and development of vulnerable and needy children. Its activities also cover, inter alia, empowerment of women and youth, trafficking of women and children, income generation, and micro credit.

The organisation's aftercare programme titled 'YUVA Connect' was launched in Delhi in May 2011 with focus on juveniles. Under the initiative, the children are provided with education and vocational training leading to their employment and consequent social reintegration.

As Our Own

As Our Own is a USA-based charity working in India exclusively for care of girl children in India. The organization rescues girls in vulnerable conditions like extreme poverty and destitution and victims of human trafficking, violence etc. and takes care of them in a family setting permanently. The girls are not up for adoption, as they are considered as part of As Our Own family.

Care is provided to them under eight steps. While the first six steps cover childhood care, the last two steps equip the girls for career and family life as they pursue higher education and earn their own living. The organization provides complete support for education, employment, marriage etc. and helps them in their rehabilitation. In view of permanency of care, the girls even after final settlement in life remain in regular touch with As Our Own. As such, parenting never ends for the organization, and every girl receives support for the entire duration of her life.

Don Bosco Snehalaya

Don Bosco Snehalaya operates an aftercare home for youth in the age group of 18 to 21 years in Gujarat. Facilities like food, clothing, shelter, lessons on coping skills, vocational training and job placements are provided by the aftercare home. The purpose of these activities, like any other aftercare programme, is to make the youth independent and settled in life.

12.16. GOVERNMENTAL INITIATIVES

By following legal and schematic prescriptions, the State governments have been implementing aftercare programmes for rehabilitation of institutionalized children who complete 18 years of age. The following are some of the highlights of aftercare programmes of Indian States:

- Job oriented training on technical and non-technical courses
- Assistance in placement Collaboration with external agencies for different aftercare services
- Aftercare Homes y Counseling of youth

- Sensitization of stakeholders like members of CWC about aftercare system

Although the States have been working for aftercare, the programme has not yet received the kind of momentum that it requires. For example, an aftercare was launched in Odisha on a pilot basis only in 2014 by selecting six girls from Utkal Balashram for the services. The State still has no aftercare rehabilitation and no mechanism in place for tracking juveniles who are released on completing 18 years of age. There is also the problem of inadequate aftercare infrastructure in Indian States. For example, Karnataka has only five aftercare homes for men and two aftercare homes for mentally retarded women. Tamil Nadu has only three aftercare organizations—2 for men and 1 for women managed by the Government of the State.

12.17. IMPEDIMENTS IN THE IMPLEMENTATION OF AFTERCARE PROGRAMMES IN INDIA

The Committee on Aftercare Programme recommended for a very sound and a practical base for the aftercare infrastructure and programme in this country. The Committee emphatically advocated for reorienting and revitalizing the Educational/vocational and trade training programmes both in care and correctional institutions keeping in view the requirements of the competitive employment market which the released inmates would be expected to meet.

The Committee also called for the introduction of modern tools and equipment's for training for the inmates to work as per requirements of modern industries, and development of adequately trained that competent cadre of trainers to impart effective training to the inmates in correctional and aftercare institutions. The main crux of the aftercare institutions would bring about the desired changes or modifications in the behavior of inmates by way of imparting appropriate types of vocational training, rendering guidance, counseling and follow-up services. Unfortunately because of many hindrances, such as the aftercare programmes in this country have not been able to make significant headway towards satisfactory rehabilitation of released offenders.

One of the significant hurdles which come in the way is lack of meaningful communication between the institutional programme and the governmental and community services in the field of aftercare employment, vocational counseling and training and rehabilitation. The existing communication channel between released offenders and aftercare institutions is really inadequate to bridge the gap between what the institutions can offer and what a released offender can really avail himself of those services. Another impediment is the lack of proper coordination between the governmental and voluntary efforts in matter of organizing aftercare services. Voluntary organizations are found to work in isolation without getting adequate support and incentives neither from the Government nor from the public.

The stigma attached to persons for their being in the correctional institutions, in combination with the general public apathy and the lack of cooperation of the family members of the ex-convicts poses serious problems for the proper rehabilitation of offenders. The lack of active governmental support, insufficient infrastructural facilities, inadequate financial back up and want of trained personnel and training equipment have also been identified as major handicaps in the fruitful

utilization of aftercare services for the socio-economic rehabilitation of institutionalized offenders.

One of the significant hurdles which come in the way of implementation of aftercare and rehabilitation is the lack of meaningful communication between the institutional programme and the Governmental and community services in the field of aftercare, employment, vocational counselling and training and rehabilitation. The existing communication channel between released offenders and after-care institutions is really inadequate to bridge the gap between what the institutions can offer and what a released offender can really avail himself of those services.

Another impediment is the lack of proper coordination between the Governmental and voluntary organisations in the matter of organising after-care services. Voluntary organisations are found to work in isolation without getting adequate support and incentives from the Government or the public. The stigma attached to persons for their being in prison combined with the general public apathy and the lack of co-operation of the family members of the ex-convicts poses a serious problem for the proper rehabilitation of offenders.

The lack of active Governmental support, insufficient infrastructural facilities, inadequate financial back up and want of trained personnel and training equipment have also been identified as major handicaps in the fruitful utilisation of aftercare services for the socioeconomic One of the significant hurdles which come in the way of implementation of aftercare and rehabilitation is the lack of meaningful communication between the institutional programme and the Governmental and community services in the field of aftercare, employment, vocational counseling and training and rehabilitation. The existing communication channel between released offenders and after-care institutions is really inadequate to bridge the gap between what the institutions can offer and what a released offender can really avail himself of those services.

Another impediment is the lack of proper coordination between the Governmental and voluntary organisations in the matter of organising after-care services. Voluntary organisations are found to work in isolation without getting adequate support and incentives from the Government or the public. The stigma attached to persons for their being in prison combined with the general public apathy and the lack of cooperation of the family members of the ex-convicts poses a serious problem for the proper rehabilitation of offenders. The lack of active Governmental support, insufficient infrastructural facilities, inadequate financial back up and want of trained personnel and training equipment have also been identified as major handicaps in the fruitful utilisation of aftercare services for the socioeconomic rehabilitation of institutionalized offenders.

12.18. SUMMARY

Prison administration is an important component of the criminal justice system. There is a paradigm shift in social viewpoint towards prisoners in the last century.

Earlier system of prison with a punitive attitude where inmates were forcibly confined and deprived a variety of freedom as a form of punishment has changed with a change in social perception towards prison and prisoners. It is now treated as a correction or improvement facility which itself indicates that there is more emphasis on reformation of prisoners than to punish them. Since the Mulla Committee, other significant committees have been established to examine the state of prisons in India and recommend reforms, including the Malimath Committee, the Justice Krishna Iyer Committee, and most recently, the Justice Roy Committee (2018). The reforms haven't been implemented well, though, and the required political will to bring about change isn't evident.

Probation in criminal law is a period of supervision over an offender, ordered by the court instead of serving time in prison. In some jurisdictions, the term probation applies only to community sentences (alternatives to incarceration), such as suspended sentences. In others, probation also includes supervision of those conditionally released from prison on parole. An offender on probation is ordered to follow certain conditions set forth by the court, often under the supervision of a probation officer. During the period of probation, an offender faces the threat of being incarcerated if found breaking the rules set by the court or probation officer. Parole is the conditional release, usually by a board of parole, of an inmate from a penal or reformatory institution after he has served a part of the sentence imposed upon him.

Parole is a treatment program in which an offender, after serving part of a term in a correctional institution, is conditionally released under supervision by a parole officer.

The parolee, unlike the probationer, has served part of a term in a correctional institution, where his adjustment and behavior were deemed adequate to merit consideration for release into the community under specific conditions and guided by a trained parole officer.

The process of after-care and rehabilitation of offenders is an integral part of institutional care and treatment. After-care and follow-up service is not required by each and every inmate leaving the prison. A large number of prisoners coming from the rural area and agrarian and business communities are generally accepted back into their family. They are re-assimilated into the social milieu without much difficulty.

They require only some continued contact with their kin and some pre-release counseling to bridge the gap between their life in the prison and that in the free society. The main object of after-care is to extend help, guidance, counseling, support, the removal of any social stigma and protection to all released prisoners whenever it necessary.

12.19. KEYWORDS

- A) Prison Reforms
- B) Under-trial persons
- C) Probation
- D) After care services

12.20. SELF ASSESSMENT QUESTIONS

1. Discuss the Historical evolution of Prison Reforms in India
2. Write about history and development of Probation in India
3. Define Parole and explain its objectives and types
4. Write an overview of Aftercare services in India

12.21. REFERENCE BOOKS

1. K. Jaishankar (Author), Tumpa Mukherjee (Author), Priti Bhardwaj (Author), Megha Desai Asher, (2014) Indian Prisons: Towards Reformation, Rehabilitation and Resocialization, Atlantic Publishers and Distributors (P) Ltd.
2. Meethali Handa (2021) , Prison Administration & Reforms In India, Notion Press.
3. Model Prison Manual, 2016: Ministry of Home Affairs, GoI, New Delhi.
4. S.R. Myneni, (2018) Probation and Parole, Allahabad Law Agency-Law book Publishers
5. Williams, J.E.H. (1979), The English Penal System in Transition, Quoted in Report of the Tamil Nadu Prison Reforms Commission by R.L. Narasimhan, Chapter 28

Prof. D. Sai Sujatha

LESSON 13

MEANING, DEFINITION, IMPORTANCE AND HISTORY OF CORRECTIONAL SOCIAL WORK

OBJECTIVE

The objective of this lesson is to explain the concept of Correctional Social Work, its Meaning, Definition, Importance and History, Values in correctional setting, Vulnerable Population, and role of social worker.

STRUCTURE

- 13.1 Introduction
- 13.2 Definition
- 13.3 Meaning
- 13.4 Importance
- 13.5 Concept of Correctional Setting
- 13.6 Origin of Professional Social Work in Correctional Setting
- 13.7 Values of Social Work in Correction
- 13.8 Correctional Social Work with Vulnerable population
- 13.9 Role of Social Worker in different settings
- 13.10 Basic Roles in Correction
- 13.11 Summary
- 13.12 Key words
- 13.13 Self-Assessment Questions
- 13.14 Reference Books

13.1 INTRODUCTION

Social Work in 21st century emerged as a profession and today it is motivated to fulfil the social mandate to promote well being and quality of life especially for the disadvantaged which is highlighted in the recent definition of social work. Correction is regarded as one of the four social processes that are utilized in the administration of criminal justice system. These include: (a) law enforcement which is concerned with the collection of evidence about reported offenses and with the detection and arrest of suspected offenders, (b) prosecution and defense, or the preparation and presentation of criminal cases before the court, (c) judicial process with is concerned with the legal determination of guilt and the assignment of penalties, and (d) corrections which is responsible for administering the assigned penalties. In other words, “corrections”, in one sense at least, is the total process of assisting people, who have violated the law, to be reformed and rehabilitated. The social worker plays a very significant role in the total process.

13.2 DEFINITION

“Social work is a practice-based profession and an academic discipline that promotes social change and development, social cohesion and the empowerment and liberation of people. Principles of social justice, human rights, collective

responsibility and respect for diversities are central to social work.” (2014). The principles of social work are in many ways applicable in correctional setting. The methods of social work are also application and implementable in correctional institutions besides probation and parole. The correctional settings impose certain restrictions on criminal or juvenile. In order to ensure the correctional experience to be a useful one, it is essential to tackle the limitations by providing genuine helping as social worker’s service.

13.3 MEANING

The term “corrections” refers to the system response to individuals (women, men, and young persons of both sexes) who have come into conflict with the law and have been convicted of a crime. The correctional system is one component of the larger criminal justice system and is dedicated to improving public safety by helping offenders to become law-abiding citizens while exercising secure and humane control.

Correctional social work, not only helps individuals, groups and communities to solve problems, it helps in preventing offending behaviour and control deviance in the society. The main focus of the correctional social work is to help people to prevent crime and delinquency. Correctional social work requires great skills to understand criminal and delinquent behaviour.

13.4 IMPORTANCE

Social workers play prominent role in administrative and practice positions in correctional programs. Through the recent years social work has also provided a variety of services to help reduce and prevent crime. Social worker strives to ensure that the prisoners current behaviors “is kept within the acceptable limits at the same time that his general life adjustment is modified” while acknowledging the important role played by other disciplines within the prison institutions towards reaching the same goals. Social workers can play their international role through law enforcement agencies time to time in different areas mentioned in the above. Here social worker also plays their roles as mediator, catalyst, therapist, teacher, researcher, guide, communicator, lionizing, care giver etc. depending on the veracity of the crimes/issues.

13.5 Concept of correctional setting:

According to the Social Work Curriculum Study, “Social Work seeks to enhance the social functioning of individuals, singly and in groups, by activities focused upon their social relationships, which constitute the interaction between man and his environment. The activities can be grouped into three functions: restoration of impaired capacity, provision of individual and social resources and prevention of social dysfunction. In Criminal Justice System, correction is one major segment. A person who is accused of any crime or is either convicted of or acquitted by the court.

