

## LESSON - 1

# CRIME - CONCEPT DEFINITION AND NATURE

### 1.0 Objective:

After reading this lesson the learner will be able to

- Define the concept of crime
- Understand the nature of crime
- Describe the characteristics of Crime
- Explain the causes of Crime

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### 1.1 Introduction:

Crime is an unacceptable, formidable and illegal act of an individual or group of individuals that caused disturbance and disorder in the functioning of an individual, family, government machinery and the society at large. Hence the concept of crime has become one of the important topic for discussion, debate among the sociologists, psychologists, government machinery researchers including academicians. Therefore for its holistic understanding the concept is to be defined, explained its nature and characteristics, identified the causes. The present lesson is an attempt in this direction.

### 1.2 Crime - Concept and definition:

There are two views in regarding to the definition of crime.

- (i) Legal definition of Crime
- (ii) Sociological conception of Crime

#### (i) Legal definition of Crime

In the words of Taffon, "Crime is an intentional act of omission in violation of criminal law statutory and cause law committed without defense or justification and sanctioned by the state as a belong or misdemeanor".

According to Hall Jerone, "Crime is as legally forbidden as intentional action, which has a harmful impact on social interests, which has a criminal intent, and which has legally prescribed punishments for it".

Miller states that "Crime is the commission or omission of an act, which the law forbids or commands under pain of punishment to be imposed by the state and no act is a crime however wrong it may seem to the individual conscience, unless it is prohibited by law.

Barnes and Teeters defines crime - "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 state.

According to Elliott and Merrill", "A Crime is po-facto implies a disturbance in a social relationship and a social definition as to what such a disturbance is".

### **(ii) Social View Point**

According to C. Darrow, "Crime is an act forbidden by the law of the land and for which penalty is prescribed".

Reckless observes, crime Sociologically speaking is fundamentally a violation of conduct norms which contain sanctions, no matter whether found in the criminal law of a modern state or merely in the working rules of special social groups. Criminal behaviour is a violation of the rules of the social order.

Taking the reconciliatory position between legal and social definitions of crime Reid said that the legal definition may be used for compiling statistics on crime and for assigning the level criminal' but the studies undertaken for understanding causation of crime should include such persons also in the sample of 'criminals' who admit their crime but are not convicted by court.

### **1.3. Nature of Crime**

The nature and extent of crime in India is different from that of the west. If we examine the pattern of Indian Penal Code (IPC) crimes in India for the last five years (2000-2005) and look back to its trend, one will find that during this period the percentage share of crimes such as rape, cheating, kidnapping and abduction, hurt, molestation and cruelty by husband or relatives are found to be recorded an increasing trend over the years. However, the share of cases under burglary, theft, robbery and riots had shown a declining trend. It clearly indicates that there is a steady increase in violent crimes while a decreasing trend in property and economic crimes in India.

Incidents of violent crimes Leave shocking effects on the life of the mainstream population. Such crimes, as a matter of fact nduce a sense of insecurity, annoyance and fear, violence in the society. Indeed, the frequency and the magnitude of such occurrence often cause problem to law and order machinery and affect the public peace. As is known, violent crimes are furious in nature, committed with force, fierce criminal acts of schemence etc. A penetrating look into the violent crimes under the Indian Penal Code the crimes like murder, attempt to commit murder, culpudle homicide not amounting to murder, dowry deaths and kidnapping and abduction are affecting seriously

the well-being of the society. Similarly the violent crimes under the IPC affecting property are dacoity, preparation and assembly for dacoity and robbery. Besides it is also surprised to observe that the cyber crimes are found increasing today than ever before.

Crime against children is yet another serious problem which is taken a keen attention by various social organisations and government machinery. Over the years many safe guarding measures have been initiated and being implemented by both government and non-government agencies to fight out the problems and crimes associated with child crime. Despite of all the efforts taken by government and N.G.O.s rigorously to reduce the child crimes, it is unfortunate to observe that the crime rate among the children is found increasing and causing a serious problems in the society.

### 1.4 Characteristics of Crimes

An extensive analysis has resulted in the description of seven interrelated but over lapping differentials of crime. Behaviour of an individual would not be a crime unless all the seven differentials 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. 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 starting children his motive is good but killing is legally forbidden and so his intention is criminal.

**4. Malafide intention** - There must be the criminal conduct i.e there must be an intentional or reckless action or inaction which brings about the harmful consequences.

**5. Causal relationship** - There must be causal relation between the legally forbidden harm and the voluntary misconduct. For example, if a man lies of supporation after being shot at, the relationship between conduct and the harm is not clear cut.

6. Concurrence of intention and conduct there must be a concurrence of criminal intention and conduct. For example, if a policeman, who goes into a house to make an arrest is not a trespasser from the beginning.

**7. Prescription of punishment** - There must be legally prescribed punishment. The voluntary misconduct must be punishable by law.

### 1.5. Causes of Crime

The main causes of crime are

(i) Social

(ii) Economic

(iii) Physical and developmental

(iv) Geographical

(v) Political

### **(i) Social causes of Crime**

The main social causes of crime are as follows :

**1. Absence of Family control** - One of the causes of the crime is lack of control of the head of the family over the children. The family is the most dominant factor in the social causes of crime in India. Now-a-days family disorganisation is to be seen in India. In urban areas, all the members of a family are to be seen pursuing their individual paths. With the lifting of family control there are no restrictions of the criminal tendencies of children. Now that the natural relations between parents and children are devoid of love both young boys and girls are prone to a criminal activity. Even in the villages the adolescents and youngmen and women do not respect their elders, and they want to lead an unrestricted, carefree, individual life. Adultery, abortion, miscarriage and prostitution are primarily due to lack of family control.

**2. Lack of social control** - Another reason of crime is absence of social control. Control of society over its members has considerably weakened. That is more in urban areas. In rural areas there is still little control. Previously the caste panchayats in the village kept control over the behaviour and conduct of the members of the caste. It was extremely difficult to conceal crime in the village and when any crime was revealed the caste panchayats meted out very stern punishments, going to the limit of exterminating the guilty persons from the caste. This tended to control and check crime effectively. Today, these social organisations no longer exist. They have been deprived of all their authority. Secondly, with better facilities of transport being available the criminal can commit the crime and abscond from the village to the town or to the village from the town. In urban areas no one is troubled about caste organisations. Any individual can commit a crime and conceal his identity in the city mob. In this way, the disappearance of the control of caste organisations is another cause of crime.

**3. Defective Education** - The present day educational system is very defective. It does not develop the morality and character of students in right direction. Ethical and religious education have no place in the modern education system. Besides this, even after completing his education an individual does not become capable of earning his livelihood and many well educated people remain unemployed for many years. Late employment leads to late marriage. All these causes tend to aggravate criminal activity.

**4. Cinema** - Cinema has an impact in the increase of crime and rate of crime. In our modern society cinema is a very popular source of recreation. The cinema arouses criminal tendencies among people by showing crime techniques, by exhibiting many kinds of crimes, by stimulating the desire for wealth and comforts, by showing ways and means of appropriating them illegally, by

arousing the feelings of bravado, toughness and adventure, by arousing profound sexual urges, by stimulating day dreams of criminal jobs. In much the same way it directs or urges many young and inexperienced women to illegitimate relations and crimes by stimulating the sexual desire, the desire for exhibition, love making, independence and variety.

**5. Newspapers** - Besides cinemas, newspapers also play a powerful role in increasing criminal activity. Newspapers increase criminal activity by publishing methods of crime through news items by printing many news items relating to crime, by making crime a general subject, by printing news of major crimes and showing their advantages, circulating the names of criminals, by highlighting causes which tend to increase crime in the name of studies of crimes and by warning and alerting criminals by publishing police methods. The recent wave of decoits in India to some extent indirectly assisted by newspapers.

**6. Use of Intoxicating drugs** - The consumption of alcohol also is one of the major causes of crime. A low standard of life and it is also from among them that the greatest number of criminals are coming. There are large numbers of crimes committed under the influence of alcoholic stimulants. Drinking affects not only the drinker and makes him a criminal but it also a deleterious influence on his entire family and inclines men, women and children towards crime. In this way drinking increases crime both apparently as well as indirectly.

**7. Restrictions on Widow Remarriage** - In India widow remarriage is now legally accepted and valid but it is still looked down upon in society. Consequently, many young widows do not remarry for the rest of their lives but such a decision does not annihilate their sexual passion and these rather lie dormant in a corner of the mind and wait for a suitable opportunity. Even if the widow is religious and saintly she is pursued by men and is lured to the path of evil and sin by many threats and cajoling. In this way, there is an increase in adultery, miscarriage, abortion, infanticide, etc.

**8. Defects of the marriage and dowry system** - In India the dowry system also is among the social causes of crime. On the one hand the dowry system urges the fathers of girls to earn money through illegitimate means for their daughter's marriage, on the other hand, it leads to suicide by many young girls who cannot bear to see the degraded condition of their parents. The dowry system has further encouraged late marriages, both among girls and boys. In extreme cases, the lack of wealth compels a girl to remain unmarried throughout her life or at the most she is married to an old man or to an unsuitable partner. All these also tend to increase sex crimes in society. Very often the parents do not care to ask the girl or boy for opinion and sometimes even proceed against it. This also results in suicide and other crimes.

**9. Religion** - Religion is most important source of purification and should be responsible for keeping the people away from the crimes. But unfortunately, in the name of religion many serious crimes are committed. Looting murders and communal riots etc are done in the name of religion.

**10. Changes in Social Values** - Due to industrialization and advancement of science and technology social values have changed. Today we are more materialists and rational as well as individualists. Due to these changes social values have changed and restrictions considerably reduced. This has resulted in increasing crimes. This disordered state of values also inspires crime because any

person can manage to produce an argument to justify even that which is improper.

## (ii) Economic Causes

Some of the economic causes responsible to crime are as follows.

**1. Poverty** - It is one of the most important economic causes of crime. Poverty results in committing suicide. One major cause of prostitution is poverty. Poor girls are easily sell their bodies. Directly or indirectly poverty is responsible for all sorts of crimes.

**2. Unemployment** - Unemployment, much like property, is a major cause of crime. Many young men commit suicides when they are frustrated by extreme poverty and continued unemployment. Among the people who are seen creating disturbances, causing violence, etc., the majority are the unemployed. Most gangsters do not work. Gangsterism is their only occupation.

**3. Industrialisation** - Industrialisation is also an important cause of crime. It has destroyed the family life of millions of labourers. They work very hard for eight to ten hours in the day during which they have to suffer many indecencies and for this they have to live in towns far away from their families. Continued existence of this type leads them to indulge in drinking alcohol and in prostitution and this encourages other crimes. In India, the most prospering centres of prostitution are important industrial towns which, at the same time, foster crimes such as murder, assault, disturbance, robbery, etc. Industrialisation has encouraged crime also due to another reason. Housing becomes a problem in an industrial town when the population increase beyond limits. In some town thousands of families live in houses having no more than one room each. In such conditions the married women have no privacy and children and unmarried members witness happenings which they should not see. This has a bad influence upon them and sex crimes increase among them. Sex crimes increase tendencies to other crimes which then take place.

**4. Urbanization** - Urbanization is the result of industrialization and other causes. Hence all those crimes caused by industrialization are also caused by urbanization. In cities the society fails to exercise control over the individual who loses his identity in the mob after having committed a crime. There is no such facility. However redoubtable in the village. In towns there are better opportunities for picking pockets and practising deception in a crowd. There is absence of healthy recreation in the town and hence the crimes are crowded. Gambling dens, indecent theatres and wine shops provide means of spurious recreations. This encourages crime.

## (iii) Physical and Developmental Causes

Physical defects also make a man a criminal because due to deformities he lags behind his fellow beings. In many activities and it is in order to remove this difference that he turns to crime. Criminals have usually been found to be extremely ugly. On examining prisoners in the Parkhurst prison, Charles Goring found most of them to be inferior, from the physical viewpoint, to the common individual. Mental defects are just as much causative of crime as are physical defects. Among them feeble-mindedness has particularly been found to be a cause of crime. The percentage of feeble-minded criminals among 948 criminals who had committed crimes of various sorts and were studied by Goring was as follows -

Correctional Social Work	1.7	Crime - Concept Definition and.....
Those who set fire to a heap of wheat		52.9 percent
Those who set fire to another forms of property		16.7 percent
Those who robbed and murdered		15.6 percent
Those who committed unnatural sex crimes		14.3 percent
Those who were dacoits		10.0 percent

Gillin calculated that 12 percent of all prisoners are affected with mental diseases. Besides feeble -mindedness, individuals are also led to crime by epilepsy and emotional disturbances. Of the 100 young men of Chicago who had repeated their crimes, seven percent were afflicted with epilepsy. The reason why crimes originate in physical and mental afflictions is that such people are the objects of social derision and mockery because of their impeded and disease hampered progress, and this social degradation spurs them to engage in antisocial activities. A person who, being very ugly, fails to win a woman's love, tries to gain ascendancy over her by the power of money, which he amasses by illegitimate means or by sheer dint of physical power and rapacious activity.

### **Heredity**

Heredity, according to some criminologies, is one main cause of crime. This view is no longer regarded as scientific but there can be no doubt that lineage and descent have some influence upon crime. Early sexual maturity, mental defects and nervous instability etc., are abnormalities an individual inherits, which help in making him a criminal.

In a study in Chicago, Healy went into the family history of 668 out of 1000 juvenile delinquents and found that in all 245 of the families were afflicted by one or another mental defects. In 125 cases their ancestors were also found to be criminals. 61 percent of 823 families which were sampled found to be suffering from some affliction. But these statistics show the influence of environment at the same time as they indicate the effect of heredity. Some people become criminals due to psychoses. In this way people indulge in criminal activity in order to make up for mental and physical shortcomings. Elliott and Merrill express this by saying that his criminal tendency may be the reaction aiming at remedying shortcomings.

Besides physical defects, factors concerning physical development may also sometimes be causes of crime. As a general rule it can be said that it is between the ages of 17 to 24 that the greatest number of crimes are committed. In old age rape and other sexual crimes increase in number. Murderous crimes are usually committed by young men. Embezzlement, fraud, vagrancy, alcoholic excesses and murder, etc. are peculiar to middle age. Girls who mature early are more prone to become involved in clandestine affairs. In adolescence the aggressive tendency grows.

### **(iv) Geographical causes**

Geographical school of thought makes us believe that climatic and seasonal conditions are responsible for crime. Lombroso has collected evidence and shown that crimes of rape are more common in plains than in the mountains or plateaus. In Italy where malaria is to be found in excess

of every other disease the crimes most common are those that are against the individual. According to some criminologists, in hot countries there are more crimes against the person while in cold countries more crimes are committed against property. Lacassagne had formulated a calendar on the basis of seasonal infanticide in crime. According to this the greatest number of cases of infanticide take place in January, February, March and April, of homicide and in May, July, August and most of all in December, of rape upon young women in June and January. All criminologists do not agree to such a view of the influences of seasons and climates upon criminal activity but the least that can be said is that crimes are susceptible to climatic and seasonal variations in the same degree in which human relationships and tendencies are influenced by them.

### **(v) Political causes**

Many political causes also encourage crime. Now-a-days many criminals go scot free with prepared legal advice because there is opportunity to prove truth false and falsehood true. This encourages them to engage in further criminal activity. On the other hand, the innocents, who are prosecuted and convicted in their place also become criminals as a reaction. The ill treatment to which the prison inmates are subjected also hardens the softest of criminal. Crimes are further encouraged by the inefficiency, immorality and corruption of the police department. People connected with political groups also unobtrusively assist criminals and make use of them to inflict injury upon and to defame members of opposing groups.

Little research has been done on the relation of political processes to criminal behaviour. Crime statistics present an inadequate picture of the crime situation because politicians juggle the figures so as to 'prove' that their policies have reduced crime. A prominent theory about the influence of politics on crime is that crime is due to the lack of enforcement of laws. There is an anomaly in a great amount of legislation and one finds scant respect for its observance. Clinard has indicated that in America, the general public attitude towards obedience of law is that all laws except those dealing with very serious offences should be violated if one can escape them and laws should be selectively obeyed according to one's interests. Legislative bodies are considered with suspicion and distrust.

Police are regarded as corrupt, inefficient and brutal. Officials charged with law enforcement avoid their responsibility or enforce the laws only sporadically. Moreover, the political machinery supports criminal groups by modifying laws. It supports and promotes large scale white-collar crime to protect its own interests. It also protects groups against injurious legislation. A third form of political corruption is through corruption in governmental contracts. Another form is the operation of patronage system to fill up political offices and also parties practicing fraud in voting. Thus, the practice of corruption and crime by the political machinery itself restricts the effectiveness of law enforcement agencies in crime prevention.

## **1.6 Summary**

Crime is anti-social behaviour which a group rejects and to which it attaches penalties. Crime is a set of illegal activities for which the law prescribes punishment and is not intrinsic, crime, sociologically speaking is fundamentally a violation of conduct norms which contain sanctions, no



matter whether found in the criminal law of a modern state or merely in the working rules of special social groups.

Crimes and the rate of crimes paralyse the peace life of an individual, family, community and the entire society at large. Proper education counselling, effective enforcement of laws, developing ethical, moral code of behaviour and spiritual transformation of people would undoubtedly reduce the crime rate. Therefore, all sections of the society including government machinery should make concerted efforts to curtail the problems at the budding stage itself.

### **1.7. Keywords**

Crime

### **1.8. Self Assessment Questions :**

1. Define crime explain its nature
2. Explain the characteristics of crime
3. Describe the causes of crime

### **1.9. Reference Books**

Caldwell, Robert G	- Criminology
Gillian J.L.,	- Criminology and penology
Korn, Richard R, and Lloyd W. Mccorkle	- Criminology and penology
Morris, Albert	- Criminology
Taft, Donald R	- Criminology
Sutherland, E.H. D.R. Cressy	- Principles of Criminology

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## **LESSON - 2**

# **THEORIES OF CRIME - CLASSICAL, BIOLOGICAL, PSYCHOLOGICAL AND SOCIOLOGICAL**

## **2.0 Objective**

After studying this lesson you should be able to

- Know the classical and Neo Classical schools of thought of crime
- Understand positive school - Biological Theories
- Explain the Psychological and Sociological theories

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### **2.3 Summary**

### **2.4 Self Assessment Questions**

### **2.5 Reference Books**

## **2.1 Introduction**

Crime and its causation has been an important subject to many scholars of different disciplines such as Sociology, Social Work Law, Psychology, Psychiatry. Philosophers, Politicians, Religious Leaders and host of others who have been concerned about crimeless society. Their beliefs were, and in some cases still are ideological. That is, they are based on unproven, but firmly held, assumptions about life and human behaviour. It was not until late in the last century that criminologist began to study the causes of crime empirically, criminologists have designed and made an effort to test many crime causation theories, but none has answered the questions. What causes crime? why do people commit crimes? Nevertheless, the answers to these questions are

very important to researchers, criminal justice theorists, practitioners and students. The prominent schools of thought are briefly explained in this lesson. These are : Classical school, neo-classical school, positive school which emphasized biological theories psychological and sociological school of thoughts.

Crime is a multifaceted concept and hence need to be understand and analysed from different quarters and dimensions. Initially a crime may stem in an individual and later creeps to the group and the society at large. A crime has its deep roots from Psycho-Physical, Sociological, Cultural, Physiological and some times ideological mind set of the people. Therefore, the concept of crime for its holistic and comprehensive understanding requires from all the perspectives as cited. This lesson addresses all these aspects.