Persons who are convicted by any court are lodged in correctional setting. A person who is undergoing trial in the court can also be lodged in a correctional setting. Hence, the correctional setting is a place where a person accused or convicted of a crime is lodged for a specific period of time.

Traditionally crime control approach was guided by the concepts of deference, retribution, and offender incapacitation. Deference consists of the various measures taken to prevent a crime. Retribution refers to punishing someone for the offence committed. Offender incapacitation means the act of making an individual incapable of further committing a crime. The traditional ways of crime control have been gradually replaced by a varied framework of re integrative correctional strategies.

These strategies assist the released inmates in their transition back to the normal society. The focus of reshaping the behaviors of the convicted offenders was done with the following goals (Dhoar, 2008):

1. Protection of society against crime;
2. Develop a sense of discipline and security;
3. Reform and rehabilitate the offenders in the given social milieu through appropriate correctional intervention;
4. Equip with skills and abilities in order to help them lead normal life, once they are released from the correctional institution.

To fulfil the above objectives, various kinds of re-integrative services are offered which are categorized as below:

Preventive and Remedial action on problems of various areas of society are considered in social work discipline. The discipline helps families in emotional and economic difficulty. This works in social and medical situation. It seeks to correct the causes underlying delinquency and crime. The three functions of social work, restoration of impaired capacity, provision of individual and social resources and prevention of social dysfunction, are entwined and interdependent.

Restoration can be curative or rehabilitative. Its curative aspects are to eliminate factors, which have caused breakdown of functioning, and its rehabilitative aspects are to organise and rebuild inter-factional patterns. Provision of resources can be developmental and educational. The developmental aspects are designed to further the effectiveness of existing social resources or to bring to full use the personal abilities for more effective social interaction. The educational aspect is structured to make familiar the public with specific conditions and needs for now or with changing social resources.

The services also include inmate care and welfare, vocational training programmes, inmate family contact, self-discipline incentives (such as leaves, transfers, remissions, parole etc). Hence, the inmate inside the correctional institution would be involved in various kinds of productive activities. Further, inmates who endanger public safety are separated from the mainstream society by way of imprisonment. Thus, putting a person in jail or correctional setting deprives him/her of freedom and self-determination. With the objective to ensure the person imprisoned come out as a better individual at the time of their release, the Honourable Supreme court of India has reiterated the following principles in its various judgments (Dhaor, 2008):

- a) A person in a correctional setting does not become a non-person;

- b) A person in prison is entitled to prisoner rights, human rights within the limitations of the imprisonment; and
- c) There is no justification in aggravating the offenders already in the process of incarceration or confinement.

13.6 ORIGIN OF PROFESSIONAL SOCIAL WORK IN CORRECTIONAL SETTING UNDER CRIMINAL JUSTICE SYSTEM IN INDIA

Generally, in India, social work is understood as charity work driven by humanitarian or religious work done by individuals or organizations. A more systematic and professional approach to social work is initiated by Sir Dorabji Tata, in the early 1930s. He established Sir Dorabji Tata Graduate School of Social Work in 1936, later it was changed to Tata Institute of Social Sciences (TISS) in 1940. TISS in the earlier days has offered Crime & Criminology, Juvenile Justice as subjects of study. In 1952, an effort is initiated to provide specialized training in correctional social work.

In 1953, a separate department of Criminology and Correctional Administration (CCA) has been initiated, providing full recognition to professional training requirements in the field. In 2006, the department became Centre for Criminology and Justice in TISS. Candidates deputed from departments of prison, social welfare, and women and child development across the country joined in CCA department. After finishing their course, the deputed officials returned to their respective departments to work as prison officers, probation officers, and social welfare officers. Gradually over years, deputation of officers to TISS stopped when the departments developed in-house training facilities. Dr. Sanobar Shani, who did her PhD on women undertrial prisoners, in 1990 initiated a TISS Field action project called Prayas. Prayas offered services to male and female youth in Mumbai Central Prison. Later the target group and location services has expanded throughout the country.

The present scenario, according to “Prisons Statistics India” 2015 report there are 1401 jails with total number of 4,19,623 residents in jail. A total of 5,203 residents in prison are diagnosed to be living with mental illness. a total of 3,599 under trails are detained in jails for more than 5 years. This reveals that there is considerable size of population in prisons are vulnerable and require assistance through either micro or macro evidence based social work practise. In India the staff working in correctional setting at present is only 597 (1.3%) out of which the social worker contribute 0.14 percent for total prison population.

13.7 VALUES & SKILLS OF SOCIAL WORK IN CORRECTION

Values

Social work values are basically the values of democratic societies, which are mainly the worth of the individual, the inherent dignity of the human person, society’s responsibility for contributing to the common good, etc. For the National Association of Social Workers, the following six values are listed basic to the practice of social work:

- 1) The individual is the primary concern of this society.
- 2) There is interdependence between individuals in this society.

- 3) They have social responsibility towards one another.
- 4) There are human needs common to each person, yet each person is essentially unique and different from others.
- 5) An essential attribute of a democratic society is the realization of the full potential of each individual and the assumption of his social responsibility through active participation in society.
- 6) Society has a responsibility to provide ways in which obstacles to this self-realization can be overcome or prevented.

These values are verifiable observations. When values are focused on ultimate assumptions about man and what is desirable for him, it becomes obvious that relatively few basic values exist. So the primary values of social work are:

- 1) Society has an obligation to ensure that people have access to the resources, services and opportunities they need to meet various life tasks, alleviate distress and realise their aspirations and values.
- 2) In providing societal resources, the dignity and individuality of people should be respected. All other values in social work originate from these primary values and contribute to the achievement of goals based on the primary values. The values dictate ways in which the worker should interact with others in carrying out his professional activities so as to actualize the primary values.

Skills

Professional skill is expressed in the activities of the social worker. It constitutes his artistic creation, resulting from three internal processes: first, conscious selection of knowledge pertinent to the professional task at hand in order to help the offender, second, fusion of this knowledge with social work and correctional values; and third, the expression of this synthesis in professionally relevant activity to administer correction and to modify offending behaviour.

Social work positions within corrections encompass a wide range of skills and specialized services, including:

- i. Discharge planning
- ii. Case management
- iii. Comprehensive need assessment of the offenders.
- iv. Program delivery
- v. Individual/family/group counselling/group therapy
- vi. Crisis intervention
- vii. Negotiation and mediation
- viii. Teaching
- ix. Community capacity building and
- x. Advocacy (individual and systemic).

13.8 CORRECTIONAL SOCIAL WORK WITH VULNERABLE POPULATION

Beggars:

The problem of begging is a universal phenomenon that is noticeable in both rural and urban areas of the country. In urban areas, beggars are found in every public space, such as streets, stations, restaurants, banks, supermarkets, mosques, churches,

etc. Immoral activities such as theft, violent and criminal behaviour are done by street beggars, and these activities are very harmful for the society.

Begging is a social problem that not only affects psychological consequences such as the development of dependency complex in the beggars' family members and their network of kinship, but also affect the geographical and social structure of the urban areas. Beggary is a symptom of social disorganization and the widespread custom of alms-giving by individuals and institutions by which the disability, helplessness or social inadequacy of the beggars has been sought to be mitigated in India. The most frequent cause of beggary is the increasing proportions of the population by which workers displaced from the land and unable to find employment or subsistence. Besides this, blindness, handicapped, diseases etc. are also the major causes of beggary.

Begging is defined in Indian law as soliciting or receiving alms in public place by exposing wound, injury, deformity or disease whether of himself or of any other person or animal. It is the practice of imploring others to grant a favor, often a gift of money, with little or no expectation of reciprocation. People affected with leprosy are often found displaced from mainstream society due to stigma attached to the disease and are forced to beg. The beggars include persons:

- a) soliciting or receiving alms in a public place, whether or not under any pretense such as singing, dancing, fortune-telling, performing or offering any article for sale ;
- b) entering on any private premises for the purpose of soliciting or receiving alms ;
- c) exposing or exhibiting, with the object of obtaining or extorting alms any sore, wound, injury, deformity or disease whether of a human being or animal ;
- d) having no visible means of subsistence and wandering about or remaining in any public place in such condition or manner, as makes it likely that the person doing so exists by soliciting or receiving alms ; and
- e) allowing oneself to be used as an exhibit for the purpose of soliciting or receiving alms.

Bombay Prevention of Beggary Act, 1959 defines beggary as soliciting or receiving alms in a public place. Anyone who doesn't have any visible means of subsistence, who wanders about in public place and lives by soliciting or receiving alms are included. The definition allows the police to arrest anyone who looks poor and unfairly targets those who are houseless and live in public places such as pavements or parks.

A person who is arrested for begging is presented before the court. If the court is satisfied that the person is not likely to beg again, it may release him/her on a bond. The beggars are unable to defend themselves as there is no free legal aid available for beggars at present. Hence, majority of the beggars are defenseless and are convicted.

A convicted beggar is detained in a certified institution for a period of up to three years and no less than one year (Beggary Act, Chapter 2, section 5). When a person is convicted for begging for a subsequent time, he/she can be detained for a period of up to 10 years (Chapter 2 subsection 6 (3)).

The convicts are sent to Beggar Homes. These reform institutions aim at providing vocational training and enable the convict to earn his living after his release. The living conditions in these institutions are far from satisfactory and often are uninhabitable.

Criminals:

Correctional institutions should render both preventive and curative services to the offender with the basic purpose of reforming as well as rehabilitating the offender. To facilitate achieving these goals, the more accountable correctional services are the better, which will also serve as the best way to safeguard human rights. A more humane approach is required in the treatment meted out to offenders in the prison or in correctional homes. The prison environment should be conducive to positive growth. Recently it has been clearly laid down by the Supreme Court of India that the manner in which offenders are treated in jails is an extension of the judicial process itself and the rights of the prisoners are to be protected by the court. The prisons systems should also be independent of the bias of socio-political system.

Observational homes (or Remand houses) are an attempt in this very humane direction. They provide education and vocational training for homeless children as well as accused children awaiting trial. The stay here is used for evaluating the accused's personality traits and behaviour while at the same time providing a path back to civilian life.

Children homes (for reformation of the children offenders and maladjusted children) and special homes and shelters (for providing shelter and specialised training to young offender for their reformation) are also attempts to forge a kinder and healthier relationship with underage individuals who have flouted the law.

To facilitate post release reintegration of the prisoners into the society, there are various kinds of correctional services available.

- a. Inside the prison, education is an ongoing activity.
- b. Vocational Training and Employment Opportunity: the training programmes provide opportunities for prisoners to engage themselves in fruitful pursuits during the term of their sentence. The training not only affords value to one's work but also makes the prisoner's learn skills which would enable them to follow a vocation after their release from the jail.
- c. Health care services
- d. Prisoner Panchayats
- e. Aftercare of released prisoners.

Juvenile Delinquents:

Juveniles are children identified through regular criminal justice process wherein when the person is caught in some offence, his/her age is verified. If the person happens to be a minor or juvenile, comes under the jurisdiction of JJ Act (Care and Protection of Children) 2000, such a person is produced before the special courts called juvenile court which comprises of two social workers apart from one honorary magistrate (Dhaor, 2008).

During the years, law pertaining to what now called children in conflict with the law has undergone few changes. The adjudicating authority has been redesigned

as the Juvenile Justice Board and the composition has changed from an adjudicating authority consisting of a magistrate with a panel of two social workers to a bench consisting of two social workers and a magistrate. This change in composition of adjudication authority is a significant change in the new law. This enabled to bring change in nature of inquiry. The primary inquiry of whether the child committed an offence based on his magistrate's training is now been displaced to a social worker's inquiry, which focuses on why the child committed the offence, and how does one redress the same.

The Juvenile Justice Act 2000, (JJA) is the primary law for children in need of care and protection. The JJA is designed for the care, protection, development, and rehabilitation of neglected and delinquent juveniles, as well as for the adjudication of and disposition of certain matters related to them.

The programme for Juvenile Justice include:

- To provide for full coverage of services envisaged under the Juvenile Justice Act, 1986 so as to ensure that no child under any circumstances is lodged in prison;
- To bring about qualitative improvement in the juvenile justice services;
- To promote voluntary action for the prevention of juvenile social maladjustment and rehabilitation of socially maladjusted juveniles;
- To develop infrastructure for an optimum use of community based welfare agencies.

Amendment of the Act

JJ Act 1986 is amended for bringing the same in conformity with UN Convention on the Rights of the Child (CRC) and other International Conventions/Agreements. An attempt is made to clearly define the differential approach provided to children in conflict with law and to those in need of care and protection under the existing Act. It is proposed to provide for effective provisions for various alternatives for rehabilitation and social reintegration such as adoption, foster care, sponsorship and aftercare of abandoned, destitute, neglected and delinquent juveniles/children.

The new legislation integrating these provisions was adopted recently as the Juvenile Justice (care and protection of children) Act 2000.

Juvenile Justice (Care and Protection of Children) Act 2000 in Chapter IV lays emphasis on the concept of rehabilitation and social integration of the child. Hence, there is a great scope for the role of social worker in this act because of its correctional nature.

The social worker's role in this setting ensures to identifying the cause of the offence and make necessary recommendation for rehabilitation of juvenile in conflict with law. Social worker in juvenile homes and observation homes can serve by way of social case work or social group work with the client. Juvenile is helped to develop understanding of his problem, look at the available resources and involve in decision making pertaining to them. Celebration of important days or cultural activities by involving the community in such activities can also be undertaken.

Rehabilitation and reintegration of a child during the stay in children's home or special home, can be carried out alternatively by (1) adoption, (2) foster care (3) sponsorship, (4) send a child to an after-care organization. The social worker plays a vital role in preparing the child during the adoption process.

Drug Addicts:

Any substance (usually chemical) which influences our bodies or emotions when consumed may be called a drug, i.e. it is a chemical substance, that, when put into your body can change the way the body works and the mind thinks. These substances may be medicinal i.e. prescribed by a doctor for reducing minor ailments or problems, e.g. lack of sleep, headache, tension, etc. but are also

- i) used without medical advice,
- ii) used for an excessively long period of time,
- iii) used for reason other than medical ones.

The use of such drugs is usually legal. Some drugs may be non-medicinal in nature. Their use is illegal e.g. heroin. Another group of drugs are those that are legal, but are harmful for the person if consumed in excess, regularly, e.g. alcohol. There are other substances like cigarettes, coffee, tea etc. which can be termed as socially accepted legal drugs. But these are not seen as harmful. Some drugs like alcohol, brown sugar, etc. are dangerous and addictive.

Using drugs to cure or prevent an illness or improve one's health may be called drug 'use'. Using drugs (medicinal/non-medicinal) in quantity, strength, frequency or manner that damages the physical or mental functioning of an individual, is termed as drug abuse. This means that even taking medicines in excess or too often or too long or for the wrong reasons or in the wrong combination implies drug 'abuse'.

Dependence can be both physical and psychological. Physical means that the body cannot function without taking the drug. Psychological dependence means constantly thinking about the drug and its use, continuously trying to get it and being emotionally and mentally unable to lead one's regular life without it. Some drugs like cannabis produce only psychological dependence while others like opium and heroin, produce both physical and psychological dependence.

If the drug consumption is suddenly stopped after one became a dependent on it, withdrawal symptoms occur. These range from mild discomfort to severe vomiting and convulsions, depending on the drug being used. All drug addicts may not experience the severe withdrawal symptoms shown in TV serials and films. The severity of these symptoms varies with.

- i) The type of drug
- ii) The amount regularly consumed
- iii) The duration of taking the drug and the treatment provided in special medical units, where such withdrawal is usually managed.

Helping the person through 'withdrawal' from drugs (usually medically supervised) so that the person's body gradually gets released from the clutches of the addiction, is known as detoxification.

The inmates with drug related problems are transferred to separate wards such as prison hospital or psychiatric ward. The toughest challenge for a drug addict is drug withdrawal, which is mainly limited to traditional withdrawal methods.

Prescribing psychoactive drugs to inmates can be valid medical practice. Detoxification is another health care measure necessary for drug abusers on admission. Psychosocial crisis intervention is needed for inmates with drug related problems, sometimes more urgent than any other care. In many countries, a multidisciplinary team consisting of physicians, psychologists, and social workers take part in drug dependence treatment process.

The role of the social worker begins with initial interview and assessment of the offender. Assessment instruments are used to gain criminal history, criminal attitudes, criminal associates, and antisocial personality patterns. Employment, family history, and substance abuse history are explored. On completion of the intake interview, the findings were reported to the court to determine the extent of the offence. The social worker also works with the defines lawyers, prison officers, treatment personnel like doctors, and public. Social workers effectively use the advocacy tool while addressing the inmate's needs and cultural and racial differences.

The following options for treatment after sentencing or detoxifications can be taken up by the social worker:

- Drug free treatment in prison with therapeutic community approach.
- Other treatment procedures in prison.
- Treatment outside prison as an alternative to detention or after detention, possibly in combination with early or temporary release.

Alcoholics:

Alcohol is a psychoactive, toxic, and potentially addictive substance which causes injury, disease, and death. Alcoholism is a chronic disease or behavioural disorder, characterized by repetitive and uncontrolled excessive drinking of alcoholic drinks. This addiction or habituation results in functional and structural damage to the drinker's body. Over the years alcoholism has been considered a social problem, a medical problem, and an illegal condition. The effects of alcoholism are widespread and cost individuals, families, communities and employers considerably in terms of direct costs, lost revenues, pain and human suffering. Alcohol is recognized as a special type of drug by the WHO Experts Committee on Mental Health. Its addiction must be considered as one of the drug abuse problems.

Alcohol leads to dependence in the case of several people. This causes serious difficulties in occupational and family life. It also causes problems in financial areas, social interaction and physical and mental health of the addict and his/ her family. The short-term effects of alcohol consumption in small quantity can lead to a lowering of inhibition. It also leads to increased anger, forgetting of unpleasant events and a feeling of relaxation. Regular, frequent, excessive and inappropriate use of alcohol leads to moodiness and loss of judgment. It leads to lack of control over body movements, and absence of alertness. It also creates loss of clarity of speech, absence of judgment and even chronic illness and death.

There is a strong link between alcohol and crime and alcohol related crimes are both common and expensive. Alcohol related offences are associated with wide range of social crimes such as anti-social behavior causing social nuisance, vandalism, drink-driving, robbery, sexual offences, assaults, and homicide. A screening tool called Audit is used to identify individual's drinking problem. The

consumption patterns of alcoholism is listed into three categories such as Hazardous drinking, Harmful use and Alcohol dependence. Alcohol problem in prisoners differ in nature ranging from drinking to excess, perhaps intermittently, to chronic dependence. Possible interventions identified to address the drinking problems are Psychosocial behavior interventions, cognitive behavior counselling, spiritual interventions, family interventions, victim impact panels, therapeutic communities, etc. The role of the social worker is to conduct brief interview, assess the readiness of the victim to abstain and change at three months, intervene with the families to create supportive group and address family issues.

Treatment approaches-

For the alcohol abuser, inpatient detoxification is usually a first step if the abuser is addicted. During this inpatient stay, not only is withdrawal from dependence upon alcohol properly medically managed, but other health problems such as nutritional deficiencies and liver, heart and peripheral nerve disease are diagnosed and treated. Detoxification can be followed by an inpatient rehabilitation program lasting from 3 weeks to 6 months, involving individual, group and family therapy plus alcohol educational and vocational counselling.

Long-term inpatient rehabilitation is not affordable or desirable due to the continuing involvement of the alcoholic with his or her job and or family, detoxification can be followed by alcohol counselling and education through local community mental health centers. Concomitant with the counseling, the alcoholic can be involved in Antabuse therapy. This is a chemotherapy approach where the alcoholic daily takes disulfiram, a drug that produces nausea if alcohol is consumed concurrently. Antabuse therapy provides the alcoholic an added impetus to decrease impulsive drinking.

Another community treatment resource for the alcoholic is alcoholics Anonymous (AA), Self Help group of recovering alcoholics who provide support, information, and motivation to former abusers. AA chapters are available in most cities and moderate sized towns and AA members may make initial contacts with the abuser while he or she is still being detoxified in an inpatient unit.

Sex Workers:

Prostitution is the act or practice of providing sexual services to another person in return for payment. The person who receives payment for sexual services is called a prostitute Prostitution is one of the branches of the sex industry. The legal status of prostitution varies from country to country, from being a punishable crime to a regulated profession. The most common form of prostitution involves men seeking female prostitutes. Prostitution is sometimes referred to as “the world’s oldest profession”

According United Nations sex trafficking is the most commonly identified form of human trafficking and estimates that about 79% of human trafficking reported is for prostitution (although the study notes that this may be the result of statistical bias and that sex trafficking tends to receive the most attention and be the most visible). Sex trafficking has been described as “the largest slave trade in history” and as the fastest growing form of contemporary slavery. It is also the fastest growing

criminal industry, predicted to outgrow drug trafficking. While there may be a higher number of people involved in slavery today than at any time in history, the proportion of the population is probably the smallest in history.

Children are sold into the global sex trade every year. Often they are kidnapped or orphaned, and sometimes they are sold by their own families. According to the International Labour Organization, the occurrence is especially common in places such as Thailand, the Philippines, Sri Lanka, Vietnam, Cambodia, Nepal and India.

The immoral trafficking (Prevention) Act deals with prevention of soliciting in public. This doesn't mean that prostitution is considered as criminal offence. If prostitution is carried out by two or more people in public, it is punishable offence.

Two kinds of people are caught under this Act, one who are accused and other who are victims. The prostitutes who voluntarily solicit clients in public places or arrange for clients for madams are accused and sent to jail. The other category of victims who indulge in sex work under pressure and are of minor age would be referred to Child Welfare Committee under Juvenile Justice (Care and Prevention of Children) Act 2000 (Dhaor, 2008).

If the victim is major, she is sent to Protective homes where social workers strive towards rehabilitation of these women. They are sent back to their families or to the ones who claim only after thorough verification. If the minor is trafficked from neighboring countries she is handed over to the concerned embassy (Dhaor, 2008).

In the Protective homes, preventive, curative and after care services are provided. Any person carrying or forced to carry on prostitution, can make an application to the local Magistrate for an order that she may be kept in a protective home or provided care and protection by the court. To enforce the law, social worker help is taken.

The role of the social worker is to help the victim to overcome the trauma and strengthen their self confidence and self-esteem of the client. They also work with the family to mobilize their support for the client so that the client can deal her problem in a better manner.

13.9 ROLE OF SOCIAL WORKER IN DIFFERENT SETTINGS

In certain European countries, United States of America and in Japan, professional social workers work with the police, especially in their youth bureaus. Social workers help police to understand properly the delinquents whom they apprehend. They also help the police to develop a rehabilitative attitude rather than a punitive one.

In correctional setting, social workers may work in jails, prisons, community-based organizations and primary health care agencies that serve ex-offenders, and in the courts. Social workers are committed to social justice on both the micro, or individual, and macro, or large-scale, levels. Practitioners on the macro level usually focus on helping groups, communities and society as a whole. This is why promoting

social justice is often linked with macro practice. Macro-level social workers try to promote equality among all people regardless of gender, race, religious beliefs or economic background.

To deal with officially identified delinquents and criminals, every democratic society has created a system of correctional agencies. These agencies have been given the task of administering the penalties assigned to delinquents and criminals.

These agencies are expected to protect the 88 community during the offender's period of supervised status by controlling his behaviour. Furthermore, they are expected to help the offender, so that he can return to normal status, better able to be a constructive member of the community.

The tasks of the social worker in corrections include four particular aspects:

- i. Investigation for the purpose of securing information about the client's failure or success in
- ii. meeting the obligations of his legal status.
- iii. The use of controls to modify client's behaviour.
- iv. Acting as a legal authority in the client's life with responsibility for value change.
- v. Correctional decision making.

In order to work with offenders, all these are important, especially when helping them to better adjust to the society. The correctional social worker's most important task is to change the values and behaviour of the offenders, so that they begin to accept the values of the particular community.

Therefore, social worker's aim is to help the offender, not to punish him. The goal is to utilize the knowledge and skills of the profession in a corrective manner, to rehabilitate the offender, to help him to help himself, so that he can return to and become a part of his society and lead a constructive life.

13.10 BASIC ROLES IN CORRECTION

Broadly, the role of social worker in various correctional setting can be discussed as follows:

Due Process: The process of correctional setting involves protection of client's legal rights and human rights. The legal rights may consist of representation by a lawyer, fair trial, speedy trials, etc. for example the client's rights may pertain to privacy and confidentiality, protection from harm and exploitation, and participation in the development of intervention plans – has always been central to social work.

Diversion, Deinstitutionalization and Decriminalization: Social Workers must work towards diversion from correctional setting to the less formal community based programmes wherever appropriate and available.

Alternatives to the Panel System: Development of creative alternatives such as early childhood education, job, vocational training, etc. meditation and recreational justice programs must be facilitated. Meditation programs are often based on the concept of

restorative justice. Restorative justice is a framework that provides offenders with an opportunity to wrong or right for which they are responsible, and a mechanism to empower victims who wish to confront the offenders responsible for their injuries.

Advocates and Reformers:

Social work has always embraced and been committed to social justice issues. Social workers are trained to identify and confront injustices, through the policy process, protest, and lobbying. Examples of issues that warrant social workers' advocacy and reform efforts include the rights of offenders who have a major mental illness, the need for programs designed to facilitate the transition of offenders from institutional to community-based settings, the need to prevent abuse and discrimination in institutional settings, and the legal protection of minors who have been charged and tried in criminal court as adults and sentenced to adult prisons.

Administrators and Supervisors:

Social work education programs typically include an administrative track for those students who wish to pursue this career path. Curriculum content ordinarily includes instruction on program planning, budgeting, and financial management, grant writing, personnel issues, and staff management, employee evaluation, supervision, leadership, staff development, community relations, and organizational dynamics. Such knowledge and skills are invaluable in a wide range of public and private sector criminal justice settings, such as parole and probation offices, residential treatment programs, and counselling centres.