## **2.2 Theories of Crime**

### **2.2.1. Classical School**

#### **(a) Cesare Beccaria**

The name most definitely associated with the classical school is that of the Italian mathematician and economist, Ceasare Bonesona Marchase de Beccaria, whose wide range of interested him to examine and offer suggestions for the reformation of the penology of his day. He was influenced by the writings of scholars like John Howard and Bentham. Beccaria wrote an essay titled "Dei delittiedelle pene" which was published in Italy in 1764 and in England in 1767 under the little 'on crimes and punishments' His major contribution was the concept that the punishment should fit the crime' which has been essentially the theme of the classical school of thought. Besides, the discretionary penalties was a common place of the time. The judges exercised the power to add to the punishment prescribed by law penalties in keeping with their personal views of the special circumstances involved.

The classical school developed as reactions aganist severe punishment and harsh laws which prevailed upto the eighteenth century.

#### **Basic principles of Classical School includes**

(1) The formation of a contractual society to escape war and chaos

The sum of all these portions of the liberty of each individual constituted the sovereignty of a nation and was deposited in the hands of the sovereign, as the lawful administrator.

(2) The source of law being the legislature, not the judges

The laws only can determine the punishment of crimes and the authority of making penal laws can only reside with the legislator who represents the whole society united by social compacts and compulsions.

(3) It is the true function of the judge to act only in the determination of guilt, penalties are matters of law.

(4) The right of the State i.e., the sovereign to punish the culprit.

(5) There should be a scale of crimes and punishment.

A scale of crimes may be formed of which the first degree should consist of those which immediately tend to the dissolution of society, and the last, of the smallest possible injustice done to a private member of the society.

(6) Pain and pleasure as basis of human motivation

Even amongst the motives which incite men to acts of religion, the invisible legislator has ordained rewards and punishments.

(7) The 'act' not the 'intent' is the measure of injury done by crime.

(8) Fundamental principle of criminal law rests on positive sanction

Every member of the society has a right to do anything that is not contrary to the law without fearing any other inconvenience than natural consequences.

The preceding eight quotations highlight some of the important ideas of Beccaria. Many others were emphasized by him as well. It was said, for example that

(9) prevention of crime is more important than punishment for crime committed; that

(10) punishment is desirable only as it helps to prevent crime

(11) that desirable criminal procedure calls for the publication of all laws so the public may know what they are and so that it (the public) may be led to support their intent and purpose:

(12) that torture and secret accusations should be abolished

(13) that trial should be speedy ; that

(14) in punishment, not severity but certainty will have the greatest preventive effect

(15) that capital punishments should be abolished

(16) the use of imprisonment as a punishment should be greatly extended and the prisons improved by offering better physical care and by classifying inmates as to sex, age, and kind or degree of criminality, and so on.

The French legislators worked out many of his ideas in the famous French Code of 1792.

It seems fair, therefore, to characterize the classical school as administrative and legal criminology. Its great advantage was that it setup a scheme of procedure easy to administer. It made the judge only an instrument to apply the law, and the law undertook to prescribe an exact penalty for every crime and every degree thereof, Puzzling questions about the reasons for or 'causes' of behaviour, the uncertainties of motive and intent, the unequal consequences of an arbitrary rule, these were all deliberately ignored for the sake of administrative uniformity.

This was the classical conception of justice - an exact scale of punishments for equal acts without reference to the nature of the individual involved and with no attention to the question of special circumstances under which the act came about.

As a matter of simple experience, however, the Code of 1791 was impossible to enforce in practical everyday situations and necessary modifications began to be introduced. These modifications, all in the interest of greater ease of administration and still in process to some extent, are the essence of the so-called neoclassical school.

### **(b) Jeremy Bentham**

Bentham was a British philosopher having trained in law. He belongs to classical school and was a contemporary of Beccaria. He also advocated in favour of "free will" being responsible for the criminal act, but in his theory he explained criminal behaviour to be a learned behaviour. He has been acclaimed as the greatest legal philosopher and reformer the world has ever seen. He argues that "the greatest good must go to the greatest number". But it is not taking place in the society, because man consciously desires to avail pleasure even at the cost of others pain. Therefore, the punishments need to be so designed, which would outweigh any pleasure derived from the commission of the crimes. Based on this philosophy, Bentham argued that "let the punishment fit the crime" and prevent commission of crimes inside society. Bentham in fact was the person to think regarding the social causation of crime leaving aside the biological, climatic and other non-social explanations.

Like Beccaria Bentham also applied his serious mind to reform the criminal law. He saw a new ethical principle of social control, a "method of checking human behaviour according to a general ethical principle". The principle that he called is "Utilitarianism" "An act is not to be judged by an irrational system of absolutes but by a supposedly verifiable principle... (which is) 'the greatest happiness for the greatest number' or simply 'the greatest happiness'". Unfortunately, Bentham did not explain the theoretical basis for his principle, nor did he tell how the principle could be measured objectively and empirically (Gilbert, 1973)

According to Ahuja (1997, pp. 317) the major weaknesses in the Classical School were (1) all criminals were to be treated alike without differentiating them on the basis of age, sex and intelligence (2) no importance was given to the nature of crime (that is, whether the crime was a felony or misdemeanour) or the type of the criminal (that is, whether he was a first offender, a casual offender, a habitual offender, or a professional offender) (3) explaining an individual's behaviour merely on the doctrine of 'free will' and suggesting, punishment on the principle of 'Utilitarianism' is only on armchair philosophy which considers crime in the abstract and lacks a scientific approach in the objective and empirical measurement. (4) there was no provision for justifiable criminal acts; and (5) Beccaria and Bentham were more concerned with reform in the criminal law (like mitigation of severity of punishment, removal of defects in the Jury system, abolition of transportation and Capital punishment and adoption of a prison philosophy and regulating morality, than in controlling crime or development of criminological theories.

### **Neo-Classical School**

The Neo Classical school became popular during the Nineteenth century. The British neo-classical criminologists could realise the severity of punishment inflicted on offenders going through the French Penal Code of 1791 and brought in revision in 1810 and 1819.

#### **The Neo-classical school was characterised by**

(1) Some modifications of the doctrine of free will and the free dom of the will-to choose could be affected by

(a) Pathology, incompetence, insanity, or by conditions that make it impossible for the individual to exercise his free will :

(b) Premeditation, which is introduced as a measure of the freedom of the will. This involves various kinds of absurdities. However, if true, the first offender would have to be considered more free to choose than the repeater, who is bound by habits, and should therefore suffer heavier punishments.

(2) Acceptance of the validity of mitigating circumstances, These might be physical (weather, mechanical etc.,) environmental, or the mental condition of the individual.

(3) A modification of the doctrine of responsibility to provide for a mitigation of punishments with partial responsibility. The main reasons for holding the individual only partially responsible would be insanity, imbecility, age or other conditions which could affect 'knowledge and intent' of man at the time of crime.

(4) Admission into court procedure of expert testimony on the question of the degree of responsibility, of whether the accused was capable of choosing between right and wrong.

Classical and neo-classical theories, thus, represent an abandoning of the supernatural as a principle of explanation and as a guide of criminal procedure. To that extent they mark the beginning of a naturalistic approach to human behaviour. They substitute for the view of man as a puppet of the supernatural. The idea of man as a self-determining being, acting on the basis of reason and intelligence and therefore responsible for his behaviour. The break with this system of animistic, self-determining, free-will, kind of thinking comes with the positive school, usually associated with the name of Lombroso and his Italian pupils.

### **2.2.2. Positive School**

#### **Biological Theories**

**Cesare Lambroso** : Cesare Lambroso is regarded as the father of the modern criminology. He was Born in Venice, of a Jewish family. Cesare Lombroso (1835-1909) was educated for medicine and became a specialist in Psychiatry. His principal career was services as a professor of legal medicine at the University of Turin. His name came into prominence with the publication of his book.'The Criminal Man' in 1876 in which he affirmed that the atavistic origin of the born criminal and suggested a close relationship between crime, epilepsy, insanity and degeneracy.

As a founder of a school of criminology (the positive school), Lombroso's name is something of an anomaly. 'It has been his fate to be known principally for his earliest formulation of a 'physical criminal' type theory, but that certainly is not the basis of the positive school.

He was the first man to employ scientific methods in explaining criminal behaviour. He studied both medicine and psychiatry. He developed keen interest in undertaking anthropological study of the criminals. Once Lombroso was doing a post-mortem examination of the skull of a notorious criminal, he noticed that not only was it different from a normal skull, but that differences resembled those of "primitive men and of inferior animals". This throwback or atavism in the criminal represented the primitive and savage qualities of the remote ancestors of human beings. He made a comparative analysis among the insane, criminal and normal persons by measuring the size of the skulls and also the degree of sensitivity to touch. He observed similar characteristics between the insane persons and criminals.

Undertaking a number of experiments on the criminals he could locate some common biological abnormalities like a low forehead, receding chin, ears standing out from the head, too many fingers, abundance of wrinkles, a typical size or shape of the head, peculiarities of the eyes, tufted and crispy hair, excessively long arms, flattened nose, etc. On the basis of the above mentioned physical characteristics present among the criminals Lombroso developed maintain that there are three major classes of criminals.

(1) Born criminals, to be understood as atavistic reversions to a lower or more primitive evolutionary form of development, and thought to constitute about 1/3 of the total number of offenders.

(2) Insane Criminals - i.e. Idiots, imbeciles, paranoiacs, sufferers from melancholia, those afflicted with general paralysis, dementia, alcoholism, epilepsy, hysteria (strange bed fellows to be sure) and

(3) Criminooids, a large general class of those without physical stigmata, who are not afflicted with recognizable mental disorders, but whose mental and emotional make up are such that under certain circumstances they indulge in vicious and criminal behaviour.

Lombroso's theory was criticized by Goring and Hooton due to lack of scientific approach in his research methodology.

**Charles Goring** : Charles Goring an English researcher of Lombroso's time made a comparative study on 3000 criminals and non-criminals. With the help of micrometer and other measuring instruments, he spent eight years measuring the chins, foreheads and ears of these two categories of people. Then for two years he analysed the collected data with the help of statistical techniques. After undertaking such empirical work, he could conclude that "There is no such as a 'physical criminal type' or the 'form criminal', because the physical and mental constitution of both criminal and law-abiding persons of the same, age, stature, class and intelligence, are identical. Nevertheless, Goring work was also criticized by Reid because of the following reasons (i) he committed the same errors in statistical analysis for which he criticized Lombroso. He measured intelligence not by the available Simon-Binet tests but by his own impression of the mental ability of the criminals. (ii) he completely ignored the impact of environment on crime, (iii) the sample of non-criminals

which included undergraduate university students, inmates of hospital mental patients and soldiers was defective, and (iv) he was violently prejudiced against Lombroso.

**Raffaele Garofalo** : Garofalo by means of using the statistico - mathematical method pointed out that in the instincts of a criminal there exists an element which is congenial, inherited, acquired during infancy, which becomes inseparable from the criminal's psychic organism. On the basis of this, he argued that it is because of "psychic anomaly" a person becomes a criminal. He classified criminals on the basis of their moral inferiority. Further, he states that a criminal lacks proper development of the 'altruistic sensibility' not because of environmental or economic factors but due to inherited reasons.

Garofalo divided the criminals into four classes : (1) "Endemic Criminals" are murderers who commit offences characteristics of their locality or crimes out of passion; (2) Criminals deficient in probity" are thieves; (3) "Lascivious Criminals" perpetrate crimes against chastity and (4) "Violent criminals" are affected by such environmental influences as prejudice of honour, politics and religion.

Garafalo did not believe that deterrent methods of punishment refrain potential offenders from crime commission. But he admits that fear of punishment does help people to adhere to the moral norms and sanctions of the society. He was in favour of according death penalty to the murderers, and in case of other offenders he suggested for imprisonment and imposition of fines.

**Enrico Ferri** : The most widely known of Lombroso's pupils was Enrico Ferri (1856-1928). Born in the province of Mantua, Italy, Ferri attended the University of Bologna, where he became interested in statistics, especially as applied to the study of crime. After his year of study in France, Ferri returned to the University of Turin, where he became a pupil of Lombroso. The two men supplemented one another's thinking to a considerable extent. He was a young socialist.

By 1884, at the age of twenty-seven, Ferri had developed his ideas in two major publications. The basic cast of Ferri's thinking about the mainsprings of human behaviour appeared in his earliest major publication in 1878, when he was twenty-one year's old, namely, the 'Theory of Imputability and the Danial of free will' .

His famous four-fold classification of criminals as insane, born, occasional and criminals by passion first appeared in 'The Homicide'. He expanded thought on the whole problem of crime was developed in his Criminal Sociology. His original thesis was that crime is caused by a great number of factors, classified as (1) physical (race, climate, geographic location, seasonal effects, temperature etc.) (2) Anthropological (age, sex, organic and psychological conditions etc.) and (3) Social (density of population, customs, religion, organization of government, economic and industrial conditions.)

He prescribed various preventive measures to curb and control the rate of crime. He advocated that crimes is not a social need but it is inevitable in society, therefore punishment should be there in every society for its protection. Ferri also argued that the state should provide facilities for after care and supervision of the released prisoners for suitable rehabilitation.

**Earnest Albert Hooton** : Hooton was a famous physical anthropologist. He became famous for



his major work, 'Crime and the Man' (1939). Through research he tried to find out whether physical characteristics of criminals were related to anti-social conduct. On the basis of his 12 years study of 13,873 male prisoners compared to a small number of 3,203 male non-offenders, he concluded that the primary cause of crime is 'biological inferiority'.

The four conclusions he drew from his study (1939) were: (1) Criminal behaviour is the direct result of inherited biological inferiority as shown by characteristics like sloping foreheads, thin lips, straight hairs, body hair, small ears, long thin necks and sloping shoulders, (2) particular types of crime are caused by particular types of biological inferiority. Tall and thin men tend to be murderers and robbers, tall and heavy men tend to be cheats, short statured and thin men tend to be thieves and burglars, and short heavy men are prone to commit sexual crimes. (3) Criminals are organically inferior, and (4) elimination of crime can be effected only by the sterilization of the physically and mentally unfit persons. He further held that in every society, there are a few geniuses, hordes of mediocres, masses of morons, and regiments of criminals. He gave three types of biologically inferior people: (i) who are organically unadaptable, (ii) mentally stunted, and (iii) sociologically warped

Hooton's research findings were criticized by many scholars on the grounds like - defective sampling, and no scientific clarity regarding the concept of biological inferiority.

### 2.2.3. Psychological Theories

Psychological theories of crime causation fall into two basic groups viz..., the determinist (Psychoanalytic) and behaviourist. The psychological determinists attribute crime to mental diseases and defects largely beyond individual control. The behaviourists, on the other hand, hold that individuals learn criminal behaviour, hence, they choose to commit crimes.

Psychoanalytic Psychology - Sigmund Freud is said to be a pioneer in developing the psychoanalytic psychology to the understanding of abnormal behaviour pattern. Psychoanalytic psychology became a significant force during 1920s and reached its high point during the 1950s and 1960s, when it came under increasing attack. Although Freud himself rarely addressed the topic, several theoretical psychoanalytic positions might help to explain criminal behaviour.

- (1) The notion that aggression and sex are powerful drives that must be expressed.
- (2) The idea that the unconscious plays at least as important a role as the conscious in governing behaviour and
- (3) The concept of psychic determinism - that all human behaviour is determined, not chosen by the unconscious forces of sex and aggression.

If individuals do not develop 'healthy' ways to express sex and aggression, 'illness' known as neurosis (less serious) and psychosis (very serious), results. These 'illness' can lead to aberrant violent and sexual behaviour, much of which violates the criminal law. These aberrant behaviours arise due to faulty early childhood development. According to Freudians, the most important formation period occurs in very early childhood, particularly in the first five years. Hence, according to

psychanalytic theory, illness, not badness, determines, or causes, crime. In its most extreme form, this position takes the expression, "All criminals are sick" one practical consequence of such determinist thinking is that we cannot blame or punish 'sick patients' for the behavioural consequences (crimes) of their "illness". The insanity defense shows the influence of this theory on criminal law.

**Behaviourist Theory** - Behaviour theory begins with the assumption that all behaviour is learned. Unlike the psychoanalytic theories, the behaviourists reject the idea that aggression is an innate human drive looking for expression, healthy or otherwise. The behaviourist believes that individuals learn aggressive behaviour just as they learn most other behaviours, through reward and punishment, very simply. When aggression is rewarded, or at least not punished, individuals will learn to be aggressive. Behaviourist theory underlies the idea that if criminals receive severe punishment for committing crimes or - often overlooked - if sufficiently rewarded for engaging in legitimate work, they will "learn" not to commit crimes.

#### 2.2.4 Sociological Theories

Sociology looks not to individuals for crime causation, but to the structures and processes in society with which individuals interact. The sociological theorists reject the notion that criminals commit crimes as pure acts of individual free will. Sociologists do not view crime as "good" or "bad", "healthy" or "unhealthy" "right" or "wrong", but rather as the result of social structure and process, like all behaviour. Different conditions determine different behaviours. Some of which the law labels crime as a result, some people are selected and processed as criminals. A person becomes a criminal much as a person becomes a lawyer, doctor or teacher - by learning to be one. The difference between criminals and non-criminals lies merely in the content of what they learn from the social environment they were born and brought up.

**Anomie theory** - The sociological crime causation theories began with the great sociologist Emile Durkheim's anomie theory. Durkheim norms and standards become undermined without being replaced by new ones. Anomie exists when there are no clear standards to guide behaviour in a given area of social life. Under such circumstances, Durkheim believed people feel disoriented and anxious, anomie is therefore one of the social factors influencing disposition to suicide.

Emile Durkheim saw crime and deviance as social fact. He believed that both of them to be inevitable and necessary elements in modern societies. According to Durkheim, people in the modern age are less constrained than they were in traditional societies. Because there is more room for individual choice in the modern world, it is inevitable that there will be some non-conformity. Durkheim recognised that no society would ever be in complete consensus about the values and norms which govern it.

**Strain Theory** - An American sociologist, Robert K Merton borrowing from Durkheim, developed a Strain Theory. Society establishes goals toward which all strive, but at the same time the social structure makes it difficult for ever one to achieve these goals. This "strain" leads some people to commit crimes. Although Merton believed his theory had universal application, he developed it in the context of American society. According to Merton, American society places heavy emphasis on material success and achievement but cuts off the opportunity to achieve that success for certain segments within society.

**Opportunity and sub-culture theories** - Building on Sutherland's ideas, Richard A. Cloward and Lloyd E. Ohlin focused on juvenile gangs and build a theory called "illegitimate opportunity". The researchers did not find anomie or strain caused by a social structure that denied youth legitimate means to success. Their non-strain theory holds that opportunities for youth in slums to achieve material success are not equally distributed among illegitimate means. The authors detect three delinquent sub cultures that result from the illegitimate opportunity structure. First is a criminal sub culture that arises out of associations with "successful" career criminals. Second is a violent sub-culture in which associations with the neighbourhood "fighters" finally the retreatist sub-culture consists of 'losers' who identify with neither criminals, fighters nor legitimate opportunists. Alcoholics are the best example of retreatists.

The ideas of association and culture paved the way for the development of a number of subculture theories. They vary greatly, but two exemplify their basic ideas, Albert Cohen, who studied under both Sutherland and Merton, applied and expanded their theories to explain juvenile delinquency. In American society, Cohen argues, the same pressures to succeed are placed on "lower classes boys" (to use his phrase) as others, but their youth lack adequate legitimate avenues to that success. In association with others in their predicament, the "boys" band together and make their own rules for success that allow them to win within their own "sub culture".