Researchers and Program Evaluators:

Throughout the profession's history, social workers have strengthened their understanding of and commitment to research and program evaluation. Criminal justice programs that were once created, designed, and funded based on faith and goodwill now require in-depth research and evaluation to justify their existence.

Every accredited social work education program provides students with at least foundation-level knowledge and skills related to formulating research and evaluation questions, research and evaluation design, sampling methods, data collection techniques, measurement issues (validity and reliability), research and evaluation ethics (especially the protection of human subjects), data analysis, and report preparation.

Legal Aid:

Legal aid and assistance to the weak and downtrodden is a task best suited to the professional social workers in the light of their professional goals, which are committed to the welfare of the poor and needy. Right from promoting legal literacy to giving legal advice in specific cases a professional social worker's services can be of immense value in bringing our justice system within the reach of the common man.

Direct Service Providers:

Social workers should also be active participants in mediation, alternative dispute resolution, restitution, and conciliation programs. Social workers have both the clinical skills to assume these roles and the values and ideological commitment

required to be effective. Social work and social workers should be central to the restorative justice movement.

Role of Social Worker in Prisons

Probation and Parole are the two main agencies in the correctional system. Different kinds of correctional institutions are as follows:

- ❖ Prisons
- ❖ Borstal Schools
- ❖ Schools for Juvenile Delinquents
- ❖ Remand/Observation Homes
- ❖ Beggar Homes
- ❖ Reception Centres, Protective Homes
- ❖ State Homes, Probation Hostels

The nature of the penalties, which these agencies administer, is essentially that of restricted activities, maintaining strict discipline and regulated interaction. This period of down-graded status is spent under supervision either in an institution or in the community under the guidance of a correctional social worker.

The handicaps inherent in this status include:

- ❖ Loss of certain civil rights, such as voting, rights to enter into certain contracts, etc.
- ❖ Loss of liberty
- ❖ Restrictions on mobility
- ❖ Restrictions on privacy i.e., the offender must keep in contact with the supervising officer and must discuss most aspects of his basic social adjustment.

13.11 SUMMARY

India's criminal justice system has not been able to deliver on what is anticipated of it and is, in fact, under mammoth strain because of the problems in all the components law enforcement, adjudication and correction and, therefore, the need for reforms is the question of the hour. Therefore, social workers play prominent roles in administrative and practice positions in correctional setting with all the law enforcing agencies to prevent this kind of social problem so that it does not have future implication in the society and also to provide and secure social justice. In India, professional social workers are attached to juvenile courts, performing the role of probation officers. They have various functions in the juvenile court. Conducting investigations to find out various causes and facts in a violation of law is an important function.

A social worker can generally be objective and can secure a picture of the total situation that is helpful to the court. In juvenile courts, the magistrate makes decisions based on the report submitted by the probation officer. Investigations are usually related to the delinquents, but most often, involve the family, close relatives and other key persons in the lives of the accused.

Another important function of the social worker is to represent the court after the magistrate has made the decision. Probation involves regular interviews and contacts between the probation officer, who is the social worker, and the offender. The social worker tries to use his knowledge and skills to help bring about desired changes and modifications in the behaviour of the offender who is in probation.

13.12 KEY WORDS

- A) Juvenile Delinquents,
- B) Corrections
- C) Drug Addicts
- D) Protective Homes
- E) Criminal Justice System

13.13 SELF-ASSESSMENT QUESTIONS

1. Explain the Definition, Meaning and importance of Correctional Social Work.
2. Discuss the History of Professional Social Work in Correctional Social Work.

13.14 REFERENCE BOOKS

1. 1. Curriculum Study, New York : Council of Social Work Education , New York.
2. 2. Balgopal, Pallassana, R. (1980), "Social Group Work: From Here into the 1980's Where it is and where it's Going", The Indian Journal of Social Work, XL, 2, July, pp.361-368.
3. 3. Banerjee, Gauri Rani (1972), "Social Casework Services and the Juvenile Delinquent", Papers on Social Work: An Indian Perspective. Tata Institute of Social Sciences, Bombay
4. Boehm, Werner W. (1959), Objectives of Social Curriculum of the Future, Social Work
5. Devasia, V.V. (1988), The Phenomenon of Murder, Dattsons, Nagpur.
6. Devasia, Leelamma and Devasia V.V. (1989), Female Criminals and Female Victims, Dattsons, Nagpur.
7. Dhaor, S (2008). Correctional Services in MSW- 005, Social Work Practicum, Unit 4, Block4, Indira Gandhi National Open University, New Delhi.
8. Desai, Armaity S. (1978), Review of Social Work Education in India, Retrospect and Prospect, Report of the Second Review Committee, University Grants Commission, New Delhi.
9. Sehgal, R (2008). Legal Provision for women in MSW- 004, Social Work and Social Development, Unit 1, Block 4, Indira Gandhi National Open University, New Delhi
10. Tiwari, A. (2002). Medical facilities in Indian prisons: Role of prison doctors and para-medical staff to uphold the right to health of prisoners. Mumbai: Centre for Health Studies, Tata Institute of Social Sciences.
11. Trecker, Harleigh (1972). Social Group Work, Principles and Practices, Follet Publishing Company, Chicago.
12. Varghese, J (2009). Group work in community settings in MSW- 008, Social Group Work: Working with groups, Unit 2, Block 4, Indira Gandhi National Open University, New Delhi

Dr. Kavya Jyotsna

LESSON 14

METHODS OF SOCIAL WORK IN CORRECTIONAL SETTING

OBJECTIVE

To train the students on various methods of social work practiced in correctional setting.

STRUCTURE

- 14.1 Introduction
- 14.2 Social Case Work
- 14.3 Social Group Work
- 14.4 Community Organization
- 14.5 Social Action
- 14.6 Social Work Research
- 14.7 Correctional Social Worker Skills
- 14.8 Summary
- 14.9 Key words
- 14.10 Self-Assessment Questions
- 14.11 Reference Books

14.1 INTRODUCTION

Human beings in any society are expected to follow certain rules and regulations in order to maintain peace, law and order. Restrictions and limits are placed on human behaviour in the form of formal rules, legislation's, written laws and institutional structure. People who violate these formal means are identified, charged and sentenced according to procedure laid down by law. This formal mechanism to control crime is called criminal justice system. The Criminal Justice System is designed to control crime and contribute towards a safe and orderly society.

Criminal Justice System in India consists of four primary components: the police, prosecutions, the courts and corrections. The Correctional services have existed from time immemorial with varying purpose and use. The philosophy behind correctional service lies in the fact that the inmates who would be lodged there would be reformed through various kinds of training so that the inmate is ultimately able to reintegrate successfully in the larger society after her/his release from the correctional setting. Social Work plays a vital role in this aspect.

Correction is one segment of the Criminal Justice System. A person who is accused of any crime is either convicted or acquitted by the court. Persons who are convicted by court are lodged in a correctional setting. A person who is undergoing trial in the court may also be lodged in a correctional setting by order of the court.

Thus a correctional institution or setting is a place where a person accused of or convicted of a crime is lodged for a specified period of time.

Traditionally, the approach towards crime control was guided by the concepts of deterrence, retribution and offender incapacitation. Deterrence refers to the various measures taken to prevent crime. Retribution means punishing someone for the wrongdoing. Offender incapacitation refers to the act of making an individual incapable of committing a crime. These ideologies of crime control have been gradually replaced by a diversified framework of re integrative correctional strategies.

These strategies intend to assist the release inmates in their transition back into the mainstream society. The whole focus is on reshaping the behaviors of the convicted offenders with the following goals:

- i. Protection of society against crime;
- ii. Develop a sense of discipline and security;
- iii. Reform and rehabilitate them in the given social milieu through appropriate correctional interventions; and
- iv. Equip with skills and abilities in order to help them lead a normal life as a citizen, once they get out of the correctional institution.

To fulfil the above objectives, various kinds of re integrative services are offered within a correctional setting. These services include inmate care and welfare, vocational training programmes, inmate-family contact, self-discipline incentives (such as remissions, leaves, transfer to open institutions, parole etc). Thus, the inmate within a correctional setting would be involved in various kinds of productive activities. This will enable in reducing “prison subculture contamination”, which is manifested in numerous undesirable activities that are associated with prison life.

Further, certain categories of inmates who endanger public safety are segregated from the mainstream society by way of imprisonment. Thus, putting a person in a correctional setting deprives him/her of liberty and self-determination.

However, all possible efforts are taken to ensure that the person come out as better individuals than that they were at the time of their admission. With this objective, the Honourable Supreme Court of India in its various judgments has reiterated the following principles:

- i) A person in a correctional setting does not become a non-person;
- ii) A person in prison is entitled to all human rights within the limitations of imprisonment; and
- iii) There is no justification in aggravating the suffering already inherent in the process of incarceration.

In correction, social work is an art because it requires great skills to understand delinquent and criminal behaviour. It is a science because of its problem-solving method and its attempt to be objective in determining delinquent and criminal activities and in developing principles and operational concepts to deal with delinquency and crime. It is a profession because it encompasses the attributes of a profession in dealing with offending behaviour. The professional practice of social work is categorized into (I) Primary Methods, and (II) Secondary Methods. In primary methods, three methods are proceeded to intervene the problems of people and provide solutions: (i) Social Case Work, (ii) Social Group Work, and (iii) Social Work with Community Organization. While in secondary methods, three methods are taken

up for practice: (i) Social Action, (ii) Social Welfare Administration, and (iii) Social Work Research.

14.2 SOCIAL CASE WORK

Case work has also entered the field of criminology and in some places is practiced in connection with juvenile welfare board, adult courts, probation, parole and aftercare work. Case work treatment in institutional settings relies as heavily upon efforts toward role-adaptation in the client as upon role adjustment in the primary groups, of which both the client and the persons who referred him are his members. In the correctional field, the probation officer interprets the delinquent's behaviour to the judge and to the police officers. The delinquent mode of adaptation to the combination of internal and external forces that directed him into the role of delinquent requires the same kind of study and assessment as pursued with case work's other clients. In work with institutionalized delinquents and criminals, the case worker has ready access to those who define the social role of inmate and who observe the client's daily role-performance. In such institutional settings, the case worker is part of the world to which he is trying to help the client adapt more satisfactorily.

Social Case Work mainly involves in a close face to face relationship mainly based on working with people and their problems. The practice of the case work is being governed by five basic assumptions that are useful in serving the offender and they are as follows:

1. Every individual must be seen as a person of worth and dignity.
2. Behavior whether acceptable or unacceptable to the community, express a need of the individual.
3. An Individual can and will change her/his behavior if the right time and in the right amount.
4. If the offer of help is given before the problem become serious aggravated, the response is likely to be better, and
5. The family is the most influence force in the development of personality in their crucial early years.

The emphasis of case work varies from case to case, since the cause of the maladjustment lies primarily with the individual, or within the environment or combination of the personal and social factors. Case work may be directed at strengthening the personality, in order to increase the understanding and capacity of the offender.

Social casework is an art in which knowledge of the science of human relations and skill in relationship are used to mobilize capacities in the resources and individuals in the community, appropriate for better adjustment between the client and his total environments. So, casework is the process of dealing with the individual case. It is concerned with the individual in relation to his social environment and his successful adjustment.

A professional casework relationship enables the client to express facts, attitudes and feelings with a guarantee that the worker's response will be pitched to the client's need, not to the worker's need. The caseworker is responsible for

facilitating communication, both verbal and non-verbal, without which no relationship can be established and developed. This relationship is connected with the treatment process.

The casework treatment currently used two types in correctional settings, they are supportive treatment method and curative treatment. The former requires the use of a number of techniques that help the client to improve his functioning within the framework of his established ego defence mechanisms. The latter requires the use of different techniques that help the client to improve his functioning through modification of selected ego defence mechanisms. The exterior form of the client's behaviour and selected internal process are modified. In correctional institutions, caseworker keeps the relationship a realistic one, using the possible elements in the relationship to motivate and influence the client towards a maximal solution of his problems.

Thus, in the correctional settings, the caseworker's activity in respect to motivation is directed towards reducing the strength of factors inhibiting the client's use of help, towards identifying and utilizing the constructive motivating forces that the client has already developed. This is for the purpose of adaptation and mastery and towards offering opportunities that may induce constructive motivation, where it does not exist.

In correctional settings, the social caseworker attempts to establish a relationship which, frees the individual, over a period of time, to express his feelings, muster his ego strength, change his anti-social values and become a law-abiding citizen. Thus, relationship is the core of social caseworker's contribution, along with the use of community resources. It means that the caseworker accepts the client, understands and respects him. The client gradually develops feelings towards the caseworker, and shares his ideas, emotions, and worries. Then, through a bond of warmth and support, changes are effected.

The caseworker is non- judgemental, sensitive to the needs of the offender, and conveys a feeling of respect for the integrity and individuality of the offender, regardless of his criminal conduct. The helping process depends upon a relationship between worker and client. The client may, if he is able and willing, be encouraged to ask, receive, and use help in clarifying his own wants and purposes, in relation to the resources available to him and in marshalling his own powers to achieve his chosen ends. In many cases, the offender is likely to express his needs about concrete situations, such as the way he left things at home, or the job he left behind, or some details of institutional life, such as change of work assignments, or living quarters, or a suspected discrimination against him in privileges. The basis of the client's complaints may be real and may furnish a specific issue upon which the caseworker and the inmate of a correctional institution can work together. But casework with offenders is not primarily concerned with the individual offender as a separate entity apart from his surroundings. Nor is casework primarily concerned with the social environment and its improvement. Casework, however, has a general interest in both the offender and the environment, since its goal is to find a means of adjustment and an equilibrium between the two. For the successful accomplishment of this task, the caseworker must understand the offender, his capacities and abnormalities and he must know the social situation, its resources and dangers. Furthermore, his knowledge

must be broad enough to go beyond the offender involved and embrace the scientific principles, which lie at the back of personality development, behaviour, and the social forces, which govern family and community.

In attaining both immediate and ultimate goals, three fundamental processes are seen inter playing at every point, the use of the resources, assisting the offender to understand his needs and possibilities; and helping him to develop the ability to work out his own social programme through the use of available resources. Therefore, casework is a joint action in which both the caseworker and the offender take part and in which, they develop a definite relationship. In correctional settings, casework has been in use over a considerable period of time, especially in relation to probation. In other correctional settings, especially in institutions, not only is casework a later development, but it is very difficult to apply. The prison or Borstal School programme is one of mass treatment and often casework is neglected.

Case work in children's homes

Children who are destitute, orphans runaways, vulnerable to violence, abuse or moral danger are generally placed in children's homes. Most of these Homes operate under the provisions of Juvenile Justice Act and therefore provide custodial care to children for specific time period. Social Caseworker is expected to help each inmate adjust to the life within the Home and achieve psychosocial development. As the children have often gone through traumatic experiences before they are placed in Homes, it is very important for them to come to terms with their life, talk about it and get over the pain and the sense of betrayal. The worker is expected to provide pastoral care, liaison with schools where children go for education help children develop positive relationships within the institution and prepare for life after their stay in the Home is over.

14.3 SOCIAL GROUP WORK

A powerful technique for modifying behavior and attitudes while working with criminals and delinquents is Group Work. This method can be both demanding and sometimes complex. Group work is based on simple and well supported observations about how people grow and interact in groups. Social group work is a method of offering services to persons, through providing experience in groups. The purpose of group work is the development of the person towards his individual potential, improvement of relationship and social functioning competencies, and social action. The group worker functions within the framework of ethical and social values. In this method, the worker helps members and group to use their abilities and strengths. He uses himself in different ways to enumerate the specific objectives. The group and its members are inextricably interrelated and the condition of each is bound to affect the other.

There are three main reasons for the use of group work treatment while dealing with criminals and delinquents:

1. The dynamics of prisoner himself.
2. The specific correctional setting in which he is imprisoned.
3. The specific purpose for which society has put him into the correctional setting.

Group work with delinquent shows that one of his outstanding identifications as well as support is the group. The adolescents seek their status far more in the group of contemporaries through closeness with adults, hence the group is closely related to age among delinquents. The use of group work method thus becomes more essential because the delinquents cannot be reached otherwise. He must be approached in his own group with the security of the surrounding other delinquents.

The goals and purpose of such groups is as such:

1. Within the framework of the group, the offender's security is strengthened, so that he does not feel alone and helpless, and moves towards not being wholly dependent on it.
2. Strengthen the offender's independence by helping him to actually participate in the group discussions, not to accede to a gang leader, or a powerful sub-group.
3. The introduction of an adult who represents the values of a society they often reject, but who, because of his accepting attitude, represents adult security and love. The delinquent can meet this adult in a group, while still feeling the support of his contemporaries and relating in different degrees of intensity. It also provides an opportunity of gaining satisfaction in the need for adventure and experimentation in various ways that are accepted by the society.
4. The offender finds an opportunity to gain inner resilience and status within the group through accomplishment in activities accepted by the society.

In group work in correctional setting, the programmes should be varied. It is essential that group members allow for outlet of hostility, and not reduce the group to unacceptable behaviour. The programme should allow for the individual need of withdrawal by allowing a group member to do something for himself without feeling guilty that he does not participate, but help him feel accepted by the group.

The programme should enable the opportunity for real achievement while helping with outlet of feelings. The programme should strike a balance between more individual and cooperative projects, in accordance with the readiness of the group members. It must allow enjoyment and group satisfaction. Group work is more and more used now a days. The guided group interaction technique can serve as a sort of spear head around which many activities, can be organized.

Group work in juvenile homes

- 1) Facilitate adjustment: A social worker can facilitate the adjustment of the child in the home. Group can be used to develop a positive attitude in the inmates about the agency. The inmate will learn to accept the unavoidable strains of life there and make use of the opportunities available.
- 2) Diagnostic understanding: The social worker observes the individual's behaviour in a group situation which helps the social worker in getting data about the inmate, understand his present situation and plan the inmate's future.
- 3) Treatment process: The social worker assesses the nature of the inmate relationship with others in the group situation. The value systems that the inmates have are understood and its consequences are known. Through the group process the inmates receives feedback about his behaviour and gains insight into his

behaviour. Greater self-awareness could be the beginning of the treatment for the inmates.

- 4) Personality development: The social worker provides opportunities for making choices, self-expression, exhibiting leadership and participating in activities which in turn could help inmates develop healthier personalities.

14.4 COMMUNITY ORGANIZATION

Community Organization plays an important role in rehabilitation and reintegration of released offenders into mainstream of the society. It is widely used for the prevention of crime and delinquency. The released offenders face problems in adjustment with family, relatives, peer group, neighbourhood, and seeking employment. Family is an important unit that can support released offenders to take care of his/her various needs and aspirations. The social worker mobilizes resources to meet the needs of the individual and establish support groups who one can rely upon, as and when necessary.

Community Based Corrections

Community-based alternatives such as day fines, prosecutorial fines, community service orders, and sentencing guidelines have offered options for courts, offenders, victims, and the communities that meet the goals of retribution while advancing rehabilitative strategies (Tonry, 1999). The term community corrections itself elicits many different thoughts and perceptions of individuals depending upon the personal experiences, backgrounds, traditions, and the social context of the day (Rothman, 1980). For instance, some people may view community corrections as consisting of only probation and parole while others might see community corrections as being more related to community service and other such programs. Yet others tend to equate community corrections with being —easy! on crime. Within the field of corrections itself, four goals or philosophical orientations of punishment are generally recognized. These are retribution, deterrence (both general and specific), incapacitation, and rehabilitation.

A community-based correction includes all non-incarcerating correctional sanctions imposed upon an offender for the purposes of reintegrating that offender within the community.

1. Community corrections extend beyond an alternative to incarceration to include primary sanctions as well as alternatives.
2. Individuals who are reintegrated back into their communities are more likely to produce something of material value: pay restitution, court fines, victim compensation, etc. In addition, they may be involved in pro-social activities. Their informal social controls are enhanced, and their liberty is not restricted. Offenders will be able to maintain or obtain employment and seek treatment, and the effects of collateral consequences are diminished. In correctional settings, improvement of social functioning is achieved by means of mobilizing capacities within the offender.

Community Supervision

The term “community supervision” describes the practice of allowing a convicted criminal defendant to serve his sentence in the community, either as an alternative to incarceration or as part of a transition from prison back into ordinary

life. A community sentence that is imposed in lieu of imprisonment is called probation; a community supervision term that follows a period of imprisonment is most commonly referred to as parole or supervised release. Regardless of whether a term of community supervision is preceded by a prison sentence, it is always structured as a form of conditional release: during the period of community supervision, a convicted individual must comply with state-imposed conditions in order to retain his liberty. Failure to do so may result in imprisonment. Community supervision, with its often lengthy periods of state control, is a relatively recent development, originating in the mid-1800s and later gaining widespread acceptance and use.

14.5 SOCIAL ACTION

Social action covers movements of social, religious and political reform, social legislation, racial and social justice, human rights, freedom and civic liberty. Previously social action was considered as a tool within the field of community organisation, but now it has been considered as a separate technique of social work and as such a fourth process.

As a method of social work, social action adheres to the philosophy of professional social work. It does not blame people for the deficiency or problem. It strongly believes in the worth and dignity of human beings. Social action rejects the doctrine of laissez-faire and survival of the fittest. The unfit person has the same fundamental rights as do the more fit, and the rich or powerful is not necessarily fit, and nor a poor or weak is indeed unfit. It adopts a commitment to the capacity of all the people to take action to improve their life circumstances.

Social action employs certain strategies and tactics as tools to attain its goals, which makes it different from other social work methods. They are negotiation, persuasion, competition, disruption, collaboration, bargain, strikes, boycotts, fasts, tax-refusal, sit-ins, picketing, marches, fraternization, haunting, leafleting, reversal strike, obstruction, renouncing honours, etc. Here it may be stressed again that violence and blood-shedding are not at all included in strategies used to confront the authorities.

Principles of social action are:

- a) Principle of credibility building;
- b) Principle of legitimization;
- c) Principle of dramatization;
- d) Principle of multiple strategies;
- e) Principle of dual approach; and
- f) Principle of manifold programmes.

A social worker using social action, as a method of social work, requires certain skills. They are:

- a) Relational skills i.e. to relate effectively with the people to build rapport and credibility building;
- b) Analytical skills i.e. ability to analyze the social situation and social problem objectively and scientifically;

- c) Intervention skills are needed to help the clientele chalk out practical intervention strategies to deal with the social problem;
- d) Managerial skills are required to coordinate and collaborate with various groups and local leaders so as to unite the clientele for the required intervention;
- e) Communication skills to educate, facilitate, negotiate and persuade for necessary actions at needed places;
- f) Training skills i.e. the social worker should be able to train leaders for taking up the charge of mass mobilization and confrontation with the authorities

Social Action plays too imperative role in the field of corrections. The process of Public Interest Litigation (PIL) could be one of the main issues among other issues. Large number of under trail cases are kept in jail for years without their cases being prosecuted in the court, let alone decided. In such cases, the social worker approaches the court to seek justice for such under trails who spent years in custody than required in the jails waiting for their trails to begin. Therefore, lobbying is also a technique useful for the social worker.

14.6 SOCIAL WORK RESEARCH

In order to bring certain development in correctional setting, there is a need to evaluate the current programmes and services. Extensive research studies are required in order to select alternative to institutional care. Hence, it is desirable to measure the relative efficacy of institutional and non-institutional services in the field of corrections.

Correctional setting is often characterized by a lack of reliable data on crimes and poor communication among service providers. It is apparent that a need exists for more in-depth, systematic investigation of all stakeholders in correctional setting. The stakeholders include service providers such as social workers, correctional officers, and lawyers & judges, as well as an assessment of the experiences of the victim.

Research in correctional social work covers a broad range of topics such as Policy-making studies, Mapping studies, Implementation studies, Intervention studies, Mechanism studies, and victimization studies. While conducting research in correctional setting there are real and diversified ethical problem encountered especially with vulnerable, incarcerated or victimized populations.

There is a need to ensure that research protects individual rights as well as maintain the confidentiality of the participants. Research in correctional setting is vital to inform practice as well as contribute to the knowledge base using the evidence based methodology for evidence informed practice.

Extensive research on correctional health services is fraught with difficulties, not the least of which is the absence of a centralized contact database and standardized reporting networks—particularly crucial in light of the nation's over 3,000 institutions. It's also possible that some administrators of correctional facilities won't want research teams to know details about their establishments. The researcher enables to discuss the challenging dichotomies confronting the practitioner, also underscores the importance of contexts, and explores positionality.

Social Welfare Administration:

Social welfare administration has twin concepts of social welfare and administration embedded in it. Thus it requires an understanding of welfare and its origins as well as administration as a tool for achieving welfare. Administration as a part of governance is as old as society itself. People in a society have inherently tried to take care of destitute and underprivileged individuals either because of benevolence or because of religious and customary obligations. As governance systems evolved, with the changing political and social systems, there was an effort to institutionalize welfare.

The issue of society meeting human needs has been part and parcel of human societies. Such an effort led to incorporating these in constitutional obligations. The welfare discourse has seen changing dimensions from charity to needs, to rights based approaches. Whatever may be the mode of approach, welfare provisions have become an integral part of governance system, hence a part of administration. Thus understanding welfare administration perforce needs an understanding of welfare and its linkages to other concepts like justice, development rights, equality etc. At the same time the administration of welfare provision requires an understanding of administration structures, processes and participatory approaches. The administration of welfare has been perforce linked to bureaucracy hence requires an understanding of the functioning of bureaucracy catering to welfare provisions in specific locales. The knowledge and skills associated with administration are heavily drawn from 'managerial sciences'.

Social welfare administration refers to the process of applying professional competence to implementing certain programme of social welfare through social agencies in fulfilment objects and policy of the agency. Social work today is utilized in a variety of settings and agencies. Some of the important ones are psychiatric; medical; marriage and family counselling; the school; rehabilitation; corrections; public welfare; workplace; drug abuse; and child welfare.