**Differential Association Theory** - The most important non strain theories grew out of the Chicago School of Criminology. Edwin Sutherland, a product of this school, developed the non-strain theory of differential association that has had an important impact on criminologists. Criminal behaviour - like behaviour in general - depends on the associations people have. If there are more associations with law breaking than law-abidingness, then criminal behaviour results. These associations do not have equal influence. The most frequent and longest - lasting associations, such as family and friends, are most important, and the most intense teach the most enduring lessons about how to behave. People in slums who associate with 'street eliminators' learn to act like street criminals not because they are "bad" or different from suburban people, but because that is the way social beings like people behave. By the same reasoning, corporate criminals learn criminal definition called 'white collar crime'.

**Labelling theory** - One of the most important approaches in understanding criminality is "Labelling Theory". This theory was developed by Howard Becker. He rejects the strain, non strain and sub-culture theories. According to him, individuals do not commit crimes because they cannot manage the stresses in society nor do they commit crimes because they associate themselves with other criminals and learn crime from them. Rather, transitory deviant episodes are turned into criminal careers because outsiders - more entrepreneurs - notably courts, police and correctional officers attempt to suppress such behaviour. In other words, the criminal justice system creates criminals more broadly, society's response to crime defines some people as criminals and by doing, causes crime, whether these people have broken the criminal law or not is immaterial. What is critical is that once this formal process has defined them as criminals, they start to act like criminals society's actions shape their self-image.

Labelling theory tries to shift the emphasis from the criminals behaviour to the behaviour of those who operate the criminal justice system. It focuses on the important actions, processes, and structures within criminal justice that might cause, or atleast contribute to, law-breaking labelling theory drawn attention to the harmful effects of contacts with criminal justice agencies, particularly the police and correctional officials.

Control theory - Strain, nonstrain subculture, and labelling theories treat crime as a normally neutral concept. Children are born without any predisposition to commit crimes. They are clean slates at birth. The environment in which they develop create both the motivation and the opportunity to commit crime. Social control theory rejects these ideas. It assumes that people are rule breakers by nature.

According to control theorists, most people do not break the rules because they are bounded to society sufficiently enough for social control to keep their desires to deviate in check. Families, schools, and other social institutions have enough appeal to induce individuals to follow their rules, when social control mechanisms breakdown, them deviation, sometimes crime results.

Control theory explains both sheet crime and organisation crime organisation do not provide controls on deviance. Rules do not apply, especially at the very top. The ends justify the means. According to Control theory the rules are the obstacles to a greater extent. Hence, organisational criminals are freed from the bonds that lead to compliance with rules.

## 2.3 Summary

Sociological theories of crime causation look for elements in social structure and processes that create the motivation and provide the opportunity to commit crimes. All sociological theories are efforts to explain crime in broad terms that do not depend on inherent individual qualities they are based on the ideas that criminals are not inherently "bad", or if they are , they are no "worse" than those who do not commit crimes. The social environment in interaction with individuals, not innate individual differences, cause crime. the principal social theories of crime causation are anomice, strain, non strain or differential association labelling, sub-cultures, and social control.

In essence, theories of crime give us some insights, hints & clues in understanding the acts mainfestations of criminals and also ways to counsel, monitor, manage and mould them to build a crime less society.

## 2.4. Self Assessment Questions :

1. What is the difference between individualist and sociological crime causation.
2. Distinguish between the principal strain and nonstrain theories.
3. Write briefly about psychological theories .
4. What are the main elements in Labelling Theory.
5. What are the basic components of Control Theory.

## 2.5. Reference Books

Caldwell, Robert G	- Criminology
Gillian J.L.,	- Criminology and penology
Korn, Richard R, and Lloyd W. Mccorkle	- Criminology and penology
Morris, Albert	- Criminology
Taft, Donald R	- Criminology
Sutherland, E.H. D.R. Cressy	- Principles of Criminology
Emile Durkheim	- Suicide : A study in sociology
Culten	- Rethinking crime and deviance
Howard Becker	- Outsiders Encyclopedia of crime and justice

**Dr. G.V. Ramana**

## **Lesson – 3**

# **PUNISHMENT – CONCEPT, DEFINITION, MEANING**

### **3.0. Objective:**

The objective of this lesson are to explain the concept, definition and meaning of punishment.

### **Contents:**

- 3.1. Introduction**
- 3.2. Definition of Punishment**
- 3.3. The objects of punishment**
- 3.4. Punishment versus Reformation**
- 3.5. Transcendental Meditation**
- 3.6. Rationalization of Punitive Reaction.**
- 3.7. Summary**
- 3.8. Key Words**
- 3.9. Self Assessment Questions**
- 3.10. Reference Books**

### **3.1. Introduction:**

The attitude towards crime and criminals at a given time in a society represents the basic values of that society. In the words of Elmer Hubert Johnson, the criminal may be described as a monster or he may be pictured as hunted animal or as the helpless victim of brutality. As a result of the changing attitudes, three types of reactions can be discerned in various societies. First is the traditional reaction which can be termed as the punitive approach. It regards the criminal as a basically bad and dangerous sort of person and the object of this approach is to inflict punishment on the offender in order to protect the society from his onslaughts. The second approach considers the criminal as a victim of circumstances. This approach regards the criminal as a sick person requiring treatment; it is termed as therapeutic approach. Finally there is the preventive approach which seeks to eliminate those conditions which are responsible for crime causation. The three approaches are not mutually exclusive. Not only do they overlap with each other, sometimes they may coexist as parts of the overall system in a society.

### **Meaning of Penology:**

Penology is that branch of criminal science which deals with the societal reaction towards crime. According to Dr. N.V. Paranjape, "It deals with the custody, treatment, prevention and control

of crimes which for the purpose of this study is termed as penology". Penal policies are implemented through criminal law. In fact criminal law is the instrument through which penal policies are implemented. The study of penology includes the following.

1. Study of custody
2. Treatment of offenders
3. Prevention and control of crime.

### **Punishment:**

The study of penology involves the study of punishment. The concept of punishment is connected with the two essential ideas.

1. Firstly punishment is inflicted by the group upon one who is a member of the same group.
2. Secondly, punishment involves pain which is justified by some value. According to criminal law, the infliction of suffering is essential for punishment. It is societal reaction towards crime in the corporate capacity.

In preliterate societies, there are various types of offences such as treason, witchcraft and sacrilege. In such a case, the group annihilate the offender by death or by exile. But the concept of corporate capacity is of recent origin. With the rise of kingship, punishment became a public matter. Thus reaction against crime became social. It consists of the death penalty, physical torture, social degradation, Banishment and transportation.

### **3.2. Definition of Punishment:**

Punishment involves the infliction of pain or forfeiture. It is imposed by society upon the offender in a corporate capacity.

1. Dr. Waltair Reckless -

considering the concept of punishment, Dr. Walter Reckless says; "It is the redress that the common wealth takes against an offending member".

2. Westermarck -

According to Westermarck " Punishment 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"

3. Dr. M.J. Sethna -

"Punishment ; according to Dr. M.J. Sethna, " is some sort of social censure, and not necessarily the involving infliction of physical pain".

#### 4. Taft -

According to Taft, “We may define punishment as the conscious infliction upon a disturbing individual of undesired experiences not solely in the interests of his welfare”.

Thus punishment is the conscious infliction upon a disturbing individual by society in the corporate capacity. It inflicts pain upon the offender. That pain may be in terms of imprisonment, fine, forfeiture of property or some such other restriction as a mark of disapproval. According to Dr. M.J. Sethna: “Punishment should not be merely an act of social disapproval of the wrong done by the offender, it should as it is necessary for the protection of the moral order, be something definitely good and useful. If the objects of ethics require and necessitate being served by punishment provided by the law, if the moral order is really to be protected, then, punishment must be something useful, and not the bare infliction of physical pain in a meaningless manner”. In fact punishment should involve some useful pain. It must be in terms of institutional treatment so that the offender may be able to rehabilitate himself in the society.

### **3.3 The objects of punishment:**

There are various objects of punishment. Some of them are as follows :-

#### **1. To Prevent repetition of Crime:**

It is inflicted upon the offender with the object of reformation and to prevent him to repeat crime again. Further, the object of punishment is also to prevent other members of society from committing crimes. It creates in the mind of an offender that good acts are rewarded and bad acts are punished.

#### **2. To create terror and contemplation:**

According to T.H. Green, “The Primary object of punishment is not to cause pain, to the criminal for the sake of preventing him from committing the crime again but to associate terror with the contemplation of crime in the minds of others who might be tempted with it”.

#### **3. Prevention and Compensation:**

Similarly, according to Jermy Bentham, the principal objects of punishment are prevention and compensation. It should not be in terms of repression because, repression does not root off the criminal desire. Consequently the modern method of punishment is based on these-education of offender.

#### **4. Reformation of Offenders:**

The modern reformatory view of punishment does not give much importance to repression. In fact society to a large extent is responsible for converting an individual into an offender. Therefore, the main object of punishment should be to reform the offender rather than to annihilate him. As observed by Dr. M.J. Sethna: “ If punishment is thus rendered full of meaning and made capable of negating the baneful effects of wrong doing, it will be acclaimed by all as something good and not as a useless or meaningless evil to be done away with”.



**Penal Sanction:**

“ Penal sanction”, according to Sutherland, “ refers to the notion that violators will be punished or, at least, threatened with punishment by the state”. A law which does not make provision for punishment cannot be a criminal law.

**Prescribed Punishment:**

There must be prescribed punishment for criminal behaviour. It should carry a threat of punishment to violator.

**Growth and Evolution of the law of Crime:**

The historical growth of modern law of crimes has developed step by step. We may study of the growth in three stages.

**First stage:**

In ancient days when there were no governments, in the modern sense, every individual protected his life and his property himself because there was none to protect him and his property. Therefore, John D. Mayne said that in the very beginning, criminal law was the law of revenge. A tooth for tooth, an eye for an eye, a life for a life was the first stage of criminal law. The relations of the murdered man considered it their duty to take revenge of the accused and in case he was not available on from his family members. This resulted in serious private warfares and a great loss of life and property. e.g. vendetta of Corsica and blood feuds of pathans.

**Second Stage:** The second stage was reached when the victim or his heirs agreed to take money compensation and gave up their right to kill or injure the offender. Thus came the idea of blood money which varied according to the status of the man killed.

**Wer:** It was compensatory price that an offender paid to the heir of a murdered man. It varied according to the rank and status of the Victim. For instance if the murdered man happened to be man of great status, the wer paid was much more than of a common man of low status.

**Bot:** It was the price paid to the injured man in compensation of his injuries caused by the accused.

**3.4. Punishment versus Reformation:**

We are confronted by the dilemma of criminology, VIZ which of the two-deterrence by physical terror or habilitation by mental therapy- is likely to take us to a crime-free society. Punishment which inflicts injury cannot improve, that prisoners are persons and must be posited with human rights. Social defence, which legitimates the penal law, is promoted by therapeutic attention to the inner man, not by sadistic drills based on body-conscious fear. The manifestation of the divinity in man is the recognition of the dignity and worth of the human person. The curative process is the healing hope of decriminalization – not stone walls, nor iron bars nor other subtle barbarities. The humanization alone can dissolve the dilemma.

The mind can make a hell of heaven and heaven of hell. A crimeless heaven is not beyond us if our technology is geared to the goal of mental transformation. But we have to shed our superstition that man can be made good by torture alone; that terror is not the only deterrent; that pain of the flesh is not a sure teacher. The scientific reformation of the inner man and his spirit is a clear corrective for the outer man's criminal aberrations. On the physical plane, we accept that splitting of an atom can blow up a mountain. Neuro-science tells us that psychic atoms have similar terrific potential for good and evil. If penology were to flourish at the flesh level, flogging and public hanging were the best sentences. Until this superstition is blown up by the truth that man is more than meat. Crimelessness and crimefulness, delinquency and normalcy reduce themselves to a simple choice between mental science of rehabilitation and punitive bigotry aggravating the malady.

Human dignity reflects divine presence. The perversion of values breeds violence, greed, hypersex, explosive stress abetted by alcohol and drug. Man is basically orderly, gains shanti, and his nature is tranquility; but when he hot up, he becomes disordered and when he cools down, he gets orderliness. An angry Judge is unfit to judge. An over powering passion is an enemy of sanity. A greedy manufacturer violates laws of safety to get rich quick. A dangerous dacoit commits violent robbery by prospect of wealth, regardless of the laws of crime. Why? Because he surrenders to stress, to psychic excess, to over – heat. Our criminological engineering must therefore enter new paths and approaches, if we are to conquer crime at all. A new school of criminology – the criminology of higher consciousness – is the important item on the urgent penal agenda of nations.

To day our laws are committed religiously to the doctrine of deterrence through torture of the flesh. Brutality cannot be subjugated by brutality and only good can exorcise evil out of man. Beccaria has condemned death penalty on this ground. History tells us that maximum security prisons have a high rate of recidivists, that punitive cruelty has been counter –productive.

The punishment for crime becomes the crime of punishment. For, infliction of intentional pain without benefit to individual or society, even if the state be the agent, is a crime. Our prison system relies heavily on ' Zoological' methods and treating delinquents, adolescents and adults alike.

President Johnson in his message to congress said:

“We cannot tolerate an endless, self defeating cycle of imprisonment, release, and reimprisonment which fails to alter undesirable attitudes and behaviour. We must find ways to help the first offender avoid a continuing career to crime”.

It is shamefully retrograde to revert to brutal methods of public flogging, punitive amputation, and the like to suppress crime. Human dignity cannot be crushed in our era of human rights without the state being guilty of crime against humanity. Some countries are a model of medieval barbarity and a blot on our value system.

Fear suppresses and suppression returns with renewed fury, given the opportunity. Torture hardens, hardly heals, and a hardened criminal is more dangerous and desperate. The answer is the correctional orientation to penology. From the purely punitive to the largely curative is the direction. There is need for a brave new strategy of rehabilitation, supplanting the ideology of awesome deterrence. Nurture the inner man, foster the finer potential, humanize and divinize the brute and the demon within- this is the spiritual chemistry, psychic technology, transcendental methodology which is the answer to the challenge of lawless violence, anti-social offences, and turpitudinous misconduct.

We must enquire how best we can promote orderliness within. Criminal is man plus criminogenic factors. Most crime springs from tension, mental overheat, stress crisis. Redeem the man and remove these causes. Aggression is but an expression of unresolved stress. As in the physics of matter, so in the psychics of mind, to hot up is to be disorderly, to cool down is to become orderly. So any technique, which will calm down the excited psyche will spell tranquility and non-criminality. The state of least excitation is when the mind of man normalizes by the state of unbounded awareness. One who attains higher state of consciousness or yoga will be given to spontaneous right action. He who habituates himself to the higher consciousness, loses the ability to be criminal and gains the tendency to good conduct.

The shift of emphasis from cruelty to therapy, the switch from a wild-life setting to a hospital setting, from external fetters to internal release, bleeding the flesh to healing the soul-this is a long haul from legal terrorism to Jural humanism. But this is the answer.

Man – every man – is of divine stuff. Criminals are not born but made and can be unmade, and this humanist trust and spiritual formula is the founding faith of all civilization. Our jails are what they are because, there is a little Hitler lurking in most of us that we legitimate uncivilized legality. But there is a hidden Jesus; a latent Buddha, a dormant Gandhi; also in each of us; and so we believe that, love, compassion, and non-violence are higher than their opposites and man – every man-can be redeemed and original status and harmony with society restored, given the opportunity. Every saint has a past, every sinner a future; the key to rehabilitation process is not traumatic incarceration but therapeutic treatment.

Stress is the cause of most crime, stressologists say. Tension springs from suppression. Distortion is bred by broken homes, parental neglect, bad company, experimental crime, coarse training inside the prison, addiction to drugs and drinks, familiarity with vice and violence and fascination for Mafia sub – culture.

### **3.5. Transcendental Meditation:**

The only panacea for crime is to minister to the 'mind' diseased'. Consciousness is at the core of the human mind. The modern world has the unique advantage of the science of consciousness. Criminology of consciousness is the salvation of crime riven society. We have to look at consciousness-individual and collective consciousness, in its infinite confluence with universal consciousness.

AS we ' meditate', changes in our inner awareness occur, tensions get released, expanded, awareness ensues. Alternation of rest and activity stimulates the relaxation process and a restful – wakeful state, breaks open the treasures of our infinite being. Our creativity awakes, our stresses evaporate, a new sense of wholeness, a basic tendency to do right , to eschew wrong, dawns. Man comes into his own and the criminal mantle is sloughed off. Slowly, our addictions drop, our vices weaken, our inner quiet deepens, our mind freshens. All this is a process, not instant tea.

Experiments with consciousness- T.M. technique is an important, not the only one – have been done with patients, prisoners, restless juveniles, excited executives, and militant labour, and more harmony has been the dividend. Here we may answer the age-old problem of crime through an age-old technique of consciousness.

The science of creative intelligence explains how death sentence or prison torture is not the last drug in the justice pharmacopoeia. It is a confession of failure to do justice to living man

Crime is a disease of stress and stress-related causes. Murder is caused in the heat of passion, burglary in the pressure for possession, rape shoots out of over powering sex. What ever the apparent motivation, the 'causa causans' is stress, tension, suppression, anxiety, destruction, negativity; a neuro-physiological – psychological syndrome. The whole focus therefore shifts to stress- proofing, not tinkering with adventitious aspects. It is this scientific grasp of criminogenic causes that led maharshi to go to the root. His major contribution to criminology is the discovery that the deeper levels of consciousness, if fertilized, will release stress, freeze frenzy, foster tranquility, and bring human awareness to the home of the law of nature. Result – natural restoration to wholeness, promotion of creative potential, and rehabilitation without the sanction of state violence. Science has a theoretical foundation and lends itself to empirical verification. T.M too has a theory and its fruits are verified. The vision of possibilities of a crimeless society, given higher level of collective consciousness is a challenge of fulfilment. The best test is to begin with oneself. T.M. is a simple, inexpensive, quiet exercise – 20 minutes morning and evening with no tie – up with religion.

Today the chain reactions is: stress – laden man into criminal in society into fettered flesh in captivity into recidivist at large. Tomorrow the creative chemistry will be: crime – doer in the community, into freedom behind bars, treated through T.M., into rehabilitated release from prisons, into a whole man in harmony with himself and his neighbourhood.

Prof. Helleck, university of wisconsin, has said: "The stresses that lead to mental illness are often the same stresses that lead to crime.... While both mental illness behaviours and criminal behaviours provide a certain degree of mastery over stress, the adaptations themselves often lead to some difficulty with the environment. Mental illness always has a maladaptive quality, and criminality usually has a maladaptive quality".

The route to destination to crime- free community is discovery of the least excited mind.

Maharshi Mahesh Yogi used optimistic yet scientific diction when he observed:

“ The development of consciousness is reflected in all aspects of behaviour. And it is the development of consciousness that is really the reason for our ability to take a stressed, miserable criminal and turn that person into a productive, happy, aware person, that is criminal rehabilitation. We can now do it.

Roger Lanphear, a T.M.er, in his book, Freedom from crime, writes on T.M. benefits:

“Criminals can be changed almost overnight. The gnawing pains of anxiety leaves. Peace of mind takes over. A happiness starts to flow spontaneously from within. Values change: positive activities become more important... Tempers flare less and less often. Communication opens up. This we have seen and we have measured the results. This is a vision of what will be done for all criminals”.

We abandon current incarceratory ‘Zoology’ and try humanitarian penology and T.M. comes in handy as a lovely technique.

Every sombre dawn, a human being is hanged by the legal process, the flag of humane justice shall be hung half-mast. The values of a nation and generation mould concepts of crime and punishment. Those greatest protestants of history – Buddha and Jesus – resisted killing and torture and taught karuna and creativity. However much judicially sanctified and constitutionally legitimated, there is sublimated cruelty, implied in every death sentence and prison trauma.

“Justice is our professional dedication. True justice is holistic – justice, individual, social, spiritual. Justice to the individual is to allow him to unfold his full potential. Justice to society is to make available the total human potential of its members to the collective consciousness of the community. Justice to the spirit of man is to fathom the ocean of consciousness where the finite microcosm meets the infinite macrocosm, This is the science of justice which is truth. We have to choose between torture methodology and transcendental meditation, between future shock and human tomorrow”.

### **Punitive Approach:**

Punitive approach has its focus of attention, on the damage caused to the victim and danger posed to the society. The criminal is treated as something incapable of being reformed. He is judged on the basis of his past conduct and not on what improvements he is capable of in the future. The approach even to day remains a potent force, though not many will justify it in the same way as was done earlier. Now some rationalizations are made to suggest that the therapeutic ideal is also covered by this approach

### **3.6. Rationalization of punitive reaction:**

How can the urge in people to punish the offender be explained. Various answers have been given to explain the human psychology involved in this context. Donald r. Crassey tried to answer it on the basis of his “ Scapegoat hypothesis”. The criminal is made a scapegoat to give relief or gratification to the members of the community. The relief or gratification is due to their

sense of freedom. From their own guilty feelings about the crime, as a result of punishment given to the offender. This is based on the theory that all human beings have criminal propensities, though in most cases, they may not be reflected in actual behaviour. If no outlet to such feelings is provided by punishment, even lynching may be resorted to by the people. According to another view, the hostile reaction to the criminal works as a bond between the non-criminal members of the community. The bond represents the reassertion of moral principles common to the members of the society and serves as a reminder of the taboos to all of them.

The rationalization of punishment may be divided into two classes, based on retributive and utilitarian theories. The retributionists assert that the infliction of punishment is justified in itself since offenders should be given an opportunity to realize that they have done something wrong and hence they are punished for their wrong action. The utilitarians regard punishment as an evil which should be used only if it serves some real purpose like deterrence from commission of crime.

“Criminology and consciousness will herald a justice system without the stain of human blood. Let us appeal to the nations of our hopeful planet, to have faith in man, to follow the high way to rehabilitation, away from the blind alley of retention. ‘Law is for life’, Let us declare and look beyond death penalty lying buried in the debris of civilization to a human tomorrow fashioned by the new frontiersmen carving cosmos out of chaos”. (V.R. Krishna Iyer).

In various punishments, the defects and shortcomings are quite evident and it is certain that the trend from punitive to therapeutic attitude shall remain on the increase all over the world for quite sometime to come. But even the therapeutic approaches are not altogether free from difficulties and criticisms. May be that the society will find it fairly difficult, at any stage of civilization, to get rid of the utility of punishment in the absolute sense and hence punitive philosophy, in some form or the other and in varying degrees of importance, shall continue to be relevant to the penological thought. It is worth while to state the significance of the punitive philosophy in the words of Stephen, a great advocate of the use of punishment in the interest of society.

“The sentence of the law is to the moral sentiment of the public in relation to any offence is 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 a solemn ratification and justification to the hatred which is excited by the commission of the offence, and which constitutes the moral or popular as distinguished from the conscientious sanction of that part of morality which is also sanctioned by the 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 punishments which express it... this close alliance between criminal law and moral sentiment is in all ways healthy and advantageous to the community. I think it highly desirable that criminals should be hated, that the punishment inflicted upon them should be so contrived as to give expression to that hatred ... no doubt they (Punishments) are peculiarly liable

to abuse, and in some states of society are commonly in excess of what is desirable and so require restraint rather than excitement, but unqualified denunciation of them are as ill judged as unqualified denunciations of sexual passion. The forms in which, deliberate anger and righteous disapprobation are expressed, and the execution of criminal justice is the most emphatic of such forms, stand to the one set of passions in the same relation in which marriage stands to the other”.

### 3.7. Summary:

The attitude towards crime and criminals at a given time in a society represents the basic values of that society. In the words of Elmer Hubert Johnson, the criminal may be described as a monster, or he may be pictured as hunted animal or as the helpless victim of brutality.

Penology is that branch of criminal science which deals with the societal reaction towards crime. According to Dr. N.V. Paranjape, “ It deals with the custody, treatment, prevention and control of crimes which for the purpose of this study is termed as penology”. Penal policies are implemented, through criminal law.

The study of penology involves the study of punishment. In preliterate societies there are various types of offences such as treason, witchcraft and sacrilege. In such a case, the group annihilate the offender by death or by exile. With the rise of kingship, punishment became a public matter.

Punishment involves the infliction of pain or forfeiture. It is imposed by society upon the offender in a corporate capacity. The objects of punishment include, (1) to prevent repetition of crime; (2) To create terror and contemplation; (3) Prevention and compensation; (4) Reformation of offenders.

We are confronted by the dilemma of criminology, VIZ; which of the two – deterrence by physical terror or habilitation by mental therapy - is likely to take us to a crime-free society – punishment which inflicts injury cannot improve, that prisoners are person and must be posited with human rights. Social defence, which legitimates the penal law, is promoted by therapeutic attention to the inner man, not by sadistic drills based on body –conscious fear. The manifestation of the divinity in man is the recognition of the dignity and worth of the human person.

The mind can make a hell of heaven and heaven of hell. A crimeless heaven is not beyond us if our technology is geared to the goal of mental transformation. The scientific reformation of the inner man and his spirit is a clear corrective for the outer man’s criminal aberrations. Criminals are not born but made. There is a hidden Jesus, a latent Buddha, a dormant Gandhi also in each of us.

As we meditate ; changes in our inner awareness occur; tensions get released, expanded awareness ensues. Experiments with consciousness T.M. technique is an important, not the only one – have been done with patients, prisoners, restless juveniles etc., T.M. is a simple, inexpensive, quiet exercise. Maharshi Mahesh yogi used this technique for criminal rehabilitation.

We abandon current incarceratory ‘Zoology’ and try humanitarian penology and T.M. comes in handy as a lovely technique.

Punitive approach has its focus of attention, on the damage caused to the victim and danger posed to the society.

The rationalization of punishment may be divided into two classes, based on retributive and utilitarian theories.

Criminology and consciousness will herald a justice system without the stain of human blood.

### 3.8. Key Words:

- a) Penology
- b) Punishment
- c) Reformation

### 3.9. Self Assessment Questions:

1. Explain the arguments for and against punishment
2. Punishment versus reformation. Discuss

### 3.10. Reference Books:

1. Cavadino, Michael and Dignan, James : The Penal system – An introduction, sage publications, New Delhi.
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## Lesson – 4

# TYPES OF PUNISHMENTS

### 4.0. Objective:

The objective of this lesson are to analyse the various types of punishments.

### Contents:

- 4.1. Introduction
- 4.2. Corporal Punishment
- 4.3. Banishment or Transportation
- 4.4. Capital punishment or Death penalty
- 4.5. Imprisonment
- 4.6. After – care Programmes
- 4.7. Summary
- 4.8. Keywords
- 4.9. Self Assessment Questions
- 4.10. Reference Books

### 4.1. Introduction:

Various forms of punishments have been evolved and applied in different societies through the ages. Tortures, sadistic forms of executing death sentences and all sorts of cruelties in the prisons were some of the distinguishing features of the penal philosophy, all over the world till recent times.

The punishments provided in many parts of the world, including India are death, imprisonment for life, rigorous and simple imprisonment, forfeiture of property and fine.

### Crime and Punishment:

The object of punishment is to prevent – offences. Therefore, punitive reaction towards law breaking has been manifested into different methods. Among these methods, removal from the group by death, exile, imprisonment, physical torture, social degradation and financial loss are main. These four methods have been prevalent during the past and are also used differentially to day. In the Indian penal code, there is a provision of five types of punishments. There are (1) death penalty; (2) life imprisonment; (3) simple imprisonment and rigorous imprisonment; (4) forfeiture of property; and (5) fine.

## 4.2. Corporal Punishment:

Before the rise of humanitarianism in the penal philosophy, mutilation, branding and flogging were all recognized modes of punishment. In India the corporal punishment of whipping was added and regulated by the whipping act of 1864. It was repealed and replaced by the whipping act of 1909. It was abolished in 1955. In England, flogging has been abolished quite some time ago. In U.S.A, Delaware is the only state still using whipping. The state of Maryland in U.S.A has reserved it for wife beaters only. Flogging by parents or school teachers in childhood have a constructive effect. The whipping administered by a parent or even a teacher is in the context of the emotional relationship between the child and the parent or the teacher. That is lacking in case of a person doing it on behalf of the police or jail.

Various studies made in the U.S.A and England do not support the view that whipping has any particular deterrent effect. In a research carried out by the British Home office, in 1921-1930 period, it was revealed that of those flogged, 55 percent were subsequently convicted of a serious crime compared to 43.9 percent of those not flogged. Elmer Hubert Johnson sounds a note of caution that the sentencing court may have considered personal characteristics of the convicted offender before deciding whom to whip. Even if the punishment of whipping is used, it is not likely to have much effect on hardened criminals like robbers, but it may cause some deterrence to wife beaters and eveteasers.

### Physical torture:

The punishment reaction has been manifested in terms of corporal punishment. According to Sutherland, "banding, stocks, pillory, mutilation, confinement in irons and cages, and whipping were used extensively in the medieval and early modern period. Such penalties, in general, have increased and decreased in prevalence with the death penalty".

### Social degradation:

Social degradation is also used to impose suffering. There are various ways of degrading criminals. The first method of degrading criminal is to reduce his social status. The other way of degradation is to deprive the criminal from his rights. For instance, the offender is deprived from citizenship. Public offices are restricted for him etc.,

## 4.3. Banishment or Transportation:

This punishment is one of the most ancient ones. The object is to eliminate the criminals from the society by sending them to far-off places and sometimes even rebels, revolutionaries and reformers were also taken care of by this process. It is that form of punishment in which a state turns out a person beyond her normal limits. In England during the period of queen Elizabeth, vagrants and vagabonds were sent to America. During the reign of Charles II, penal transportation received legal sanction. In France persons convicted for a second time were transported. In India convicts were formerly transported to Sumatra. In 1825 when Sumatra passed off to the hands of the Dutch, convicts were transported to Andaman and Nicobar Islands. The drafters of the Indian penal code, while proposing this punishment, took note of the extraordinary fear among Indians of

the sea, particularly those living far away from it and felt that the punishment caused more terror in the Indian minds than what was actually warranted by the actual punishment. It was therefore, thought to have it in the penal code because of its peculiar deterrent value. As observed by Sir Hari Singh Gaur, it had an additional dimension for Hindus because going beyond the seas involved the forfeiture of one's caste. This practice is not followed now. Finally, by an amending Act of 1955, the punishment was abolished altogether and transportation for life or shorter duration was substituted by imprisonment for life or shorter period as the case may be. In England also, transportation as a punishment was abolished in 1854.

This type of punishment is in practice in the U.S.S.R, where it is known as exile. It means the removal of the convicted person from the place of his residence, with obligatory settlement in a certain locality, usually Siberia, where living conditions are extremely bad due to the freezing cold. Recently, the question of introduction of this form, of punishment was considered by the Law Commission of India which concluded:

"The suggestion did not find favour in any quarter. From the practical point of view, it almost necessarily involves the establishment of a penal settlement in each state, some what similar to the settlement in the Andaman islands.... The running of such settlements and keeping effective control over the convicts banished thereto will give rise to difficult problems of administration. If the control were to be strict, the settlement would degenerate into concentration camps. As an alternative to long-term imprisonment, banishment does not appear to have any appreciable advantage, and cannot be recommended".

### **Extermment from a locality:**

The rationale of this punishment is that dissociation of the offender from his surroundings may reduce his capacity to commit crimes of some particular nature. The Commission did not favour such a punishment due to the possibility of its repercussion on the offender, his family and the likely exploitation of externment by the politically motivated violators. The form of punishment has, however, been accepted in the Indian penal code (Amendment ) bill of 1972.

### **Fines:**

Fines as an additional or alternative form of punishment have been increasingly favoured by the law as well as judicial authorities. They are more appropriate in offences relating to traffic, employment of persons unauthorised by law, violation of laws regarding a manufacture and distribution of goods. They are frequently imposed in relation to property crimes like embezzlement, fraud, theft, violations of lottery and gambling laws and minor offences like loitering and disorderly conduct. In the Indian penal code, the provision for fines, as punishment, was justified by its framers thus:

" Fine is the most common punishment in every part of the world and it is a punishment the advantages of which are so great and obvious that we propose to authorize the courts to inflict it in every case..... In imposing a fine, it is always necessary to have regard to the pecuniary circumstances of the offender, as to the character and magnitude of the offence".

According to Bentham the punishment of fine had the advantage of being capable of regulation according to the means of the offender. The disadvantages according to Bentham are that the family and dependents of the offender are hit and the punishment is not exemplary.

The imposition of fines may be made in four different ways as provided in the penal code. It is the sole punishment for certain offences and the limit of maximum fine has been laid down; in certain offences it is an alternative punishment, but the amount is limited; in offences where it is imperative to impose fine in addition to some other punishment; and in offences where it is obligatory to impose fine but no particular pecuniary limit is laid down.

In India the framers of the penal code observed, that in offences, which are the result of greed, the amount of fines ought to be so excessive as to reduce the offender to poverty. In many cases the courts award imprisonment in default of fine. This power to courts has been given under section 64 of the penal code.

### **Forfeiture and confiscation of property:**

Forfeiture of property is a possible mode of punishment under the Indian penal code in certain circumstances. But forfeiture of the whole of the property of the criminal is not possible according to the present law. Such a punishment was possible under the original penal code but the provisions were repealed in 1921. The law commission was of the view that "this harsh punishment, which will fall not only on the criminal but on his dependent family is not to be commended". Such a punishment is called for in the cases of smugglers and black marketeers where the source of income or property acquired by the offender may be illegal. As regards hardships to the family, hardships to the family are caused by all forms of punishment. In a country, which claims to be a welfare state, the family, if hit hard, must be provided financial relief by the government agencies. Hence family's possible suffering should not be used as an argument for withholding a punishment from an offender who deserves it otherwise. The punishment has been retained in the Indian penal code bill of 1972.

### **Compensation for injury by the offender:**

Sometimes compensation is payable by an offender to the victim as a part of the punishment awarded to him. Compensation to a victim may be made in three different ways. The state may be made responsible for the payment of compensation; the offender can be sentenced to pay a fine by way of punishment for the offence, and, out of that fine, compensation can be awarded to the victim; the court trying the offender can in addition to punishing him according to law, direct him to pay compensation to the victim.

The commission favoured a substantive provision in the penal code for payment of compensation out of the fine imposed on the offender. The commission was of the view that section 545 of the criminal procedure code, 1898 was quite a comprehensive provision which was not fully utilized by the courts. The Indian penal code (Amendment) bill of 1972 provides for this kind of sanction.

#### 4.4. Capital Punishment or Death Penalty:

The death penalty has been prevalent in every society. It is frequently inflicted for rigorous offences. Formerly it was being used to inflict for religious offences. But during the later periods, it was inflicted for offences against property.

In India death penalty had a special place in the religious books. Manu has mentioned two types of death penalties, namely 'Chitra Budh' and 'Sudh Budh' in 'Chitra Budh' death was used to inflict after torturing the person. On the other hand, 'Sudh Budh' means killing a person without torture, e.g. poisoning. During the medieval period death penalty was prevalent in the various types. Trampling below the elephant and throwing on the burning pan, was a common method of death penalty.

In ancient Rome; death penalty was inflicted for any person who killed his own father. In England, death penalty was a normal feature of punishment. It was inflicted even for minor offences. At present the death penalty is prevalent. But it is inflicted for four types of offences:-

1. Rebellion
2. Dacoity
3. Murder
4. Tampering the Seaports of England.

In India death penalty is inflicted for the following types of offences:-

1. Waging war against government of India; (2) Abetment for revolution; (3) Murder; (4) abetment for suicide; (5) Murder; (6) Deceit- accompanied with murder; (7) Attempt to Murder.

#### Definition:

The Latin term 'capit' means head. Capital punishment denotes death penalty. It is institutional killing by punishment involving loss of life. It refers to a crime punishable by death and the crime for which death penalty is awardable is, it self denominated as capital crime or capital offence.

In past various methods were used for inflicting death penalty. Now hanging is most common. At present death penalty is prevalent in every country except Holland, Sweden, Norway, Denmark, Spain and some states of U.S.A. In England statutory provision has been made for death penalty, yet its execution has never taken place.

#### Mode of Execution:

As to the mode of execution there was great divergence. Common modes were (1) Crucifixion (2) Drowning; (3) Burning (4) Boiling (5) Beheading (6) Throwing before wild beasts, (7) Skinning alive; (8) hurling down from rock (9) stoning to death; (10) Strangling, (11) Starving to death and (12) hanging till death etc.

In ancient Rome, death was caused to the condemned prisoner, by sewing him in sack along with a live dog, cat and a cobra and thrown into river. The debtor who was unable to pay the debt was hurled down from the rocks.

With changing times, the modes of execution also changed. Now the methods are (1) hanging by neck, (2) firing (3) Firing by firing squad, (4) Electrocution, (5) Gas chamber and (6) lethal injection. In some Muslim countries (7) beheading and (8) Stoning till death are also in practice.

### **History of capital punishment:**

Death penalty existed since times immemorial. In the medieval period impaling (killing by fixing on sharp stake) and immuring (killing by closing within the walls) was common till 1400 A.D: death by drawing till 1600 A.D and burning at the stake till 1786 A.D; were the common practices.

In India also, we have reference about death penalty in Mahabharata where king dumatsena argues for retention while his son satyaketu argues for abolition of the death penalty. Manu smrite prescribes various kinds of death penalties. The property thief should be crushed to death by elephants. An adulteress should be put to death by biting of the dogs in a public place. Her par-amour shall be burnt to death by being placed on red hot iron cot. A woman, who kills her husband shall be 'drowned to death'. Who causes death by poisoning shall be crushed by cows. Wrapping in a fresh skin and throwing into sun or boiling in water were also common. In Moghul period, Aurangzeb caused the death of ninth guru Sikhs and sons of the tenth guru of Sikhs by plastering them up in a well. Though Anarkali might be a fiction story, it explains the mode of execution by plastering a person between walls while the person is still alive.

Capital punishment is one of the subjects of human concern which give rise to endless debate. To abolish or not to abolish is the problem which has been faced in many countries.

The crusade against capital punishment started in England and Europe as a result of the works of utilitarians like Bentham and Beccaria. They insisted that punishment being an evil in itself should be just sufficient to curb the menace of crime. There should not be excessive punishment, including capital punishment. They should not be inflicted where some lesser penalty could achieve the same result. The humanitarian movement resulted first in the reduction of number of offences punishable with death. By the end of the 18<sup>th</sup> century, there was movement for the ultimate abolition of capital punishment for all offences except that of treason. In U.S.A. some of the states have abolished capital punishment while some have retained it. The American supreme court held that the punishment was of 'unusual and cruel' nature.

In India too, the problem has been engaging government and public attention over the years. But it is still there on the statute book, though its use has been sparingly made. There is a tendency to restrict its use to grave offences, Committed under aggravating circumstances.