Skidmore further says that Administration is the method that makes the others possible, the one that helps. Social welfare administration as a method is very much interrelated to other methods of social work practice. Perlman and Gurin consider the agency setting for the planning or the organizing work to have the most powerful influence on facilitation or constraining the social action/activities of the workers.

Social welfare administration helps to understand the foundations of social welfare, analyze organizational, local, state, national and international issues in social welfare policy and social service delivery. Analyze and apply the results of policy research relevant to social service delivery, understand and demonstrate policy practice skill in regard to economic, political, and organizational systems and use them to influence formulate and advocate for policy consistent with social work values and identify financial, organizational, administrative and planning processes required to deliver social services.

It is basically the execution of social policies, social programmes and social legislations by philanthropic, religious and charitable organizations which provide services and benefits for the general population in need. In a recent ruling the Supreme Court of India through PIL filed by B.L.Wadere and Almitra Patel held that

large area of public land was covered by the people living in slum area. As the growth of slums tended to increase, the court directed the concerned departments to take appropriate action to check the growth of slums and to create an environment worth for living. Similarly, through PIL, the Supreme Court ordered government to convert government owned buses to use compressed natural gas (CNG) as an environmental friendly fuel to address the issue of environmental pollution. Subsequently, it was extended to auto rickshaws for addressing pollution problem in Delhi. In recent years, through PIL, the Supreme Court has taken on the mantle of monitoring forest conservation measures all over India, and a special 'Green Bench' has been constituted to give directions to the concerned governmental agencies to maintain judicial supervision in order to protect the forests against rampant encroachments and administrative apathy. Through PIL, Right to Education Act, 2009 was passed in India in which Right to Education has been recognised as fundamental right under Article 21-A of the Constitution.

Awareness Campaign as a method of social work contributes significantly to other methods of social work. It has strong interrelation with traditional and contemporary methods of social work practice. Awareness Campaign is an organized, systematic effort through various communication media to alert the general population of a given area to anything of significant interest or concern. This method also has complementary effect on PIL. The social worker engaged in the process of resolving problems can highlight the problems of the affected people through various media. Some time, socially sensitive lawyers may take up these issues through PIL to address the policy gap, ensuring enforceability of legal rights and enhance the scope of fundamental rights.

14.7 CORRECTIONAL SOCIAL WORKER SKILLS

The social worker in correctional setting required a wide range of skills and specialized services, including:

1. **Counselling:** It is a relationship where one endeavors to help other understand and solve his own problem of adjustment. It is different from advice and admonition; it implies that relationship develops in mutual consent.
2. **Insight & Empathy:** The social worker develops perceptive understanding and insight into the problem of the client with empathy. Empathy is a critical quality in the therapeutic process.
3. **The captive client:** Client because of the constraints in the correctional institution is captive. His/her presence in the session is more imposed than voluntary. For effective results, the whole environment should be lighthearted. There is a need for structured permissive relationship between the client and interviewer.
4. **Stigma and Self Esteem:** "Stigma" is described as mark of disgrace in Oxford Dictionary. It should be kept in mind that becoming an offender and arrested for conflict with law has deeper impact with the self-esteem of the client, as society treats them as marginalized and stigmatized. The client tends to internalize the stigma and behave in a very different way. Hence, the social worker has to keep these factors in mind before focusing on any kind of intervention with them.

Some of the important skills of correctional social work also include the following:

1. Discharge planning
2. Case management
3. Comprehensive need assessment of the prisoners
4. Program delivery
5. Individual, family, group counseling, and group therapy
6. Crisis intervention
7. Negotiation and mediation
8. Teaching
9. Community capacity building and
10. Advocacy (systemic and individual)

Role of Social Worker in relation to methods of social work:

In correction, social work not only helps individuals, groups and community to solve problems, but also assists them to prevent offending behaviour and enrich daily living. So, the main focus of the social worker is upon helping people to prevent and control crime. The social worker usually works with clients on a conscious level, helping them to face realities and solve problems in preventing and controlling offending behaviours.

In correction, social work is an art because it requires great skills to understand delinquent and criminal behaviour. It is a science because of its problem-solving method and its attempt to be objective in determining delinquent and criminal activities and in developing principles and operational concepts to deal with delinquency and crime. It is a profession because it encompasses the attributes of a profession in dealing with offending behaviour.

Role of social case work in correctional service:

The purpose is to help an individual client to solve his/her psycho-social problems in such a way, so that the client finds himself/herself capable of dealing with these problems at present and also may solve in the future if such problems arise. On the other, it understands the internal problems of the individuals, strengthens their ego power, remediates problems and develops the resources to enhance social functioning.

Role of social group work in correctional service:

It is a powerful method by transforming the attitude and behaviour with the correctional services of offenders. It strengthens the emotion by gaining inner resilience and increasing the feeling that, they are not helpless.

Role of community organization in correctional service:

It brings and maintains a progressively more effective adjustment between social welfare resources and social welfare needs to the convicts. On the other side, it reintegrates and rehabilitates with society.

Role of social welfare administration in correctional service:

By evaluating the organizational performance, it facilitates a systematic and continuous problem-solving approach for the client. Thus, it enables the process by involving decision making.

Role of social action in correctional service:

It makes a proper shape and develops the socio-cultural environment, In which a more affluent life is possible for all.

Like: - Public Interest Litigation (PIL) process goes for a long period so that the under a trial are kept in jail without any processed, in that case, the social worker to give justice.

Role of social work research in correctional service:

It improves and enlarges the treatment in the fields of correctional services by the help of extensive research.

Social Work Interventions in Prisons and Juvenile homes:

Professional social workers in correctional facilities provide two kinds of services: supportive services within the institution and corrections to resources in the community. Within correctional services, social work services might be utilized in the areas of mental health, substance abuse, education, and vocation rehabilitation. Case coordination skills are also very important because of the multifaceted nature of the problems, requiring numerous services. Social workers may work with inmates individually and in small groups to help them in making behavioral changes and adapting to prison life by coping with an array of prison problems such as violence, sexual assault, psychological victimization, protection rackets, homosexuality, racial strife, and chemical dependence. Social workers also provide services in the domain of advocacy, brokerage, and linkage between incarcerated individuals and their community ties. These kinds of services may be for the benefit of the prisoners themselves or their families.

The aim of social worker is to assist the offender, not to retaliate or to punish. The goal is to utilize the knowledge and skills of the profession in a corrective manner, to rehabilitate individuals, to assist them to help themselves so that they can return to and become part of society, and to guide them toward becoming comfortable with themselves and their associates. The social worker aims to help the offender change patterns of behavior so that he or she can relate constructively to others and become socially acceptable. This is done through two avenues: (1) working with the individuals to help him or her change through better understanding of self and by tapping the person's own strengths and resources, and (2) modification of environment to bring about a healthier social climate in which to live. The following are some services provided by the social worker-

- ❖ Moral or spiritual guidance/instruction, such as conducting spiritual discourses, individual preaching, and counselling.
- ❖ Welfare of children of prisoners with regard to their shelter, health and education. Rehabilitation activities for women and youth.
- ❖ Health-related activities such as conducting health camps and health check-ups.
- ❖ Education of inmates, conducting literacy classes, coaching classes for Open University courses, and vocational training.
- ❖ Legal guidance, referral services and legal aid.
- ❖ Generic support to prisoners such as organising lectures, celebrating festivals and attempting one-time activities.
- ❖ Some important issues to be kept in mind while working with the police that are-

- ❖ Developing a functional relationship with the police rather than start with any ideological bias about the system.
- ❖ Open-mindedness and the need to “work” with the police rather than take an “either” “or” position.
- ❖ Refraining from questioning the intentions of a police officer concerned.
- ❖ Emphasizing that both the social worker and the police are working towards crime prevention as one of their objectives.
- ❖ Recognizing that the role of police and social worker are different; a mutually supportive but noninterfering relationship needs to be developed with the station house staff.
- ❖ Approaching senior officers whenever required.
- ❖ Keeping the police informed about developments in a case, and seeking their assistance if necessary.
- ❖ Refraining from participating in police investigations.
- ❖ Maintaining the confidentiality of clients to the extent possible. Refraining from use of pressure or force, and helping clients make their own decisions.

14.8 SUMMARY

Social work uses six basic methods. Among them casework, group work and community organisation are known as the primary methods. Social welfare administration, social work research and social action are the secondary methods. All these methods are applied in correction in varying degrees. Casework involves a close face-to-face relationship, mainly on an individual basis in working with people and their problems. Group work utilizes the group as the tool to bring about desired changes in social functioning with troubled persons. Community organisation is the inter-group approach towards facing and solving social problems. The social worker helps, particularly the police departments, courts, probation, institutions, parole and prevention. Therefore, professional social work in correctional settings is a comprehensive, constructive social attitude, therapeutic in some instances, restraining in some instances, but preventive in its overall social impact.

Social work has an important role to play in the correctional settings. It attempts to help the individual, his family and the community to face and solve delinquency and crime through utilization of individual, family and community resources. Case work and group work are the basic processes utilized by the social worker in correctional settings. The correctional social worker is given authority in order to change the ways offenders (clients) express values in action. All social workers work with offenders in terms of values. More than any other function the correctional social worker’s task is defined in terms of changing values of the delinquent or criminal so that they become suitable in action with the values of the society.

14.9 KEY WORDS

- A) Social Case Work
- B) Social Group Work
- C) Community Organization
- D) Social Action
- E) Social Research

14.10 SELF-ASSESSMENT QUESTIONS

1. Explain the Various Methods of Social Work practiced in Correctional Setting
2. Discuss the role of social worker skills in correctional setting.

14.11 REFERENCE BOOKS

1. Balgopal, Pallassana, R. (1980), "Social Group Work: From Here into the 1980's Where it is and where it's Going", The Indian Journal of Social Work, XL, 2, July, pp.361-368.
2. Banerjee, Gauri Rani (1972), "Social Casework Services and the Juvenile Delinquent", Papers on Social Work: An Indian Perspective. Tata Institute of Social Sciences, Bombay.
3. Boehm, Werner W. (1959), Objectives of Social Curriculum of the Future, Social Work Curriculum Study, New York : Council of Social Work Education , New York.
4. Desai, Armaity S. (1978), Review of Social Work Education in India, Retrospect and Prospect, Report of the Second Review Committee, University Grants Commission, New Delhi.
5. Devasia, V.V. (1988), The Phenomenon of Murder, Dattsons, Nagpur.
6. Devasia, Leelamma and Devasia V.V. (1989), Female Criminals and Female Victims, Dattsons, Nagpur. Devasia, Leelamma and Devasia V.V. (1990), Women in India: Equality, Social Justice and Development, Indian Social Institute, New Delhi.
7. Ephoross, Paul H. (1974), "Potential Contribution of Group Work in Corrections," Correctional Treatment of the Offender, C.C.Thomas Publisher, Illinois.
8. Fink. A.E. (1949), The Field of Social Work, Chapel Hill North, Carolina.
9. Gokhale, S.D. (1986), "Contemporary Criminology", Indian Journal of Criminology, 14, 2, July pp.104-113.
10. Gordon, Willam E. (1962), "A Critique of the Working Definition", Social Work, October, pp.3-13.
11. Khan, M.Z. (1988), "Jawaharlal Nehru and Criminal Justice System," Indian Journal of Criminology, 16, 1, January, pp.3-9.
12. Menon, Madhava N.R. (1982), "The Aurangabad Experiment in Preventive Action: Prospects for a National Strategy on Crime Prevention," Indian Journal of Criminology, 10, 1, January, pp.12-15.
13. Murphy, E. (1959), Social Group Work, Social Group Work Curriculum Study, Council of Social Work Education, New York.
14. National Association of Social Workers (1958), "Working Definition of Social Work Practice," Social Work", No.3, April, 5-9.
15. Pankaj, J.J. (1973), "An Agenda for Criminology," Indian Journal of Criminology, 1 July, pp. 14-18.

Dr. Kavya Jyotsna

LESSON 15

ROLE OF SOCIAL WORKER IN DRUG DE-ADDICTION

OBJECTIVE

The objective of this lesson is to explain the concept of Drugs, Types of drugs Drug addiction, De-Addiction, Correctional social work interventions in drug de-addiction, Role of social worker in drug De-Addiction.

STRUCTURE

- 15.1 Introduction
- 15.2 Definition
- 15.3 Meaning
- 15.4 Concept of Drugs
- 15.5 Types of Drugs
- 15.6 Drug Addiction
- 15.7 De - Addiction Centres
- 15.8 Correctional Social Work interventions in Drug De-Addiction
- 15.9 Role of Social Worker in Drug De-Addiction
- 15.10 Summary
- 15.11 Key words
- 15.12 Self-Assessment Questions
- 15.13 Reference Books

15.1 INTRODUCTION

Addiction to drugs and alcohol is today a worldwide crisis. Both supply and demand for natural and laboratory-produced drugs is on the increase. Many new countries are being affected and the number of addicts is increasing. National productivity has suffered as a result. Most countries are now beginning to take serious note of the problem and are taking steps to reduce this problem. This unit presents the concept of Drugs, Types of drugs

Drug addiction, De-Addiction, Correctional social work interventions in drug de-addiction Role of social worker in drug de-addiction. Earlier, addiction was restricted to only some groups but today there is a wide range of users. In fact, using many drugs simultaneously, e.g. combining narcotic drugs with alcohol, is increasingly practiced. Experimenting with drugs including alcohol is beginning at an earlier age than before. In India, the problem is steadily increasing, both among urban and rural populations, due to i) the growing prosperity ii) the stresses of modern life iii) high economic and social disparity iv) an increasing sense of dissatisfaction with one's life.