### **Capital punishment controversy:**

The question whether capital punishment has the necessary deterrent quality or not

dominates the debate regarding the efficacy of capital punishment. The advocates of retention of capital punishment hold that punishments have the deterrent effect in general. Logically speaking, capital punishment should have the maximum deterrent effect. The abolition of capital punishment would unleash criminals now restrained by the fear of the executioner. The abolitionists, on the other hand, are not so sure of the deterrent effects of death sentence.

Various studies have been made in the U.S.A. where crime rates have been compared within a state on the basis of statistics before and after the abolition of death penalty and also between states which had abolished it and which had not done so. It is claimed on the basis of such studies that no increase in murders and other serious crimes took place as a result of abolition. The contention ignores two aspects of the question. Firstly, that the reliability of statistics remains untested. Secondly, there are many factors of socio-economic nature which determine the quantum of crime committed in a society. For instance, the economic and employment situation in the two states, which are compared, may be different or it may be different even in the same state before and after the abolition. The relative efficiency of police may like wise be different.

The offender who committed the criminal act might have been skeptical about the penal consequences of his act. Many serious offences like murder or rape are committed under momentary impulses. The royal commission on capital punishment of England remarked: " We can number its failures. But we cannot number its successes".

Next it is argued that capital punishment brutalizes human nature. Capital punishment is a reaction against certain types of brutalities committed by some of the human beings. So, far from brutalizing the human nature, it seeks to remind people to get rid of their brutal tendencies and there is no evidence to suggest that it does not succeed in this mission.

One popular argument in favour of abolitionists is that the death sentence is irrevocable and there have been some instances of innocent persons being hanged. Another argument is that it is the poor people who run greater risk of capital punishment and rich persons are always able to avoid it with the help of their wealth. There is substance in both these arguments but on careful study, it is clear that they point out defects in the administration of justice and not anything against capital punishment as such.

Many murders are committed in the heat of the moment without premeditation on the part of the offender. For many such killings death penalty is either not possible or is not awarded. Judges have discretion not to give death sentence in a case of murder and give lesser sentence of life in the presence of some extenuating circumstances.

### **Arguments Against the Death Penalty:**

With the development of modern civilization we find a strong opposition to the system of death penalty. The main points of opposition are as follows.

1. Fails to eliminate the cause of crime: The death penalty did never have a deterrent effect. It fails to eliminate the main cause of crime.

2. Retributive in nature: The death penalty is retributive in nature. It could not provide an opportunity of reformation.
3. Against human sentiments: The death penalty is against our human sentiments. It is a kind of deliberate murder.
4. Hardship to family members: The death penalty inflicts hardship on the family members
5. Relic of savagery: The death penalty is a relic of savagery it has been maintained by false assumptions.
6. illogical: The death penalty is illogical with religion and morality. It violates the consciousness of mankind.

According to von Henting; "I see in capital punishment a means of punishment whose advantages can be obtained by other means and whose disadvantages can be prevented in no other way than by abolishing it".

### **Arguments in favour of death penalty:**

In spite of the above arguments, there are people who support the death penalty. The following are the main points:-

1. Elimination of Criminals :

The death penalty eliminates the hopeless enemy of society.

2. Social Relief:

As a result of death penalty, society is relieved from those who constantly war against society.

3. The death penalty wipes out those criminals who are irreformable

### **4.5. Imprisonment:**

In primitive as well as in modern societies, imprisonment is used as a penalty. It is used for a restricted group of offenders. Though its roots run back to the earliest societies, but it is comparatively a modern method of dealing with the offenders.

According to the Indian penal code, the maximum imprisonment that can be awarded for offence is fourteen years. The lowest term actually given for a named offence is twenty four hours

### **Types of imprisonment:**

There are two kinds of imprisonment provided under the Indian penal code.

1. Rigorous imprisonment
2. Simple imprisonment



In the case of rigorous imprisonment, the offender is put to hard labour such as grinding corn, drawing water, digging earth etc. In the case of simple imprisonment, the offender is confined to Jail and is not put to any kind of work.

In the administration of justice, an offender is sent to jail for most of the offences. In ancient India there had been crude forms of Jails. The British rulers made several attempts to reform the administration of justice

Imprisonment is a kind of punitive reaction its objective is primarily to deprive the offender of his liberty which is the most serious damage which can be caused to a human being. In recent times, the correctional idea has also been brought in to introduce some changes in prison philosophy.

Imprisonment as a form of punishment got prominence as a result of the decreasing use of the capital punishment and transportation in most of the countries. The traditional concept of prisons was different from the prisons of the middle of the last century.

Traditionally, it was held that imprisonment should be used only for the custody of offenders until such time as they could conveniently be dealt with. This view prevailed in Europe from the time of the roman emperor Justinian for the next thousand years or so. In medieval England prisons were places where suspects were detained.

The most serious problem associated with imprisonment is what has been termed as 'prisonisation'. His personal identity is the first casualty in the process. From a human being bearing personal characteristics, he is converted into a mere impersonal entity. His name is replaced by a number. His clothes and working and leisure hours are just the same as those of other members of the group i.e the fellow prisoners. To quote Alfred Hassler, the prisoner is perceived as a job, rather than as a person. All this results in some sort of social debasement of the convict in his own eyes.

Equally damaging is the effect on family relationships. Imprisonment is a ground of divorce available to the spouse of the convict. The only possible contact with the family members is through periodic visits permitted to them under the jail rules. It has been suggested by some reformers of the prison system that prisoners should be allowed to continue their family life within the prison, but the practicality of such a proposal has also been questioned. It is only in certain prison systems in Europe and south America, that arrangements are made for 'connubial visits' between the spouses.

Instead of moving the criminal away from criminal tendencies, imprisonment sometimes results in something just the opposite. gambling and deviant sexual behaviour, in the form of homosexuality, are some of the offences for which the prison provides the ideal breeding ground.

The most serious thing which happens to the prisoner is the stigma arising out of a prison term. He cannot be kept in prison for all time to come. He has to go back to the society. The difficulties which he faces in getting accepted once again in society are obvious. Prisoners often feel, quite justifiably, that the real punishment begins after they leave the prison.

The defects in the imprisonment process, are used as good arguments to highlight the deterrent and retributive elements of punitive reaction. They are certainly incompatible with any rehabilitative ideals which some reformers might be contemplating in the prison system.

### **Corrective Labour:**

This form, of punishment is not a type of punitive reaction in the strict sense. The emphasis is on the reformation and rehabilitation of the offender. This mode provides an opportunity to the offender for working at his own residence or some work centre outside the prison. It is a common mode of punishment in the U.S.S.R. Lenin's teachings provided a basis for the approach. The commission felt that the Russian scheme could be put to good use with some modifications in the Indian set-up. Some of their recommendations were as follows.

1. The essence of the punishment will be working on reduced wages at a public work centre.
2. The punishment of corrective labour will be primarily suitable for persons belonging to the labouring classes.
3. Offences punishable with death, imprisonment for life or imprisonment for a term exceeding 7 years should be excluded from this punishment.
4. Deductions from the wages of the person sentenced to corrective labour will be made at the rate laid down by the judgment of the court and credited to the state. The rate may be between 5% and 20% of the wages.

### **Prison Labour and Industry:**

The punitive approach used labour as a form of punishment. In the reformatory approach it is to be used not as an end in itself but as a means to achieve certain skills in the prisoner. It helps not only for disciplining him and also helps him in finding some vocation to sustain himself after his release. He may also earn ways while serving in prison. Some prison administrators look at it from a utilitarian angle to justify it since it helps in the prison finances. The prisoner is in a position to contribute something for his maintenance in Jail. There are many difficulties faced in organizing industry in prisons.

It is found that many prisoners do not find any occupation to put to use any of the skills or trades learnt in prison. Many inmates are sometimes not interested in learning the trade due to lack of aptitude or its irrelevance after his release. The training has never been taken by Jail administrators seriously.

The payment of wages for industrial work done by the prison inmates has also been criticized by those who are convinced of the need for the deterrent element of the Jail sentence. It has been argued that punishment should involve the deprivation of his earning capacity of the offender. It is also pointed out that it is anomalous that while many law-abiding citizens find it difficult to find employment, work and wages are provided to a convicted person.

#### 4.6. After – Care Programmes:

Theoretically, the difficulties of a prisoner are over after his release. Generally one thinks that the prisoner's personal freedom is recovered and his prison training makes him a fit person to start a new life on a clean slate. In practice, it is rarely the case. The central after –care association of England observes, "Many a prisoner approaches at the end of long sentence in a state of bewilderment and fear as to what the future will hold for him". This is evident in view of the stigma, loss of job, loss of family ties and alienation from friends on account of the imprisonment.

The Maxwell committee on Discharged prisoners Aid societies described the plight of many persistent offenders thus:

"Such offenders often have no home or family ties; or no such home or family ties as will supply the support and stimulus they need: no trustworthy friends; no niche in society to buttress any legitimate self esteem; there is merely a bewildered and frustrated malcontent floundering in a sort of social limbo between prison and a world with which he cannot come to terms; a man not confirmed in criminality but with no strength or standards upon which to build a useful and honest life".

After- care has two connotations. In its narrower sense, it is some what like probation i.e. the released person is put under the care of a probation officer performing the role of a social worker. In its wider sense, after –care implies all efforts to enable the prisoner to overcome all the various social, economic and psychological problems after his release. Under the treatment philosophy, the after –care work, in a way, should commence as soon as the convict begins his prison life.

Various Jail committees in their reports emphasized the need for having effective after – care programmes but hardly anything was achieved. The all India Jail manual committee, 1957 observed:

" After- care is the released person's convalescence. It is the process which carried him from artificial and restricted environment of institutional custody to satisfactory citizenship, resettlement and to ultimate rehabilitation in the free community.... Institutional training , treatment and post – release assistance is a continuous process. After – care services, therefore, should form a integral part of correctional work".

The need and philosophy of after – care programmes has been convincingly summed up by J.P. Martin in these words.

" An effective penal system must aim for the re- integration of prisoners into society. In the last resort this is because, there is a moral argument for after – care. It is simply that no man is so guilty, nor is society so blameless, that it is justified in condemning any one to a lifetime of punishment, legal or social. Society must be protected but this is not done by refusing help to those who need it far more than most of their fellow citizens".

## 4.7. Summary:

Various forms of punishments have been evolved and applied in different societies through the ages. Torture, sadistic forms of executing death sentences and all sorts of cruelties in the prisons were some of the distinguishing features of the penal philosophy all over the world till recent times.

The punishments provided in many parts of the world, including India are death, imprisonment for life, rigorous and simple imprisonment, forfeiture of property and fine. In the Indian penal code, there is a provision of five types of punishments. There are (1) death penalty; (2) life imprisonment; (3) simple imprisonment and rigorous imprisonment; (4) forfeiture of property; and (5) fine.

Before the rise of humanitarianism in the penal philosophy, mutilation, branding and flogging were all recognized modes of punishment. In India the corporal punishment of whipping was added and regulated by the whipping act of 1864. It was repealed and replaced by the Whipping Act of 1909. It was abolished in 1955.

According to Sutherland, branding, mutilation, confinement in irons and cages, and whipping were used extensively in the medieval and early modern period.

Social degradation is also used to impose suffering. There are various ways of degrading criminals. The first method of degrading a criminal is to reduce his social status. The other way of degradation is to deprive the criminal of his rights.

Banishment or transportation is one of the most ancient ones. The object is to eliminate the criminals from the society by sending them to far-off places and sometimes even rebels, revolutionaries and reformers were also taken care of by this process.

Exile from a locality as a form of punishment will reduce the capacity to commit crimes of some particular nature. This form of punishment has been accepted in the Indian penal code (amendment) bill of 1972.

Fines as an additional or alternative form of punishment have been increasingly favoured by the law as well as judicial authorities. They are frequently used in relation to property crimes like embezzlement, fraud, theft, violations of lottery and gambling laws and minor offences like loitering and disorderly conduct.

Forfeiture of property is a possible mode of punishment under the Indian penal code in certain circumstances. Such a punishment is called for in the cases of smugglers and black marketeers when the source of income or property acquired by the offender may be illegal.

Capital punishment or death penalty has been prevalent in every society. It is frequently inflicted for serious offences. In India death penalty is inflicted for the following types of offences: (1) waging war against government of India; (2) abetment for revolution; (3) Murder; (4) Abetment for suicide; (5) Murder; (6) Deceit- accompanied with murder; (7) Attempt to Murder.

In primitive as well as in modern societies, imprisonment is used as a penalty. According to the Indian penal code, the maximum imprisonment that can be awarded for offence is fourteen years. The lowest term actually given for a named offence is twenty four hours.

Corrective labour is not a type of punitive reaction in the strict sense. The emphasis is on the reformation and rehabilitation of the offender. The punitive approach used labour as a form of punishment. After-care is somewhat like probation. The released prisoner is put under the care of a probation officer. After care implies all efforts to enable the prisoner to overcome all the various social, economic and psychological problems after his release.

#### **4.8. Key Words:**

- a) Corporal Punishment
- b) Capital Punishment
- c) Imprisonment

#### **4.9. Self Assessment Questions:**

1. Explain various types of punishment
2. Give an account of the arguments for and against capital punishment.

#### **4.10. Reference Books:**

1. Cavadino, Michael and Dignan James : The penal system: An introduction, sage publications, New Delhi.
2. Garland, D 1990 : Punishment and Modern Society a Study in Social Theory clarendon press: Oxford
3. Siddique, A : Criminology: Problems perspectives, Eastern book company, Lucknow.

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## **Lesson – 5**

# **THEORIES OF PUNISHMENT**

### **5.0 Objective:**

The objective of this lesson are to explain the various theories of punishment.

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**5.2. Retribution**

**5.3. Expiation**

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**5.8. The classical school: deterrence and the tariff**

**5.9. Bentham and neo-classicism: Deterrence and Reform**

**5.10. Positivism: The rehabilitative ideal**

**5.11. The justice Model**

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**5.13. Summary**

**5.14. Key Words**

**5.15. Self Assessment Questions**

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### **5.1. Introduction:**

The basic moral question about punishment is an age-old one. Punishing people certainly needs a justification. Punishment is always something which is harmful, painful or unpleasant to the recipient. Imprisonment causes physical discomfort, psychological suffering, indignity and general unhappiness along with other disadvantages. It impairs prospects for employment and social life. Deliberately inflicting suffering on people is at least immoral. It needs some special justification. In some cases the recipient does not find the punishment painful, or even welcomes it. Some offenders might find prison a refuge. When the punishment's main aim is to reform the offender-any suffering may not be deliberately caused. But in even these cases of punishment, it is something imposed. It is an intrusion on the liberty of the person punished, which also requires a moral justification.

The phenomenon of crime has been present in all ages and in all societies. Society has through the ages to deal with the problems of crime and delinquency. Consequently different methods were adopted from time to time by different societies in dealing with the offenders.

The rise of humanitarian and civil society lead to the changes in the concept of crime and criminality and consequently in the objectives, modes and forms of punishment.

Various theories have been propounded regarding the nature of punishment. According to some writers the motive of punishment is to restore the situation which existed before the crime. Other writers justify its desirability on the ground of compensation. Some writers regard punishment desirable if it helps to reform the offenders.

## **5.2. Retribution:**

The retributive theory of punishment is based on moral justice. According to this theory, a good action brings good result while a bad action brings bad results. Hence a wrong-doer deserves to suffer. His suffering is a counterpart of individual revenge. This theory thus regards that the offender should be punished by revenge i.e. "all eye for an eye and a tooth for a tooth". "if a man has caused loss of patrician's eyes, his eye one shall cause to be lost. If he has shattered a patrician's limb, one shall shatter his limb. If a man has made the tooth of a man that is his equal fall out, one shall make his tooth fall out".

According to Brad'ay, " We pay the penalty because we owe it, and for no other reason whatever, than because, it is merited by wrong. It is gross immorality, a crying injustice. Punishment is inflicted for the sake of punishment".

According to Mackenzie, punishment is the natural consequence of criminal action. Thus retribution is the turning back of crime against the offender.

Retributivism justifies punishment on the ground that it is deserved by the offender; reductivism justifies the punishment on the ground that it helps to reduce the incidence of crime. Reductivism is a forward- looking (or' consequentialist) theory; it seeks to justify punishment by its alleged future consequences. If punishment is inflicted, the incidence of crime will be less than it would be if no penalty were imposed. Reductivist arguments can be supported by the form of moral reasoning known as ' utilitarianism'. This is the general moral theory first expounded by Jeremy Bentham which says that moral actions are those which produce, ' the greatest happiness of the greatest number' of people. If punishment does reduce the future incidence of crime. Then the pain and unhappiness caused to the offender may be outweighed by the avoidance of unpleasantness of other people in the future. Thus it makes punishment morally right from a utilitarian point of view. Retribution aims at restoring the social balance disturbed by the offender. The offender should receive as much pain and suffering as inflicted by him on his victim to assuage the angry sentiments of the victim and the community. Various theories have sought to justify the retributive aspect of punishment in theological, aesthetic and expiatory grounds. Retaliation fulfils a religious mission of punishing the offender, it re-establishes the social harmony affected by the offence and the offender's guilt is washed away through suffering.

Immanuel Kant observed: "Judicial punishment can never be used merely as a means to promote some other good for the criminal himself or for civil society".

Kant further observed: 'it is better that one man should die, than that the whole people should perish: if legal justice perishes, then it is no longer worthwhile for men to remain alive on this earth'.

### **Criticism:-**

The above theory of punishment has been criticized on various grounds. This theory does not justify the punishment in terms of social utility. It does not provide to the offender an opportunity to reform himself. In fact, this type of punishment is not able to annihilate the root causes of crime.

If individuals have no moral right to exact retribution, how can a group of individuals in a society, acquire such a moral right. As regards expiation, Blackstone urged that atonement and expiation should be left to the supreme being there is some merit, at least theoretical, in the expiation argument that the offender gets an opportunity of making a new start after the 'atonement'. The practical snag is that it becomes extremely difficult for a person to start with a clean slate after being convicted of an offence. The chances of his being admitted to society as a normal human being are certainly affected after undergoing punishment.

The theories of punishment based on retribution have also been sought to be defended on the ground that punishment reflects denunciation of the criminal and his act by the society. In his evidence to the Royal Commission on capital punishment, 1949-53, Lord Denning observed.

"The ultimate justification of any punishment is not that it is a deterrent, but that it is the emphatic denunciation by the community of a crime".

Prof. H.L.A Hart opines that since punishment should not be for the sake of denunciation alone, but a deserved punishment does serve as denunciation. According to him, we do not live in society in order to condemn through we may condemn in order to live. The concept of denunciation belongs to the utilitarian rather than the retributive theories.

The retribution theory provides that the penal system should be designed to ensure that offenders atone by suffering for their offences and their suffering should be of the same magnitude as that of their victims, has lost much of its ground in the context of modern and more Enlightened views on the functional value of penal law.

### **Utilitarian Theory:**

The utilitarians view punishment as a means to achieve certain ends with the aid of criminal law. Punishment must serve as an instrument for reducing the crimes either by deterring the offender and others from doing similar acts in future or it should prevent the commission of offences by incapacitating the offenders. Reformation of the offenders through punishment is also sought to be achieved, though the efficacy of punitive approach in the reformation of the offender is extremely doubtful.



### 5.3. Expiation:

Like retribution, it is also an ancient justification for punishment. The offender is made to atone for his crime through suffering. Criminal in the process of punitive action becomes a scapegoat, that is, the object of chastisement, scourging and degradation; His punishment provides an outlet for the outraged feeling created by his offence. Society treats him as a common enemy. The moral values become more sacred because society must fight to maintain them in the face of the undermining threats of the criminal. Punitive action against the culprit gives the community a sense of its moral superiority. It gives an assurance that virtue is rewarded. The punishment to the offender vitalizes the society's sense of solidarity. Hostile action against the offender brings about cohesiveness in society.

The trend in modern society to do away with physical torture and to withdraw the application of punishment from the public eye has lessened the force of expiation. However, the community is still able to derive satisfactions from the fact that justice is being done, even though it is hidden from view.

It is often argued that once a crime has been paid for, the society should come to the offender's help to rehabilitate him, so that he can lead the life of a normal citizen. But much after care or followup actions are not taken up in many societies.

The theory of expiation has practiced difficulty in the matter of assessing the quantum of punishment which may be quantum to and which may be capable of washing off, the moral guilt. Besides, now it is recognized that there are many sins which are not crimes, and equally that there are many offences which are not sins.

Atonement or expiation is an ancient method of punishment, where the offender alone is made to pay for his crime through suffering.

### 5.4. Deterrent Theory:

Deterrence is the simple idea that the incidence of crime is reduced because of people's fear or apprehension of the punishment they may receive if they offend. It makes many who are tempted to commit crime think twice. Punishment acts as a deterrent to the offender and also to others in the community. It has been suggested that the so called deterrent approach is a veiled form of the retributive spirit. Punishment is justified on the basis of deterrence. If the society fails to punish the offenders, crime would be encouraged. Punishment holds the criminal in check. Though it sounds logical, it is doubtful that the punishment deters others or for that matter the criminals from committing crimes.

If 'deterrence' checks the criminals, there would not have been crime repeaters (recidivists) in the society. Experiences showed that imprisonment and whipping proved futile. The theory behind public hanging was based on deterrence. But people started enjoying the view; celebrated such occasions. A carefree attitude developed towards the public execution on the part of both the condemned and the spectators.

Individual deterrence occurs when someone commits a crime, is punished for it, and finds the punishment so unpleasant or frightening that the offence is never repeated for fear of more of the same treatment, or worse. But research indicates that offenders who suffer more severe penalties are more (not less) likely to re-offend. The findings of research do not show that punishment has no deterrent effect on offenders, or that no offender is ever deterred. But they suggest that overall, punishment has other effects which cancel out and even outweigh its deterrent effects. These anti-deterrent effects of punishment are known as 'Labelling effects'. 'Labelling theory' in criminology claims that catching and punishing offenders 'labels' and stigmatizes them as criminals and this process makes it more difficult for them to lead a law-abiding life in future. They may find respectable society and lawful opportunities closed to them while unlawful ones are opened up. They enter into a criminal sub-culture, and their self image may change from that of a law-abiding person to that of a deviant.

So the notion of individual deterrence seems to be of little value in justifying our penal practices. There is another deterrent effect. General deterrence. This is the idea that offenders are punished, not to deter the offenders themselves, but to deter others from committing offences. By deterrence is meant the use of punishment to prevent others from committing crimes. The offender is punished so that he will become an example of what happens to those who violate law. The punishment will act as a powerful force to deter the potential offender from committing crimes. But studies revealed that even severe punishments have not reduced crime rates. Even the extreme threat of death penalty has not been proved to have much deterrent effect in many studies.

This does not mean that deterrence never works, but it does mean its effects are limited. There are several reasons for this. People are more likely to be deterred by the likely moral reactions than by the threat of formal punishment. The potential offenders may be ignorant of the likely penalty, or believe they will never get caught. Most do not think twice about the kind of sentence they might get. (Gill, 2000). The offender may commit the crime while in thoughtless, angry or drunken state. There is some good evidence that general deterrence can be improved if potential offenders perceived likelihood of detection can be increased, but little to suggest that severe punishments deter any better than more lenient ones.

According to Sutherland and Cressey: "Generally the notion that punishment reduces crime is based on the hedonistic assumption that people regulate their behaviour by calculation of pleasure and pains". In other words, the offender is not punished for his offence but in order that he may not commit the offence again. But the present criminologists have seriously challenged this assumption. This theory is not applicable upon those offenders who are psychopathic or feeble-minded or work under the stress of emotions.

Deterrence according to this theory, is the main purpose of punishment. According to Rousseau, "not the crime punishment, but the crime should measure the worth of law." But in spite of this fact we cannot totally reject the broader aspects of deterrence. Criminal law and its application by police have great effects upon social morality. The existence of the criminal code has a deterrent effect upon the criminalistic ideologies.

## 5.5. Denunciation:

Lord Denning (Gowers, 1953) made the following statement regarding denunciation.

“The punishment for grave crimes should adequately reflect the revulsion felt by the great majority of citizens for them. It is a mistake to consider the objects of punishment as being deterrent or reformatory or preventive and nothing else. The ultimate justification of punishment is not that it is deterrent, but that it is the emphatic denunciation by the community of a crime.

The idea the punishment does and should demonstrate society’s abhorrence of the offence, and this in some way justifies punishment, is a quite a popular one. Punishment can effectively denounce criminal behaviour. Denunciation might be advocated for more than one reason. What we term instrumental denunciation is actually a form of reductivism. This is the idea that denunciation can help to reduce the incidence of crime. Durkheim argued that one function of the criminal law and punishment was to reinforce the conscience collective society and thereby ensure that members of society continued to refrain from crime. Punishment, Durkheim thought, has an educative effect. It does not only teach people to obey the law out of fear and prudence (which is deterrence); it also sends a symbolic moral message that the offender’s action is socially abhorred, and therefore wrong.

People seem to have sufficient respect for the law to disapprove more strongly of an action when a law is passed against it, but they do not have sufficient respect for the criminal justice system to be influenced by the severity of punishment inflicted (Walker and Marsh, 1984; Tyler, 1990). This suggests that (like general deterrence) instrumental denunciation cannot justify any particular level of severity of punishment, nor can the penal system, ‘give a lead’ to public opinion about the rights and wrongs of how people should behave.

A different version of denunciation theory is what we term expressive denunciation. This is (Non-forward-looking) notion that punishment is justified simply because it is the expression of society’s abhorrence of crime. Sometimes this is explained in terms of the community showing its recognition of and commitment to its own values, (Lacey, 1988).

The claim is therefore that denunciatory punishment is justified even if it has no good consequences such as educating the public conscience and thereby reducing the amount of crime. The official institutions of a community should express moral judgments on behalf of the law abiding members.

The conviction and punishment of an offender necessarily carries a moral, condemnatory message and is seen as so doing. Members of the public are currently not greatly influenced by such messages. It is wrong to convict and punish some one who has done nothing morally wrong. If it makes sense to punish at all, there is some point in trying to punish offenders at least roughly in proportion to the moral gravity of their offences.

A theory which resembles denunciation (but which also contains elements of reform and reintegrative shaming) is the ‘communicative theory’ of punishment put forward by Antony Duff (1986). Duff sees punishment as an attempt at moral dialogue with offenders, censuring their

actions and hoping to secure their 'contrition', with the result that they mend their ways. We doubt whether this theory can on its own provide an adequate justification for punishment, let alone for our current practices. But the idea that penal practices can and should be designed to foster this kind of moral dialogue is an attractive one. It fits in well with the 'cognitive behavioural' approach to reforming offenders.

### **5.6. Reparation:**

Reparation is the notion that people who have offended should do something to 'repair' the wrong they have done, and in so doing acknowledge the wrongness of their actions. This can take the form of compensating the victim of the offence or doing something else to assist the victim. If there is no individual or identifiable victim (or the victim is unwilling to accept it), reparation can be made to the community as a whole by performing community service or paying a fine into public funds. The idea of reparation is associated with the wider notion of 'restorative justice'. It seeks to restore and repair relations between offenders, victims and the community as a whole.

Reparation is a sound and valid principle which we strongly favour (Dignan, 1994) one of its virtues is that it could be of great value in assisting the 'reintegration' of offenders. Reparation can be seen as a desirable aim which may be pursued when imposing punishment; it is justified on other grounds (such as reductionism). If punishment is to be inflicted, it is surely better that the punishment should directly benefit the victim or society than that it should merely hurt or restrict the offender. The reparative principle cannot justify the penal system that we have, since most punishments (e.g. imprisonment) contain little or no reparative element. It becomes impossible for the offender to make amends. But if reparation were more consistently pursued, we should have a much more civilized and morally acceptable penal system than the present one.

### **5.7. Disqualification, requalification and reintegrative shaming:**

Penological 'classicists' such as Beccaria, 'saw punishment as a procedure for requalifying individuals as subjects, as juridical subjects'. The penal process should ultimately aim at returning them to society as full members. The process has two stages, the disqualification stage in which the offender is publicly and symbolically shamed by punishment and the requalification stage when the punishment comes to an end and the offender is reintegrated into society as a full citizen.

The disqualification stage bears some resemblance to denunciation. Requalification of the offender strikes us like reparation and reform of the offender. At present, it cannot be said, that our system does this very effectively. The stigma of disqualification tends to linger on well and offenders continue to be excluded from law abiding society rather than being reintegrated into it. As labeling theory suggests, it makes reoffending much more likely. The trouble with our system is that we overdo the disqualification and pay insufficient attention to requalification.

John Braithwaite (1989) has put a general theory of crime and punishment. He claims that successful societal responses to crime are those which bring about the reintegrative shaming of the offender. Offenders should be dealt with in a manner that shames them before other members of their community. But the shaming should not be of a 'stigmatizing' nature which will tend to exclude them from being accepted members of the community; It should be of a kind which serves

to reintegrate them within it. Reparative measures may be particularly suitable in pursuing reintegrative shaming. The reintegrative shaming would be a valuable method of reforming offenders.

### **Schools of Penal Thought:**

Different combinations of penal justifications have found favour in different eras.

### **5.8. The classical school: deterrence and the tariff:**

Gaspare Beccaria's (1764) Book on crimes and punishment provided a critique of the criminal justice systems of eighteenth century Europe along with a blueprint for reform along more rational and humane lines. Punishment under the ancient regime of eighteenth century Europe was both arbitrary and harshly retributive, dominated by Capital and corporal penalties.

Beccaria's blueprint called for clarity in the law and due process in criminal procedure combined with certainty of punishment. There should be a definite, fixed penalty for every offence, laid down in advance by the legislature in a strict tariff. These penalties should be proportionate to the gravity of the offence. Once an offender was found guilty, however, the sentence should follow automatically; in the strict classicism of Beccaria, there was no room for clemency by way of pardons, reduction of sentences, or early release from the punishment laid down. All people were to be treated as fully responsible for their own actions, including their own offences.

Beccaria opposed capital punishment as being cruel and inefficient as a deterrent. Punishments should be public and appropriate to the type of offence. Corporal punishments for crimes of violence, public humiliation for 'crimes founded on pride' and so on. This would assist in deterrence because, 'in crude, vulgar minds, the seductive picture of a particularly advantageous crime should immediately call up the associated idea of punishment' (Beccaria)

### **5.9. Bentham and neo-classicism: Deterrence and Reform:**

Jeremy Bentham (1748-1832) was the main founder of the utilitarian philosophy. He was also a major penal thinker and reformer. His general philosophy was that law and Government should pursue 'the greatest happiness of the greatest number' Bentham followed Beccaria in advocating a proportionate tariff of punishments for offences. Like Beccaria he said that punishment should be primarily justified because of its deterrent effects, but he also proclaimed that punishment of the right kind could serve a further reformativist aim: that of reform.

He designed the prison in such a way that prisoners were under constant surveillance by Inspectors. Prisoners were to be made to perform productive work within the prison in order that they should acquire rational work habits which they would retain after release instead of returning to crime. Bentham saw criminals as having limited rationality and responsibility, but they could be made more rational by the correct application of reformative techniques in his 'Mill for grinding rogues honest'. Unlike Beccaria, he allowed for mitigating circumstances such as duress, infancy and insanity to reduce or even remove an individual's liability to punishment.

Beccaria's scheme had no place for imprisonment as a punishment. Bentham saw prison as a useful method of dealing with offenders. Imprisonment rapidly became pre-eminent method of punishment. The end of eighteenth century and the early nineteenth century saw a massive shift from corporal to carceral punishment. Punishment no longer addressed itself to the body of the criminal, but to the soul.

### **5.10. Positivism: The rehabilitative ideal:**

Lombroso (1876) is best known as the founder of the positive school of criminology. The positivist view is that the crime, along with all other natural and social phenomena, is caused by factors and processes which can be-discovered by scientific investigation. These causes are not necessarily genetic, but may include environmental factors such as upbringing in the family, social conditioning and so on. Positivists believe in the doctrine of determinism: the belief that human beings, including criminals, do not act from their own free will but are impelled to act by forces beyond their control.

It is wrong to hold people responsible for their crimes and punish them in ways that imply that their crimes are their own fault. Criminality is no more the fault of the offender than illness is the fault of the invalid both require treatment not blame. So retributivism is clearly excluded as justification for punishment. The reductivist methods favored by positivism are incapacitation, and especially reform. Criminological science should be able to predict which offenders are likely to commit further crimes. Such people should be diagnosed by experts and given appropriate treatment which will prevent them from re-offending, if necessary they can be detained to incapacitate them in the meantime.

Positivism rejects two important doctrines namely due process and proportionality. Due process is not appropriate in the diagnosis and treatment of crime. Proportionality is similarly seen as a mistaken notion. Instead of the punishment fitting the crime, the treatment should fit the individual criminal. For this reason, the positivistic approach is sometimes referred to as the 'individualized treatment model'. Positivism particularly favours the indeterminate sentence; it is premature to decide at the time of offence how long the offender should be detained for, since this may depend on how quickly the treatment works; the release decision should be left in the hands of treatment experts to take at a later date.

Positivism and the rehabilitative ideal associated with it, gradually came to dominate criminological thinking in the 1950s and 1960s, especially in the United States. For example, indeterminate and semi-indeterminate sentences (such as 'one year to life') became more and more common in the U.S., with the release dates dependent not upon the sentence passed at trial but upon the parole process. This was the time of 'rehabilitative optimism' there was a widespread belief that criminology and other behavioral sciences would progressively discover the causes of crime and the way to cure all offenders of their criminality. Positivistic criminological research seemed to show that treatment did not work.

### 5.11. The justice Model:

The justice model (Bottomley, 1980; Hudson, 1987) first emerged in the U.S as a critique of the positivistic 'individualized treatment model'. The treatment model was theoretically faulty, systematically discriminatory in administration, and inconsistent with some of our most basic concepts of justice. Theoretically faulty, because the individualized treatment model identified the cause of crime as a pathology within the individual, whereas the causes of crime are structural, resulting from the way in which society is organized. The lack of due process and proportionality in the treatment model represents unfairness of treating offences of similar gravity in varying ways. Disproportionate sentences with the alleged purpose of reforming the offender are to be rejected.

Justice model writers are also mostly sceptical of the effectiveness of deterrence. The justice model philosophy relies heavily on either retribution or denunciation as a partial justification for punishment.

The retributivist philosophy insists not only that punishment should be proportionate to the offence, but that it should not be disproportionately severe because this would be undeserved. This is a central message of the justice model. The proponents of justice model were concerned to minimize the violation of human rights involved in the infliction of excessively severe punishments.

Humanitarianism takes the form of advocating reformatory measures which involve reductivism (and the belief that reformatory treatment can help reduce future crime). Proponents of justice model can appeal to either retributism or denunciation, typically combined with reductivism in justification for punishment. Those who favour restorative justice could be reductivists (believing that this kind of justice is the most effective at controlling crime) or may appeal to the desirability of reparation as an independent aim in its own right.

Both reductivism and retributism can be either harsh or humane. According to the philosophy of utilitarianism, one should always act in the interests of the 'greatest number' of people. Utilitarian reductivism is the basic aim of punishment. What works to reduce crime (both by general crime prevention measures and penal sanctions) is to aim at reducing recidivism, including reformatory treatments).

The philosophies described above exert a very real influence on the shaping of penal systems and penal practices, but none of the various schools of thought has ever been totally dominant. No penal system has ever been entirely retributist, or entirely reductivist. The justifications for punishment include retribution, deterrence, denunciation and reform. Reductivism rather than retributism is accepted as a general principle, but with deterrence, incapacitation, reform and reparation all finding favour to various degrees.

Any justification for punishment must be based on an acceptable moral philosophy. Our preferred philosophical basis is human rights theory rather than utilitarianism. Each individual human being has certain fundamental rights which we possess equally by virtue of being human. Fundamental rights are variously described by a variety of philosophical arguments. At least one important human right can be described as a right belonging equally to each human individual to

maximum 'positive freedom', by which we mean the ability of people to make effective choices about their lives.

If there is right to positive freedom, then punishment ( which reduces the freedom of the person punished) is prima facie wrong and requires special moral justification. The commission of crime should not affect the rights of the potential victims of crime in kthe future. The commission of crime against them will diminish their positive freedom. Crimes of injurious violence reduce the victim's freedom to operate physically free from pain. Property offences will deprive them of resources and remove their freedom to use those resources. Punishment should reduce the incidence of crime and there by prevents the diminution of some other people's positive freedom.

Although offenders forfeit some portion of the rights of the citizens, they still retain the status of human beings. We have to use techniques such as research and monitoring to discover and apply 'what works' to reform offenders. We strongly favour such an 'evidence-based' approach.

### **5.12. The reformative or the Modern Theory:**

"The reformative theory", according to Dr. M.J. Sethna, "implies that the offender should, while punished by detention, be put to educative and healthy or ameliorating (but never degrading) influences". This theory of reformation is based on certain psychological principles. There are as follows:-

- (1) It believes ob the proposition that an offender can mould his character. Therefore, there are two types of reformatory punishment. Firstly the offender is reformed while being punished.
- (2) Secondly the offender reformed by punishment itself. Such a punishment, according to Hegal tend to reform the offender and helps to make his adjustment with society.

The reformatory view has been supported by various political as well as social thinkers. According to Plato, "Right doing is happiness and wrong doing is unhappiness". Crime is involuntary. Therefore, the offender should be corrected by society. Punishment must be upported by some ethical value. According to Bible;

"Blessed is he who mends and not end the offender, blessed is he who converts the man of sin into a man of virtue".

Thus the reformatory theory is based on the reformation of offender. According Dr. M. J. Selthina truly, unless punishment has the effect of moulding character, unless re-education is regarded as an essential concomitant of punishment, there can be no hope of making punishment useful. Mere infliction of useless pain can lead to no results. Reformation of offender thus involves individual treatment and opportunity of re-education. It requires correction, institution treatment and probation.



**Conclusion:**

Thus the various ideas have been evolved with regard to punishment. According to retributory theory man must suffer for his wrong deeds. On the other hand, the deterrent theory is based on the principle that punishment deters others from crime. But the reformatory theory is based on the reformation of offender. We should not root out the criminal but we should try to root out the criminality of the offender so that he may be saved and reclaimed as a useful member of society.

**5.13. Summary:**

The basic moral question about punishment is an age-old one. Punishment is always something which is harmful, painful or unpleasant to the recipient. Punishing people needs justification. Various theories have been propounded regarding the nature of punishment. According to retributive theory, a good action brings good result while a bad action brings bad results. Reductivism justifies the punishment on the ground that it helps to reduce the incidence of crime. The utilitarians view punishment as a means to achieve certain ends with the aid of criminal law. The expiation theory states that the offender is made to atone for his crime through suffering. According to deterrent theory, punishment acts as a deterrent to the offender and also to others in the community. The ultimate justification of punishment is not that it is deterrent, but that it is the emphatic denunciation by the community of a crime. Reparation is the notion that people who have offended should do something to 'repair' the wrong they have done, and in so doing acknowledge the wrongness of their actions.