15.2 DEFINITION

Any substance (usually chemical) which influences our bodies or emotions when consumed may be called a drug, i.e. it is a chemical substance, that, when put into your body can change the way the body works and the mind thinks. These substances may be medicinal i.e. prescribed by a doctor for reducing minor ailments or problems, e.g. lack of sleep, headache, tension, etc. but are also i) used without medical advice, Patterns of ii) used for an excessively long period of time, iii) used for reason other than medical ones. The use of such drugs is usually legal. Some drugs may be non medicinal in nature. Their use is illegal e.g. heroin. Another group of drugs are those that are legal, but are harmful for the person if consumed in excess, regularly, e.g. alcohol. There are other substances like cigarettes, coffee, tea etc. which can be termed as socially accepted legal drugs. But these are not seen as harmful. Some drugs like alcohol, brown sugar, etc. are dangerous and addictive. It is these drugs that will be discussed in the next subsection.

15.3 MEANING

A **drug** is any chemical substance that when consumed causes a change in an organism's physiology, including its psychology, if applicable. Drugs are typically distinguished from food and other substances that provide nutritional support. Consumption of drugs can be via inhalation, injection, smoking, ingestion, absorption via a patch on the skin, suppository, or dissolution under the tongue.

In pharmacology, a drug is a chemical substance, typically of known structure, which, when administered to a living organism, produces a biological effect. A pharmaceutical drug, also called a medication or medicine, is a chemical substance used to treat, cure, prevent, or diagnose a disease or to promote well-being. Traditionally drugs were obtained through extraction from medicinal plants, but more recently also by organic synthesis. Pharmaceutical drugs may be used for a limited duration, or on a regular basis for chronic disorders.

15.4 CONCEPT OF DRUGS

A **drug** is any chemical substance which when consumed alters normal bodily functions and leads to cognitive, affective and behavioral changes. Examples of drugs include alcohol, tobacco etc.

Substance use refers to consumption of psychoactive substances without experiencing any negative consequences. He/she is doing it for social, experimental or recreational use.

Substance Misuse is a situation where a person experiences negative consequences on consuming substances.

Substance Abuse is a state where an individual continuously uses it with negative consequences such as physical, social or legal harm.

Harmful Use of substances refers to a pattern of drug use or consumption which is already causing damage to health.

Drug Dependence is a cluster of physiological, behavioral and cognitive phenomena in which the use of a substance takes on a higher priority for a person as compared to other behaviors.

Drug addiction is also known as substance use disorder. It is an illness that affects an individual's brain and behavior and leads to an incapability to manage the use of a drug or medication.

15.5 TYPES OF DRUGS

Drugs can be categorized by the way in which they affect our bodies:

- depressants – slow down the function of the central nervous system
- hallucinogens – affect your senses and change the way you see, hear, taste, smell or feel things
- stimulants – speed up the function of the central nervous system.

Some drugs affect the body in many ways and can fall into more than one category. For example, cannabis appears in all 3 categories.

Depressants

Depressants slow down the messages between the brain and the body — they don't necessarily make you feel depressed. The slower messages affect:

- your concentration and coordination
- your ability to respond to what's happening around you.

Small doses of depressants can make you feel relaxed, calm and less inhibited.

Larger doses can cause sleepiness, vomiting and nausea, unconsciousness and even death.

Examples include:

- alcohol
- benzodiazepines (minor tranquillisers such as Valium)
- cannabis
- GHB (gamma-hydroxybutyrate)
- ketamine
- opioids (heroin, morphine, codeine).

Hallucinogens

Hallucinogens change your sense of reality – you can have hallucinations. Your senses are distorted and the way you see, hear, taste, smell or feel things is different. For example, you may see or hear things that are not really there, or you may have unusual thoughts or feelings.

Small doses can cause a feeling of floating, numbness, confusion, disorientation, or dizziness.

Larger doses may cause hallucinations, memory loss, distress, anxiety, increased heart rate, paranoia, panic and aggression.

Examples include:

- cannabis
- ketamine

- LSD (lysergic acid diethylamide)
- psilocybin (magic mushrooms)
- PCP (phencyclidine).

Stimulants

Stimulants speed up the messages between the brain and the body. This can cause:

- your heart to beat faster
- your blood pressure to go up
- your body temperature to go up – leading to heat exhaustion or even heat stroke
- reduced appetite
- agitation
- sleeplessness.

Larger doses can cause anxiety, panic, seizures, stomach cramps and paranoia.

Examples include:

- amphetamines (speed and ice)
- caffeine
- cocaine
- ecstasy (MDMA – methylene dioxy meth amphetamine)
- nicotine (tobacco).

Common groups of drugs

Drugs can also be grouped by how or where they are commonly used.

Analgesics

than the recommended dose to get high, or to self-harm. They can also be overused by people who have chronic pain.

Some are available over the counter, such as:

- aspirin
- paracetamol
- ibuprofen
- Others require a prescription from a doctor, such as:
- codeine and paracetamol combination products
- fentanyl
- morphine
- oxycodone
- pethidine.

Inhalants

Inhalants are substances that you breathe in through the nose (sniffing) or mouth. They are absorbed into the bloodstream very quickly, giving the user an immediate high.

There are 4 main types of inhalants:

- volatile solvents – liquids that turn into a gas at room temperatures — for example, paint thinners and removers, glues, petrol and correction fluid (liquid paper)
- aerosol sprays – for example, spray paints, deodorants and hairsprays, fly sprays and vegetable oil sprays

- gases – for example, nitrous oxide (laughing gas), propane, butane (cigarette lighters), helium
- nitrites – for example, room deodorisers and leather cleaners.

Most of these are depressants, except for nitrites.

Opioids

Opioids are a type of painkiller that can be made from poppy plants (heroin) or produced synthetically (fentanyl). Also called opiates or narcotics, they are addictive as they can give you a feeling of wellbeing or euphoria.

Examples include:

- codeine
- heroin
- methadone
- oxycodone.

Party drugs

Party drugs are a group of stimulants and hallucinogens. They are often used by young people in an attempt to enhance a party, festival or concert experience. However, dozens of Australians become seriously ill or die after using party drugs each year.

The most common party drug is ecstasy (MDMA), but the pills/tablets/capsules are of variable purity or don't actually contain any MDMA and may contain a wide range of other substances. You cannot be sure what you're taking and the risks to your health are high.

Performance and image enhancing drugs

Performance and image enhancing drugs are substances used by people to change their physical appearance or boost their sporting ability, for example, weightlifters and athletes.

There are 3 main types of performance and image enhancing drugs:

- anabolic steroids – synthetic hormones that help grow and repair muscles
- peptides – stimulate the release of human growth hormone, which is involved in muscle and bone growth
- hormones – both natural and artificial – for example, growth hormones, selective androgen receptor modules, insulin-like growth factors, mechano growth factor.

Prescription drugs

Medicines prescribed by a doctor – also known as pharmaceuticals – that are not being used appropriately can cause harm, both short and long-term. People assume that all prescribed medicines are safe, but not following instructions or combining them with other medicines, drugs and/or alcohol can be dangerous.

Examples include:

- painkillers – codeine, oxycodone
- sedatives and sleeping pills – benzodiazepines.

Psychoactive drugs

Psychoactive drugs affect the way you think, feel and behave. They act mainly on the central nervous system, changing brain functions and temporarily changing your consciousness.

Examples include:

- caffeine
- cannabis
- psilocybin (magic mushrooms)
- LSD.

Synthetic drugs

Synthetic drugs are a range of drugs that have been developed to create similar effects to banned drugs. These new psychoactive substances are being developed quickly, trying to stay ahead of the law. They are also called 'legal highs', although in most cases they are not legal.

Because they are not regulated or tested and change constantly there is not a lot of information about their effects and side-effects. You cannot be sure what you are taking or how it will affect you.

Examples include:

- synthetic cannabis
- NBOMe (N-methoxybenzyl) – similar effects to LSD

15.6 DRUG ADDICTION

Drug addiction, also called substance use disorder, is a disease that affects a person's brain and behavior and leads to an inability to control the use of a legal or illegal drug or medicine. Substances such as alcohol, marijuana and nicotine also are considered drugs. When you're addicted, you may continue using the drug despite the harm it causes.

Drug addiction can start with experimental use of a recreational drug in social situations, and, for some people, the drug use becomes more frequent. For others, particularly with opioids, drug addiction begins when they take prescribed medicines or receive them from others who have prescriptions.

The risk of addiction and how fast you become addicted varies by drug. Some drugs, such as opioid painkillers, have a higher risk and cause addiction more quickly than others.

Signs and symptoms of recent use can include:

- A sense of euphoria or feeling "high"
- Elevated mood
- An altered sense of visual, auditory and taste perception
- Extreme anxiety or agitation
- Paranoia
- Hallucinations
- Increased heart rate and blood pressure or heart attack

- Vomiting
- Confusion
- Violent behavior

Phases of Drug Addiction:

Early phase - increased tolerance

This is the first warning sign of the development of addiction. The person needs more alcohol/drugs to get the same effect.

Black out (seen only among alcoholics): During a black-out, the alcoholic goes through man" activities, without being able to remember even a trace of them later on. He walks, talks, even drives a vehicle 'apparently normally', but has no recollection of it afterwards.

Preoccupation: Even when he is not using, he is preoccupied with the thoughts of how, when and where to get the next supply.

Middle phase loss of - control

Initially, there is loss of control over the amount of alcohol /drug consumed. He is unable to reduce the quantity of intake even when he wants to. Later on, he loses control over the time, place and occasion of drinking/drug use. Loss of control is a clear cut sign of addiction.

Justifying: He feels guilty and justifies his drinking /drug taking by giving excuses like unhappy marital life, tension at the office or pressure from friends. Grandiose behaviour talks 'big' about himself, makes 'huge' future plans and spends much more than what he can afford.

Abstaining for a temporary period

At this stage, he would have developed a number of health problems, problems at home and at the office. In order to convince himself and others that he can give up drugs if only he decides to, he abstains for some time at times even for a month or more but after the specific period of time, he gets back to excessive use all over again.

Changing the pattern

After trying to abstain, he changes the pattern of drinking/ drug use. For instance, he changes drinks / drugs from arrack to brandy, from whisky to beer, from brown sugar to Ganja and so on. He shifts the place and time of drug use. But whatever changes he makes; he faces the same problems which haunted him before.

Chronic phase

This phase is characterized by noticeable physical, mental and social deterioration. There is a total breakdown in the relationship with the family.

Binge

He drinks continuously for days together and quits for a period, going back to drinking again, does not eat and does not involve himself in any other activity during

drinking period, At the end of each binge, he is left in a shaken, frightened, guilt ridden condition.

Ethical breakdown

He starts telling lies, steals or borrows in order to maintain his supply of alcohol/drugs. When he reaches this stage, two things may possibly happen to him. He continues to drink or use drugs and becomes mentally ill or faces a premature, painful death. The only solution to this problem is to stop drinking / taking drugs totally for life.

DE-ADDICTION PROCESS:

Identification, Intervention and Referral

Treatment and Rehabilitation

Prevention Efforts

Community Mobilization

IDENTIFICATION

Identifying an alcoholic or a drug dependent person is not always easy. Only in a few cases the family members, employer or friend or the abuser himself may approach you for help. The stigma associated with drug use or excessive drinking, the guilt and shame resulting from inappropriate use and the lack of awareness about the part alcohol/drugs play in the problems they face all these lead to denial of the problem of addiction. In an attempt to protect the dignity of the family, in most of the cases the members also deny the existence of any serious problem. Identification becomes possible if one is alert to the hidden as well

HIDDEN INDICATORS

Identification in the workplace Deteriorating job performance is the first indicator of a person's problem with addiction. This can be ensured through the person's repeated

- Absenteeism
- Poor quality and quantity of work output
- Involvement in accidents
- Frequent demand for loans
- Poor interpersonal relationships.

Identification in the hospital settings:

The addicted individual usually comes to the physician or health worker with medical problems like gastritis, neuritis, liver disorder, abscesses, drug withdrawal symptoms, sleep problems and psychiatric symptoms.

Identification through spouse's behavior: Addiction leaves its impact not merely on the abuser, but on each and every member of his family. The following symptoms present themselves in the wife and they can be viewed as indicators of husband's addiction. Withdrawn and depressed. Nature of living not in keeping with the income level

Identification through child's problems: Children are also victimized by their father's addiction. Constant exposure to a dysfunctional environment leads to emotional problems and these present themselves in varied forms like Academic

performance not in keeping with IQ level, Lack of concentration, Poor interpersonal relationships, Behavior problems like rebelliousness and aggression, suicidal attempts.