Beccaria 'saw punishment as a procedure for requalifying individuals as subjects, as judicial subjects'. Beccaria called for clarity in the law and due process in criminal procedure combined with certainty of punishment. Jeremy Bentham's general philosophy was that law and Government should pursue 'the greatest happiness of the greatest number'. The positivist view is that the crime, along with all other natural and social phenomena, is caused by factors and processes which can be discovered by scientific investigation. The proponents of justice model were concerned to minimize the violation of human rights involved in the infliction of excessively severe punishments. The commission of crime should not affect the rights of the potential victims of crime in the future.

"The reformatory theory", according to M.J Sethna, "implies that the offender should, while punished by detention, be put to educative and healthy or amelioratory influences". We should not root out the criminal but we should try to root out the criminality of the offender.

**5.14. Key Words:**

- (a) Retribution
- (b) Reductivism
- (c) Expiation

- (d) Deterrence
- (e) Denunciation
- (f) Reparation
- (g) Reformation

### **5.15. Self Assessment Questions:**

1. Explain the theories of punishment?
2. What are the justifications for punishment?

### **5.16. Reference Books :**

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## **LESSON-6**

# **CORRECTION – CONCEPT, MEANING, AND PHILOSOPHY**

## **6.0 OBJECTIVE**

The objective of this lesson are to explain concept of correction meaning and philosophy.

### **Content:**

- 6.1 Introduction**
- 6.2 Definition**
- 6.3 Concept**
- 6.4 prisons of classification**
- 6.5 Problems of correctional institutions**
- 6.6 Summary**
- 6.7 Key words**
- 6.8 Self Assessment Questions**
- 6.9 Reference Books**

## **6.1 INTRODUCTION**

The penal system has been changing from time to time from the hoary past in its meaning and philosophy. The social scientists and criminologists have given serious thought to bring about reforms in the field of corrections and penal system, there was shift of emphasis, from punishment to reformation and correction. The criminal can be treated as a patient and the crime may be regarded as a disease from which the criminal suffers. The concept of Punishment can be replaced by the concept of treatment. The correctional institutions are not punishment centers. They should function as reformation and rehabilitation centers

## **6.2. DEFINITION AND MEANING**

The changing correctional picture has raised questions about what the purposes of corrections should be and even about whether or not we should continue to build traditional prisons at all. Indeed, the word corrections itself is becoming outmoded for some seriously doubt that correctional institutions actually correct anyone. And if correcting individuals should not or can not be a goal.

In the light of the advancement of social sciences and behavioural disciplines the traditional approaches towards crime control guided primarily by the concepts of deterrence, retribution and incapacitation of the offender as the objectives of punishment, have gradually been replaced by a

diversified framework of correctional strategies to bring the offender back into the society as a law abiding, self-reliant and dignified citizen. The experience has abundantly shown that the ultimate object of protecting the society against crime could only be achieved by reshaping the behavior considered deviant through concerted measures to change the attitudes and system of beliefs within the individual.

### **6.3 CONCEPT:**

Correctional administration covers the entire gamut of programmes initiated by the state on its own or in conjunction with voluntary efforts for the recovery, re-education and rehabilitation of individuals coming in conflict with law, within the overall system of crime prevention and criminal justice; In India, as in other countries, the origin and development of correctional services has come as a corollary of the shift in focus from crime to the criminal and the resultant emphasis on an individualized treatment and reformation of the offender in consonance with his personality, traits and requirements of social mainstreaming.

The repressive devices to prevent criminality are found to become counterproductive, when they fail to ameliorate conditions that force individuals to live a life of social depravity. The correctional viewpoint is based on the assumption that the phenomenon of crime that has baffled mankind since times immemorial, if ever to be grappled, would inevitably involve a deeper understanding of this behavioral manifestation in a socio-logical and criminological context.

### **ALTERNATIVE CORRECTIONAL POLICIES:**

Four different and often conflicting policies have been used to direct prisons and other correctional institutions-rehabilitation, deterrence, retribution, and incapacitation. The first two and the last are policies aimed at crime control. The third is related to achieving justice.

For over 30 years correctional institutions have emphasized rehabilitation, defined any measure taken to change an offender's character, habits, or behavior patterns so as to diminish his or her criminal propensities. To rehabilitate means to restore to a former status. The assumption underlying rehabilitation is that criminals are mentally sick and can be cured' if the right treatment is applied. Although based on progressive and enlightened principles, rehabilitation has more recently been under attack for not only violating basic principles of justice but also meting out psychological torture that is worse than confinement itself.

### **REHABILITATION:**

Rehabilitation uses the same approach for treating criminals that physicians use for treating patients, and this has a number of important policy consequences. To make rehabilitation work requires that correctional institutions have professional staffs consisting of psychologists, psychiatrists, social workers, and counselors who are able to diagnose the ills of criminals and apply the proper treatment. It also requires individualized treatment, since each person who commits a particular crime may be suffering from a different form of illness. Thus under the rehabilitation policy, individuals who commit the same crime should not be given the same sentence or treatment. Thus, rehabilitation requires indeterminate sentencing-that is, confining individuals for open-ended periods of time such as from one to five years with eligibility for parole after serving a year. Offenders

given such a sentence could be released at the end of a year if they have shown progress toward rehabilitation; and if not, they could be kept confined until correction officials decide they have made sufficient progress. Rehabilitation policy, therefore, gives correction administrators a great deal of discretion in determining when an offender will be released.

### **DETERRENCE:**

Deterrence can be both specific and general. Specific deterrence prevents the convicted offender from committing crimes outside of prison by putting him or her in prison. Specific deterrence does not reduce crime rates very much. That for each person locked up in prison, at least one new person will start a criminal career. Finally, because the average prison term is only two years, specific deterrence works only for a short period. Specific deterrence as a policy goal, therefore, suffers from the fact that it deters only those who are convicted and only for a short period of time; moreover, it does not stop them from committing crimes inside prison while they are incarcerated. Where as rehabilitation is based on a medical model, deterrence is based on a utilization model.

Retribution is based on the idea of justice – the notion of an “eye for an eye” in contrast to the medical model of rehabilitation and the utilitarian model of deterrence. When retribution is the goal of policy, offenders are given punishment equivalent to the seriousness of the crime they commit. But it does require that the more serious the crimes, the greater the punishment for justice to be attained; each offender who commits the same crime must be given exactly the same punishment. Incapacitation is the fourth possible policy goal of corrections. The, incapacitation requires a completely different kind of sentencing policy than rehabilitation, deterrence, or retribution.

Each of the four possible policies of corrections therefore leads to a different set of sentencing standards. Retribution requires that punishment fit the crime. The more serious crimes should carry more severe penalties than less serious crimes, and each person who commits a particular crime should receive the same sentence. Rehabilitation necessitates that punishment fit the therapeutic needs of the individual: Not every person should be given the same sentence. Incapacitation demands that violent individuals who repeat their crimes be identified and given long-term sentences. Deterrence requires that offenders be incarcerated for as is necessary to serve as an example to others.

### **PHILOSOPHY:**

**Correctional Services;** The modern theory of reformation and Rehabilitation emphasize the need for training not only in custodial and security aspects, but also in the scientific methods of treatment of offenders. The Regional Institute of Correctional Administration, Vellore which is the first of its kind in India and a fine model of regional co-operation in the country, is sponsored by the four southern states[Andhra Pradesh, Karnataka, Kerala, and Tamil Nadu].The Institute was inaugurated on 1.10.1979 and became a pioneering Institute in preparing personnel to handle the Prison and Correctional Administration in the country, to achieve the accepted objectives of reintegrating the offenders in the main stream of the society. Correctional services are related to the enforcement of law and order .It deals with prevention of crime and protection of society. The

judicial authorities and jails had not realised the role of social work in correction and reformation till recently. During the third and fourth five year plans, the prison welfare officers were appointed in some states for the first time. Social work hitherto remained outside the purview of correction.

To day, as per the philosophy of reformation, a criminal is being considered as a patient suffering from some ailment which needs effective diagnosis for proper treatment [reformation] and cure. Extra-Mural treatments in the form of probation and parole have been devised in order to make the process of reformation and rehabilitation methods more easier. Besides, open prisons have been established in order to get rid of the prisonisation process. By this process, the prisoners can be readjusted to the society without much of difficulties. But these facilities are extended to the persons involved in petty offences and first offenders whose conduct could be brought under normally. But there are many hardened and serious offenders who undergo imprisonment for several years in closed prisons. For them after care services on release are of utmost importance. They have to start a new life in the society after a long period of detachment.

It is a truism that when a prisoner steps into the community after long period of detention, inside the prison, people are not prepared to accept him as normal human being; people attach social stigma to the prisoner and they do not render any assistance. Even the family members are not prepared to welcome him. The released prisoner faces lot of problems from different quarters to get himself rehabilitated. Keeping these problems of the released prisoners in mind, after care services developed to enable him to get rehabilitated happily.

Probation and prison are two sides of the same coin. Probation involves the 'extra-mural' treatment of offenders in the open community, while a prison sentence represents a spell of confinement away from the open community. But both probation and imprisonment are judicial decisions.

Immediately after Independence, prison reforms were introduced in many States .Many of our leaders had themselves served prison terms in British jails during the Independence movement. The whipping punishment was abolished. The familiar chakki and ghani were removed. But the making of a prison into a therapeutic institution to influence the mind and heart of the offenders was still to be achieved .The prison apparatus to be geared to the more advanced techniques was neglected in India by the British Government. While the subject of prisons figured in the state-list in the Constitution, it was felt that the Central Government should evolve a progressive national policy, to co-ordinate work and to advise the State Governments with the necessary technical assistance to modernise the correctional administration.

The Central Bureau of Correctional Services was established by the Ministry of Home Affairs in 1961 as the centralised agency for coordinating the work and development of a uniform policy for prevention of crime and treatment of offenders. It helped the states and union Territories by providing technical knowledge assistance and other information, promoting research and training and conducting experiments. Coordination in developing a uniform policy at the national level is an important function for which the Central Bureau of correctional services has been created.

Although probation or parole can take care of a large number of offenders, there will still be need for prisons for those who must be kept out of circulation in a society. Therefore, the next best

thing to do will be to modernise the prison programmes in such a manner as can make them more efficient in treatment and rehabilitation.

We need immediately a system of classification of prisoners according to age, criminal record, length of sentence, security requirements or physical or mental health. Prisons are highly congested and short-term prisoners account for more than 85% of the prison population. Let us hope that with successful implementation of probation of Offenders Act in all the states, the over population in prisons will be proportionately reduced. The prisons need to be classified as minimum, medium and maximum security prisons so as to devise treatment plans according to the need of the convicts. Some of the states have successfully experimented with open prisons, which the bureau has been advocating. Last year, an Inter-state study team was organised by the Bureau for the benefit of senior state officers. We need to organise a prison welfare system to help the prisoners to keep in touch with their individual problems, home and families, property, civil disputes, etc. to facilitate the rehabilitation of the prisoners on discharge from the prisons.

#### **6.4 CLASSIFICATION OF PRISONERS:**

It is important for the rehabilitation of the offender that he be so placed within the prison that he may secure the maximum benefit from his prison experience. Work for example, is an opportunity for treatment. Within most prisons and for most prisoners there are work requirements. But at what work to place which inmate constitutes a puzzle to which the management of the institution needs to give considerable attention. The placement of the prisoners in his living quarters, the forms of recreational activities provided, the educational possibilities needed for rehabilitation, the conditions most conducive to the improvement of the individual, the possible use of parole—these and other considerations are based on prisoner classification.

The social caseworker within the prison has an important role to play in the classification being done by a board composed of the warden, the physician, the psychologist, the psychiatrist, the social worker, and perhaps some others who are in a position to be of assistance. The social worker can be of special help to such a board because he gathers a great deal of the factual information on which board decisions rightly rest. In a few cases he has had extended first hand contact not only with the offender himself but also with the relatives and friends, and his understanding is of inestimable help to the board members. The Federal Bureau of Prisons, under the Department of Justice, uses an excellent system of prisoner classification.

The federal prisoner rehabilitation Act of 1965 authorises the attorney general to extend the services of community guidance centers to adult offenders, to allow selected prisoners to work at paid employment in communities near the penal institution, and to grant furloughs to prisoners in case of emergency. In recent years, experiments in several states with work-furloughs for prisoners have had excellent results.

#### **SERVICES TO PRISONERS' FAMILIES:**

A second type of activity in which the prison social worker participates is helping the prisoners' family. This is no easy task; the prisoner is taken from the community under compulsion. He does not have time to complete arrangements for those who may depend on him. He may leave behind him a worried wife, mother, or child. His interests may suffer if he has no means of representing

himself in the community. Lawyers may be too expensive and not professionally trained to handle the social problems of prisoners. The social worker, however, is equipped for this service.

A large part of the hope of rehabilitating prisoners comes from their response to those whom they love. If a criminal sentenced for a period of two or three years, he can have the feeling that composure and positive reaction to all of the other aspects of his imprisonment that will make him a fully adequate citizen in the end. If he knows, for example, that his wife or sweetheart is true to him, that she cares intensely for him and is solicitous for his well-being he may respond by wanting to be equally worthy of affection and respect. The social worker then has an opportunity to work for the rehabilitation of prisoners through those whom the prisoners love.

Often a voluntary social work agency – for example, a family case work agency – can be of help to an inmate indirectly and to his family directly. This service may be given directly to the offender once he is released, if he is not supervised by a parole agency.

## **6.5 PROBLEMS OF CORRECTIONAL INSTITUTIONS:**

The problem of personnel in correctional institutions-not only of social workers, but also of all other personnel-has long been the exceedingly poor working conditions; low salaries, confusion concerning objectives, conflict between punitive and rehabilitative philosophies, inadequate budgets, ill-defined tasks, isolation from the outside world, and ineffective programmes for rehabilitation of adult and juvenile offenders. It was hoped that the enactment of the federal Correctional Rehabilitation Study Act of 1965 would change these conditions. However these hopes have not been realized. But there is widespread recognition that serious effort must be made to improve conditions and to introduce in correctional institutions, as well as in community services for offenders, decent treatment in community services for offenders, decent treatment for minority offenders, by appointing qualified personnel

Imagine yourself in a hot, tiny room without any means of escape. The noise is endless-people talking, swearing; radios blaring, There is no privacy. The toilets are open to the gaze of fellow inmates. Foul odors waft through the air. Inmates are packed into cells so that they can hardly move around. The temperature reaches over 100 degrees, and there is neither cross-ventilation nor a fan. You are allowed to shower once a week, usually with cold water. You may be there for a few days or even for months.

Jails are used only to detain persons awaiting trial or to incarcerate those with short-term sentences. Drunks, juvenile offenders, and an assortment of different kinds of criminals are crowded into such jails. Many of the prisoners are young and poor blacks, Middle-class offenders seldom spend time in jails because they usually are set free on bail. Only those who cannot afford bail are forced to stay in jail. They are generally in a state of mental disarray. They are not likely to be career criminals because professionals are seldom caught and, if caught, are likely to make bail. Most jail inmates are rank amateurs who, if they are ever to become professionals, learn their first lessons in these jails.

Life in jail is hideously dull and maddening. Inmates lives conform to the convenience of the staff. But most of the time there is nothing to do. The overpowering helpless feeling brings on mental problems. Suicide by hanging is not uncommon in jails.



From time to time attempts are made to improve jails. Some states have a jail inspector who travels from country to country to determine whether jails meet certain statewide standards. However, even with state laws, the majority of jails are substandard. The Governor's Task Force on Corrections in Indiana recommended hiring rehabilitated ex-offenders; eliminating political patronage and establishing a merit system for jail administrations; limiting the holding period before trial; and providing hot showers, medical examinations, and counseling services as minimal requirements for the state's jails. Indiana by no means unusual, nor are its jails regarded among the nation's worst.

Beyond the country jails are the state and federal prisons.

## 6.6 SUMMARY:

Criminal behaviour is a violation of the rule of the social order. Today as per the philosophy of reformation, a criminal is being considered as a patient suffering from some ailment which needs effective diagnosis for proper treatment{ reformation, rehabilitation} and cure.

Correctional services are related to the enforcement of law and order. It deals with prevention of crime and protection of society. The judicial authorities and jails had not realized the role of social service{work} in correction and reformation till recently.

Four different policies guide corrections. These correspond to the different purposes that correctional institutions can serve; rehabilitation, retribution, deterrence, and incapacitation.

## 6.7 KEY WORDS:

- a] Correction
- b] Parole
- c] Rehabilitation
- d] Retribution

## 6.8 SELF ASSESSMENT QUESTIONS:

- 1] Discuss the importance of correctional institutions.
- 2] Discuss the importance of prisoner's classification.

## 6.9 REFERENCE BOOKS:

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## **LESSON - 7**

# **HISTORICAL BACK GROUND OF CORRECTION**

### **7.0 OBJECTIVE:**

The objective of this lesson are to explain the Historical background of corrections.

### **Contents:**

- 7.1 Introduction**
- 7.2 History of corrections**
- 7.3 Historical development**
- 7.4 Rehabilitation of offenders**
- 7.5 Training schools [Correctional institutions]**
- 7.6 Youth correctional Authorities**
- 7.7 Adult offenders**
- 7.8 Summary**
- 7.9 Key words**
- 7.10 Self Assessment Questions**
- 7.11 Reference Books**

### **7.1. INTRODUCTION:**

Until recently the only alternatives available to a judge were probation or prison. Now there are a large number of institutional and non-institutional alternatives. Work release, a program in which individuals are permitted to leave jails or prison to pursue regular employment or to obtain academic or vocational education, is increasingly used. Although not all programs have been successful, others have been found to be a good way to keep families intact, to introduce individuals to new skills, and to have a positive psychological impact on prisoners.

### **7.2. HISTORY OF CORRECTIONS:**

Early corrections techniques were adopted for worst offenses committed by criminals. Mutilation was common, including whipping and branding. Spies had their eyes put out, perjurers lost their tongues, rapists were castrated, and thieves lost their hands. In the colonial period prisons did not exist and the pillory, stocks, ducking stools, whipping posts gallows ostracism, and banishment were the principal forms of punishment. In the city of brotherly love, bodies of those who had been executed were placed in an iron cage where all could see them decompose. This practice, known as gibbeting was based on the assumption that this horrible sight would be an effective deterrent. A death sentence might include drawing and quartering or burning at the stake and thieves had a large branded on their foreheads.

Prisons developed after the Revolution as a diversion from these barbaric forms of punishment. The prison thus was part of a reform movement toward more humanitarian forms of punishment. These first prisons were called penitentiaries because it was expected that offenders would do penance while serving their time in isolated and silent confinement. The assumption was that prisoners would reform.