INTERVENTION

An ability to build a rapport with the potential patient at this level of evaluation, can assist gaining more accurate information. However, he may not readily admit that he has a problem with drugs or alcohol. You have to be conscious of the fact that he may be experiencing severe stress, arising out of fear of withdrawal, fear about the nature of treatment and fear about others coming to know about his problem. It is important that these inner barriers which prevent him from admitting his need for help are recognized and discussed with empathy, taking care not to appear judgmental, accusatory or apathetic.

REFERRAL

Once the problem of addiction is identified, the person needs to be referred to a treatment center. Identify resources (Addiction treatment center would be ideal. In its absence, locate a center offering medical or out-patient counselling help and make use of your skills to fill the gaps. While referring, provide clear directions with appropriate details.

REHABILITATION

Addiction leads to problems in several areas of a person's life. The individual would usually have lost available support systems. These systems have to be strengthened, without which his recovery is likely to be poor or slow. You can provide effective services in the following areas: Education to get back to the school / college, Occupation to get reinstated in the old job or find a new job, Family towards reconciliation with wife / other family members, Health to ensure visits to the health center, general physician and the treatment center.

PREVENTION EFFORTS

One of the reasons behind the alarming growth of the problem is lack of correct information and lack of skills to resist / assert oneself. Neither the family nor the schools are equipped to handle the issue. You can play a key role in providing accurate information about alcohol and other drugs to as many people as possible so that they can make sensible choices. In order to effectively contribute, Learn facts about alcohol, drugs and addiction have specific information about the kind of drugs abused and the myths associated with them. Be familiar with the laws with regards to drinking and possession of drugs. Be equipped to teach life skills to resist offer of alcohol/drugs.

COMMUNITY MOBILIZATION

Addiction is not the problem of a single individual, what starts off as one person's problem, spreads and becomes a social issue. Addiction leads to violence, theft and insecurity and therefore, the entire community can be involved in dealing with the issue. The empowered community has infinite powers to reform itself, a power which no treatment center can ever match.

- Sensitize the community about the consequences
- Strengthen personal commitment towards non drug use.

- Strengthen advocacy groups. Make use of women victimized by their husbands/son's addiction, youth groups and non users towards policy changes
- Provide motivation to sustain the interest of the group.

15.7 DE- ADDICTION CENTRES

Drug rehabilitation is a term for the processes of medical or psychotherapeutic treatment, for dependency on psychoactive substances such as alcohol, prescription drugs, and street drugs such as cocaine.

The general intent is to enable the patient to cease substance abuse, in order to avoid the psychological, legal, financial, social, and physical consequences that can be caused, especially by extreme abuse.

In de-addiction centre supported by Ministry of Social Justice and Empowerment in NAPDDR scheme the patients are provided with free de-addiction treatment care i.e. detoxification, counseling, medication, board & lodging, yoga session, recreation facilities, spiritual & mindfulness session etc.

15.8 CORRECTIONAL SOCIAL WORK INTERVENTIONS IN DRUG DE-ADDICTION

A large number of prison inmates end up in the prison as a result of drug trafficking. Many times they themselves are addicted to drugs and find it difficult to cope with the sudden abstinence within the prison walls. Social workers can play a major role in helping the drug addicts' deal with the situation through group work.

The social worker emphasizes on abstinence from the substance/ alcohol and tries to motivate the inmate regarding the benefits of de-addiction. The social worker can also monitor the treatment drugs prescribed by the medical doctor in the prison.

The first phase of the group work usually has highly structured and well planned sessions with clear objectives. After a few sessions an interactive approach can be used. Most of the activities are focused on here and now activities, activity-based programme like those needing movement of the body are recommended.

Various role plays like problem solving, feedback, self-disclosure, confrontation, creating social support network and providing information are important techniques.

15.9 ROLE OF SOCIAL WORKER IN DRUG DE- ADDICTION

Alcohol and drug addiction impact the quality of life for those afflicted. Their employment, relationship, and health are just a few areas affected. Social workers treat addiction as trained professionals equipped to control the chemical and behavioral dynamics linked to substance abuse. The role of social workers in the treatment of addictions is vital. A supportive individual to others facing so many challenges, social workers sometimes get overlooked in the midst of the chaos. Social workers who have obtained a Master of Social Work degree and passed state Licensed Clinical Social Worker (LCSW) requirements can treat various conditions, including

substance abuse. By practicing evidence-based interventions, social workers treat addiction by providing the foundation necessary for an efficient plan of action.

Though the road to recovery is complicated, here are some ways social workers treat addiction, helping their clients overcome substance abuse. In cases of intervention for a loved one, social workers are a great resource to lean on to help you navigate through what this process looks like. The role of social workers in the treatment of addictions can also be referred to as a therapist, as therapists are professionally trained in the use of therapy. They can serve as a sounding board, as well as a refuge for professional advice and direction.

1. Identification and Assessment

Social workers are taught and trained on how to assess and identify the needs of their clients beyond the scope of their initial presenting problem. One of the first duties of a social worker in a hospital, school, mental health clinic, or private practice is to perform a thorough assessment on a client, taking into account possible drug and alcohol abuse issues, even if the client does not self-report the issue. The role of social workers in the treatment of addictions is to assess substance abuse problems in both voluntary, or self-referred, and involuntary, or mandated.

According to the National Association of Social Workers (NASW), you will work with your clients to “complete a comprehensive assessment toward the development of a service plan for recommended placement into an appropriate treatment program.” You may not be asked to provide direct care, but you are required to identify the warning signs and recommend a program of treatment to the client during or directly after the assessment.

2. Direct Treatment

Social workers can also be referred to and serve as a therapist, as therapists are professionally trained in the use of therapy. They can serve as a sounding board, as well as a haven for professional advice and direction. Also, social workers act as addiction counselors in diverse settings, including drug treatment facilities, mental health clinics, and hospitals. Although all graduate social work programs include substance abuse education, many social workers decide to continue their studies to obtain a certification in alcohol and drug abuse counseling, especially if they wish to work specifically in this field.

3. Education

Social workers may work as an alcohol and drug abuse teachers in a variety of settings, such as schools, shelters, and community outreach centers. For instance, a social worker may be expected to give a presentation on alcohol and drug addiction prevention at a school if a social worker works in a community organization that provides this service.

The role of social workers in the treatment of addictions includes empowering the clients with resources, goals, plans, psycho social assessments, and counseling.

4. Maintenance

After meeting with clients during the intake phase and forming a treatment plan, social workers next help create a structure to sustain treatment plans. Clients

usually attend weekly counselling sessions with a social worker. They may also be involved in group therapy in addition to individual counselling sessions.

Counselling aims to help clients improve coping skills, including stress management, self-reflection, and conflict resolution. The social worker's check-ins during regular sessions comprise a non-judgmental way for clients to begin orientating themselves to the process of checking-in, maintaining positive growth, and initiating and fostering introspection.

5. Connecting Clients to Resources

Social workers also work within many systems and help as contacts to connect clients with resources. Clients in poverty, who need help meeting basic needs, may be referred to homeless shelters, food banks, or human services programs.

Social workers may also work alongside law enforcement and court officials to aid those experiencing prostitution, domestic abuse, and exploitation. To help those with criminal records find employment, social worker addiction specialists refer clients to employers who hire people with a history of addiction. Social workers can serve as references for their clients, and attest to work skills helping them succeed in their job search.

6. Research

Social workers also frequently engage in academic research on the university level. So, a social worker may choose to participate in alcohol and drug addiction prevention research, such as helping with the growth of empirically validated treatment and intervention approaches. According to the Social Work Policy Institute, social work researchers have conducted substance abuse research in recent years with support from a variety of governmental agencies, including the Substance Abuse and Mental Health Services Administration (SAMHSA), and the National Institute on Alcohol Abuse and Alcoholism and the National Institute of Mental Health.

15.10 SUMMARY

Drug addiction is a chronic disease characterized by drug seeking and use that is compulsive, or difficult to control, despite harmful consequences. Brain changes that occur over time with drug use challenge an addicted person's self-control and interfere with their ability to resist intense urges to take drugs. This is why drug addiction is also a relapsing disease. Relapse is the return to drug use after an attempt to stop. Relapse indicates the need for more or different treatment. Most drugs affect the brain's reward circuit by flooding it with the chemical messenger dopamine. Surges of dopamine in the reward circuit cause the reinforcement of pleasurable but unhealthy activities, leading people to repeat the behaviour again and again.

Over time, the brain adjusts to the excess dopamine, which reduces the high that the person feels compared to the high they felt when first taking the drug—an effect known as tolerance. They might take more of the drug, trying to achieve the same dopamine high. No single factor can predict whether a person will become addicted to drugs. A combination of genetic, environmental, and developmental factors influences risk for addiction. The more risk factors a person has, the greater the chance that taking drugs can lead to addiction. Drug addiction is treatable and can

be successfully managed. More good news is that drug use and addiction are preventable. Teachers, parents, and health care providers have crucial roles in educating young people and preventing drug use and addiction.

15.11 KEY WORDS

Addiction: Inability to lead a regular life in the absence to use of the chemical substance; is defined as a disease.

Social worker: Qualified professional licensed to provide in-depth or specific assessment and treatment for substance abuse problem

Substances: Described in this study to include alcohol, cocaine, heroin, inhalants, marijuana, prescriptions drugs, and tobacco use

Drug: Any chemical substance which when put into the body affects the way the body works and the mind thinks due to chemical reactions in the brain.

Drug Abuse: The use of chemical substances (medicinal and non-medicinal) in an amount, strength, frequency or manner that damage the physical or mental functioning.

Hallucinogens: Drugs that change the way we see, hear and feel.

Opiates: Drugs obtained from opium or artificial substitutes that have opium-like effects.

Rehabilitation: The stage after detoxification when one is helped to take up responsibilities and enjoy one's rights in society as its functioning member, which the addicts had been deprived of, when addicted.

Stimulants: Drugs that give a feeling of excitement as they increase the activity of the brain.

15.12 SELF-ASSESSMENT QUESTIONS

- 1) Explain the concept Drug addiction.
- 2) Discuss the importance of De - Addiction centres
- 3) Discuss the concept and the implications' role of social workers in De-Addiction setting.

15.13 REFERENCE BOOKS

- Dube KC, Handa SK. Drug use in health and mental illness in an Indian population. Br J Psychiatry 1971; 118:345-6.
- "Drug Definition". *Stedman's Medical Dictionary*. Archived from the original on 2014-05-02. Retrieved 2014-05-01 – via *Drugs.com*.
- "Drug". *Drug Definition & Meaning*. *The American Heritage Science Dictionary*. Houghton Mifflin Company. Archived from the original on 14 September 2007. Retrieved 20 September 2007 – via *dictionary.com*.
- International Classification of Diseases (ICD-10) [Code F10.2]
- Role of Social Workers in the Treatment of Addictions – We Level Up
- Rukmani, J. Dealing with addiction. T.T. Ranganathan Clinical Research Foundation.
- SAMHSA
<https://www.samhsa.gov/data/sites/default/files/NSDUHNationalFindingsResults2010-web/2k10ResultsRev/NSDUHresultsRev2010.pdf>

- Singh, Gurmeet, 1984. "Alcoholism in India", in Alan and D.A. DeSouza (ed.) Psychiatry in India, Bhalani Book Depot, Bombay : pp.240-251
- TTK Hospital. 1999. Addiction to Alcohol and Drugs : Illustrated Guide for Community Workers, TTK : Madras.
- TTK Hospital. 1989. Alcoholism and Drug Dependency, TTK : Madras.TTK Hospital. 1999. Addiction to Alcohol and Drugs : Illustrated Guide for Community Workers.
- TTK : Madras. TTK Hospital. 1989. Alcoholism and Drug Dependency, TTK : Madras.
- Thacore VR. Drug abuse in India with special reference to Lucknow. Indian J Psychiatry 1972;14:257-61.
- Varghese, J (2009). Group work in institutional settings in MSW- 008, Social Group Work: Working with groups, Unit 3, Block 4, Indira Gandhi National Open University, New Delhi
- NCBI – <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3684208/>
- National Institutes of Health website: "Drug dependence means that a person needs a drug to function normally. Abruptly stopping the drug leads to withdrawal symptoms. Drug addiction is the compulsive use of a substance, despite its negative or dangerous effects."

Dr. Kavya Jyotsna

(404SW21)

MODEL QUESTION PAPER
M.A. DEGREE EXAMINATION
Fourth Semester
Social Work
Paper IV — Correctional Social Work

Time : Three hours

Maximum : 70 marks

Answer any FIVE Questions.

All questions carry equal marks.

1. Explain the historical theory of crime?
2. Explain the types of punishment?
3. Elucidate the meaning of corrections?
4. Write an essay on historical back ground of correction?
5. Explain the structure and functions of Remand homes?
6. Discuss the role of Juvenile courts in corrections?
7. Critically discuss the role of social worker in correctional social work?
8. Explain the role of social worker with Juvenile delinquent?
9. Bring out the causes for lack of Inter agency exportations and coordination among police?
10. Analyse the historical view of prison reforms in India