The concept of correction, in its modern connotation, is distinct from the earlier attempts to enforce conformity on the erring individuals, though no penal policy could ever be devoid of an element of correction if taken in its rudimentary sense. The early legal writings on ancient penal system in this country, especially those from Manu, Kautilya, Yajnavalkya, Bruhaspathi and Kamandaka, candidly describe the manner in which the offenders were punished in a differential manner in the interest of society, in keeping with the strata to which they belonged and the standards of behaviour expected of them. In the medieval period, while legal system resembled that of ancient India; the offenders, in practice, were generally dealt with in relation to their proximity to, and the whims and fancies of, the men in power, and the religious considerations that guided the policies. Even during the British period, criminal law was heavily tilted towards protecting the interest of foreign rulers with little regard for human rights. Doubtlessly, since the prison discipline committee set up at the instance of Lord Macaulay in 1836, some important steps were taken to unify law to govern prisons and to systematise the approach towards the administration of prisons, with particular reference to health, hygiene and security problems. The enactment of the Prisons Act 1894, and the Reformatory Schools Act 1897 heralded an era of serious thought to the problems of prisoners, both juveniles and adults in relation to the ultimate purpose of punishment. However, it was only in the beginning of the century that the reformation of offenders and their rehabilitation in society was accepted as the overall objectives of the penal policy and correctional services were initiated as a process. The developments since the dawn of independence have been much more rapid culminating into a present day approach behind correctional services, novel both in means and in content.

### **7.3. HISTORICAL DEVELOPMENT:**

Though India has a long tradition of voluntary action in social welfare, there seems little evidence of any such tradition in the field of defence. The reason, perhaps, is that orphans, widows, destitutes and the disabled evoked generous response from the people and the focus of voluntary action on alleviation of human misery born out of natural or social calamities. Voluntary workers who were active in many of several areas of social concern were disinclined to help men, women and children who had violated law, outraged societal morality, or trampled upon the traditions and values cherished by the society. Criminals and delinquents were treated with hostility and contempt; the idea of reforming them was by and large absent. As a result, prevention of crime and treatment of offenders became primarily as a state concern. The absence of cooperation of the people was also due to at least three other factors. The social defence or criminal justice system could not, in many respects, be shared or delegated to private individuals or groups. Secondly, the complexity of the system of law enforcement, courts and corrections tend to ward off initiatives from citizens. Thirdly, the very size and complexity of the crime problem engendered a feeling of helplessness on the part of citizens.

Public participation in functioning of the criminal justice system in the country was initiated sometimes around the end of the 19th century. Many a legislation pertaining to the administration of criminal justice system and other allied fields of modern social defence Operations contained specific provisions aimed at involving the community in the prevention and control of crime and delinquency. The criminal procedure code of 1898 contained certain provisions which sought to mobilize voluntary action in the prevention and control of crime and delinquency. In particular, they envisaged the cooperation of citizens with the police in the deduction and investigation of crime. Subsequent developments paved the way for the emergence of certain voluntary action groups which showed interest in establishing and running institutions for women and children, who, if unhelped, it leads to danger of developing criminal tendencies.

Establishment of charitable institutions also aimed at the prevention of vagrancy, delinquency and begging by such children, .for helpless women and children and criminals in various parts of the country. Later, the organisers of these institutions took interest in the reform and rehabilitation of the victims.

After care and follow –up services for the rehabilitation of adult offenders were initiated after the Indian jail committee (1919 -1920) made a strong plea for the development of such services for ex-prisoners. The committee's recommendations stressed the possibilities of voluntary action in this field and provided a basis for the setting up of discharged prisoners 'Aid Societies. These were established in Madras [1921] Central Provinces [1925] Bengal [1928], Punjab [1929]Bombay[1933]United provinces[1938] and Kerala [1956].

The post independence era has witnessed the emergence of social defence institutions and agencies in the country primarily by voluntary organizations for the care, protection, reformation and rehabilitation of socially handicapped men, women and children .They contribute meaningfully to the prevention of crime and delinquency by primary, secondary, and tertiary methods the principal social defence legislation in the country, including criminal procedure code[1973] probation of offenders act [1958]children act [1960] suppression of immoral-traffic in women and girls act[1956],Prevention of begging acts , and prisons and prisoners acts, contain specific provisions which seek to involve and mobilize voluntary welfare resources of citizens in the prevention and control of crime and delinquency through association with the police, the courts the prisons and other correctional institutions either individually or as a group, the role of the society is expanding; the voluntary social welfare sector is being encouraged to maximize its activities in crime and delinquency prevention and control. More grants –in-aid are now available to voluntary organizations in the field of social defence.

The provisions and modalities of voluntary action in the field of social defence pertain mainly to the following three fields A. Treatment and rehabilitation of offenders [b] Prevention and control of juvenile delinquency and [c] suppression of immoral traffic in women and girls.

#### **7.4. REHABILITATION OF OFFENDERS:**

Participation of voluntary workers in the treatment of offenders in adult correctional institutions like prisons is effected through the system of non official jail visitors; the Indian jail enquiry committee of 1921 recommended the system for the purpose of ensuring prisoners humane treatment to which they were entitled under the prisons act of 1894. The function of official jail visitors is to make surprise visits at regular intervals and to bring to the prison authorities the complaints of prisoners regarding bad food brutal and oppressive treatment bribery, corruption and deliberate breach of the existing rules and regulations by the prison employees. The provisions of non-official jail visitors now exists in all the state prison manuals and government has been vested with the power to nominate a couple of eminent citizens as non-official jail visitors for each central or district jail.

After-care of released offenders appears to be the exclusive domain of voluntary action in the field of social defence. The discharged prisoners Aid societies, as aided non-governmental organizations, help the released prisoners in their social and economic rehabilitation in the community, and thereby help in reducing the rate of relapse amongst the ex-offenders; voluntary workers associated with these societies have advocated the redressal of prisoners' grievances both within and beyond the prison walls. Some of them not only visit jails and undertake group work with prisoners and their families during the period of sentence but also support and advise the offenders and their families after discharge. These societies also provide legal and financial assistance to the released prisoners, arrange for their employment, and maintain after-care hostels. However, many of the discharged prisoners Aid societies have been ineffective for want of funds and proper governmental support and recognition. Some of the active ones are the U.P. Crime prevention society, the All-India crime prevention society, the Madras discharged prisoners' Aid society, and the Maharashtra state probation and After-care association.

Another important field for the participation of voluntary workers is the supervision of offenders placed on probation. The probation of offenders act of 1958 provides for the appointment of voluntary probation officers by the Court .The act also empowers state governments with the approval of the central government to make rules regarding the appointment of probation officers, the terms and conditions of their service and the area in which they are to exercise their jurisdiction. Most of the State Governments however, have not framed any rules for the purpose, and thus the scheme which has great promise has not been implemented in most parts of the country.

#### **7.5. TRAINING SCHOOLS [CORRECTIONAL INSTITUTIONS]:**

Children and adolescents who are not granted probation by a juvenile court because their rehabilitation cannot be achieved is the home or in a foster family are committed to a training schools, frequently called industrial school or reform school .The first local school of this type in the United states was the New York city house of refuge , founded in 1825 by the Society for reformation of juvenile Delinquents, to save neglected and vagrant children from the destructive influence of adult prisons. Other schools followed in Boston, Philadelphia, and New Orleans, but only in 1847 was the first state reform school established in Massachusetts. In 1959 there were

130 state industrial schools; a number of country and municipal schools, and about as many private training schools providing care for dependent, neglected, truant, and delinquent children and youths ranging from six to twenty-one years of age.

Some of these institutions have maintained practices of mass treatment, a repressive attitude, and even corporal punishment. Others offer little more than physical and custodial care. They accept the policy that the school is the place where troublesome children may be placed primarily for the safety of the population of their home community, and that such children and adolescents should be controlled in this school by the denial of their liberty, enforcement of some general education and vocational training, and strict regulation of their activities. A third type of training school, however, was developed as an integrated programme of rehabilitation for these children and youths by providing a positive plan for group living under educational guidance. They offer medical and mental health supervision; spiritual, religious, academic and vocational training, recreation, and leisure-time activities, permitting as much freedom and choice as possible. This type of school still represents a controlled environment in which children have to accept limitations on their freedom and have to conform to the rules of group living, but it contributes to a constructive development of children and prepares them for the return to life with their family or in their home community.

Only the last type of training school will achieve a positive change of personality, readjustment, and rehabilitation in children and adolescents committed to the school. Many schools suffer from their geographical isolation, which makes it difficult to teach the children how to live in a normal community, how to get along with other groups, how to participate in community activities, and to how to use services outside the school. The isolation makes it difficult to find competent personnel interested in professional growth and in the adjustment of young persons. Despite these facts, there is often pressure by the population to remove training schools, particularly for older aggressive boys, from the metropolitan centers to protect themselves from them. In the interest of the readjustment of difficult and disturbed children, the purpose of protection of the efficient programme for the rehabilitation of delinquent adolescents is the experiment of the New York state division for youth.

One of the main obstacles to the successful rehabilitation of difficult and disturbed children is the lack of trained and competent personnel in many institutions; employees have no proper training for their challenging job; they are former guards in jails or custodians without educational background or skill. Others however are well prepared by education and experience in child development, social work and psychology to work with children in need of understanding and readjustment. There is, in many training schools, a trend toward the selection of a really qualified superintendent and staff who, as a team, will be able to help the children overcome the difficulties in personality and behavior that brought them into the training school.

Aftercare, post institutional care or parole is an important factor for securing the effect of the institutional treatment of children and adolescents in training schools. As a rule the children return to homes and neighbourhood that are far from ideal. There is no complete agreement as to who should be responsible for aftercare, what the content and procedure of aftercare should be,

and what training is necessary for this service, nor are there, in general, sufficient funds available. Aftercare might be carried on by a parole officer of the training school, or by a child or family casework agency in the local community. Of utmost importance is the employment of well-trained personnel, which is possible only if adequate salaries, professional in-service training, and possibilities of promotion are secured.

## **7.6. YOUTH CORRECTION AUTHORITIES:**

After World War-1 widespread juvenile delinquency aroused the interest and concern of many legislators, judges, social workers and sociologists. The American Law Institute suggested that a youth correction authority in the state should coordinate all facilities in educational, medical, and rehabilitation work for juvenile delinquents carried on in social agencies, children institutions, training schools, clinics, and hospitals. Whenever necessary, the authority itself should establish and operate detention homes, observation clinics, and corrective institutions.

The first step in the rehabilitation of young offenders referred to the youth authority by the juvenile courts is a clinical diagnosis in reception center. Studies by a physician, psychiatrist, psychologist, social worker, and teacher each from their own perspective develop an understanding of the personality and motives of the adolescent and of the factors which led to his or her antisocial action. On the basis of clinical observation, the youngster then is classified according to age, sex, mental capacities, emotional stability, aptitudes, and personal interests. The treatment is based on these factors. The subsequent therapy and adjustment is carried on under a programme of reeducation and work assignments formulated to meet the individual need and capacities of the youth. Before the release of the young offender, the youth authority contacts the family, employer, and sometimes other people in the community to ensure his or her acceptance when he or she returns. Parole service offers guidance for the young offender in establishing a new life in the community.

The youth authority succeeded in establishing smaller schools and forest camps for the different age groups, with consideration of their character and behavior problems. Classification considers the child maturity, behavior, and vocational and personal aptitudes. The necessary isolation of children in correctional schools is alleviated through contacts with the surrounding communities so that the children are prepared for their return to their own families. Younger boys are placed in several branch schools whose programme is applied to the abilities of their age, including instruction in farming and animal husbandry.

The integrated programme of the youth authority has resulted in broader public understanding of the modern concept of rehabilitation of maladjusted youth. It has encouraged coordination of correctional facilities in the communities, the counties, and the state, and a working relationship between the youth authority, and judicial, civic, and social institutions.

## **7.7. ADULT OFFENDERS:**

As in the case of social workers, serve adult offenders through probation and parole; the philosophy and practice behind these two types of treatment are essentially the same for adults as for juveniles.

There are a number of services which the social worker can render the adult offender in penal institutions, though at present such services are extremely limited. In many instances the

rehabilitative process within penal institutions does not include a place for a trained social worker. Much of the work done toward rehabilitation is performed by clergymen, wardens and other prison officials, special officers, physicians, psychiatrists, and others-who have social contributions to make .It is clear that prisons need the services of social workers as well.

### 7.8. SUMMARY:

Four different policies guide corrections. These correspond to the different purposes that correctional institutions can serve: rehabilitation, deterrence, retribution, and incapacitation. Each of these policies has different consequences. Rehabilitation requires indeterminate sentencing and a host of professional workers. Retribution requires fixed sentencing, with the sentence fitting the crime. Deterrence requires a long enough sentence to frighten or convince others that crime does not pay.

And incapacitation requires lengthy sentences for those who are deemed dangerous and likely to commit a crime again if released.

### 7.9. Key Words:

- (a) Deterrence
- (b) Probation
- (c) Vagrancy

### 7.10 MODEL QUESTIONS:

1. Discuss the importance of correctional institutions?
2. Discuss the importance of history of corrections?

### 7.11. REFERENCE BOOKS:

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## **Lesson 8**

# **CENTRAL PRISON**

### **8.0 Objective:**

The objective of this lesson are to explain the concept of “Central Prison and other Prison Institutions”, their role in the treatment of adult criminals, and various aspects of Prison Administration in Andhra Pradesh.

### **Structure:**

- 8.1 Introduction**
- 8.2 Objectives of Imprisonment**
- 8.3 Definitions**
- 8.4 Institutional Frame Work**
- 8.5 Staffing Pattern**
- 8.6 Custodial Management**
- 8.7 Maintenance of Prisoners**
- 8.8 Andhra Pradesh Prisons Department**
- 8.9 Central Prisons**
- 8.10 District Prisons**
- 8.11 Sub Jails**
- 8.12 Open Prisons**
- 8.13 Women Prisons**
- 8.14 Special Prisons**
- 8.15 Prison Labour**
- 8.16 Welfare Activities**
- 8.17 Best practices in A.P. Prisons**
- 8.18 Summary**
- 8.19 Key Words**
- 8.20 Self-Assessment Questions**
- 8.21 Reference Books**

### **8.1 Introduction:**

Prison Institutions and Correctional Administration is one of the three important constituents of Criminal Justice system. Imprisonment of offenders has been in vogue since time immemorial. It is being considered by the contemporary society as a means to achieve the goal of crime control. Though the foundations of the contemporary prison administration in India were laid during the British period, the system has drastically changed over the years, especially since the dawn of independence. With the changing perceptions towards prisoners, prisons are no longer considered only as place for punishment. Instead, they are now being considered as reformatories and greater attention is being given to ameliorate the conditions in jails so that it has a healthy

impact on prisoners in developing a positive attitude towards life and society.

## 8.2 Objectives of Imprisonment:

Contemporary society considers imprisonment as one of the means of crime control. Of late the objectives of the imprisonment changed considerably. The recent emphasis is on reformation, rehabilitation and treatment of criminals, as the society wants the criminals to be changed as they will not commit any more crimes. The prison is expected to “reform” or rehabilitate criminals. The second objective of imprisonment is isolation of criminals from general society so that they cannot commit crimes during certain periods. Society also wants retribution. That is why prison is expected to make the life of criminal unpleasant, since they made the lives of other people unpleasant. Society also wants to reduce the crime rate. The prison is expected to reduce the crime rate not only by reforming the criminals, but also by deterring the general public from behaviour which is punishable by imprisonment. Therefore, within the prison the staff perform the duties necessary for the accomplishment of conflicting tasks like reformation, incapacitation, retribution and deterrence.

**8.3 Definitions:** The following are the important definitions of various concepts in Prison Administration.

1. **Act :** Act means “The Prisons Act of 1984” or any other law governing the Prisons.
2. **Adolescent Prisoner:** Adolescent Prisoner means by person (a) who have been convicted of any offence punishable with imprisonment, or who having been ordered to give security u/s. 117 Code of Criminal Procedure, 1973 (Central Act 2 of 1974) has failed to do so and who at the time of such conviction or failure to give security, is not less than 18 years, but not more than 21 years of age, and (b) who has been committed to prison custody during the pendency of his trial and who at the time of commitment is not less than 18 years, but not more than 21 years of age.
3. **Adult Prisoner:** Adult Prisoner means any prisoner who is more than 21 years of age.
4. **Casual Prisoner:** Casual Prisoner means a convicted criminal prisoner other than a habitual offender.
5. **Civil Prisoner :** Civil Prisoner means any prisoner who is not committed to custody under a writ, warrant or order of any court or authority exercising criminal jurisdiction, or by order of a court martial and who is not a detainee.
6. **Convict:** Convict means any prisoner under sentence of a court exercising criminal jurisdiction or court martial and includes a person detained in prison under the provisions of chapter VIII of the Code of Criminal Procedure of 1973 and the Prisoners Act of 1900.
7. **Correctional Administration:** Correctional Administration means the administration of services aimed at the reformation and rehabilitation of the offender.
8. **Detenue :** Detenue means any person detained in prison at the order of the competent authority under relevant preventive laws.

9. **Habitual Offender** : Habitual Offender means a prisoner classified as such in accordance with the provisions of the law or rules.
10. **Inmate** : Inmate means any person kept in a prison institution.
11. **Institution** : Institution means a place where prisoners are kept.
12. **Military Prisoner** : Military Prisoner means a Prisoner convicted by Court Martial.
13. **Offence** : Offence means any act or omission made punishable by any law for the time being in force.
14. **Prison** : Prison means any goal or place used permanently or temporarily under the general or special orders of a State Government for the detention of prisoners, under section 417 of Cr.P.C., 1973 and includes all land and building 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 (10 of 1882).
15. **Prisoner** : Prisoner means any person confined in prison under the order of a competent authority.
16. **Remand Prisoner** : Remand Prisoner means a person who has been remanded by court to prison custody, pending investigation by the Police.
17. **Under Trial Prisoner** : Under Trial Prisoner means a person who has been committed to prison custody with pending investigation or trial by a competent authority.
18. **Young Offender** : Young Offender means a person who has attained the age of 18 years and has not attained the age of 21 years.

#### 8.4 Institutional Frame Work:

In order to meet the custodial and correctional needs of above mentioned various categories of prisoners, a diversified prison system needs to be established. Each prison should be constructed and maintained on the basis of certain well defined norms. The prison structure should be designed in such a way that all the facilities required for treating the prisoners as human beings be provided. Whenever, the prisons are established by the State Government or Union Territory all possible care should be taken to ensure that prisoners retain all their rights as human beings within the limitations of imprisonment. The various categories of prisoners like, (a) Woman, (b) Young Offenders (c) Under Trials, (d) Convicts (e) Civil Prisoners (f) Detenues and (g) High Security Prisoners should be separated in the prison. The prison should prepare the prisoners to lead a law abiding, self-supporting, reformed and socially rehabilitated life after imprisonment. The prisoners should be classified depending upon their age, sex, legal status, nature of crime, length of sentence, security requirement, status of health and correctional needs. After classification of prisoners, they should be housed in various types of institutions like (i) Prisons/annexes/yards for under trial prisoners, (ii) Maximum security prisons/annexes/yards for security risk prisoners and

habitual and hardened offenders, (iii) Open prisons, semi-open prisons and open colonies/camps, (iv) Prisons/annexes/enclosures for women prisoners, (v) Prisons/annexes/yards for young offenders, (vi) Prisons/annexes/yards for those suffering from infectious diseases, (vii) Prisons/annexes/yards for drug addicts, (viii) Prisons for those arrested during non-violent socio-political and economic agitation for declared public cause. They should be provided with facilities for education, vocational training, work programmes, cultural activities, Library and recreation both indoor and outdoor.

The prison Architecture should be based on the following : (1) Its location should be decided on the basis of functions to be performed, training and treatment programmes, (2) New institution should not be constructed near easily flooded and inundated areas, frontiers and international borders, sub-marginal land areas, sea-faces, air ports and congested urban localities, (3) While constructing the new institution factors, like transport facilities, water supply, electric lighting, connection with high power electric transmission lines, drainage and sewage, communication facilities, climatic conditions etc, should be taken into consideration. Similarly, in institutions like courts, civil hospitals, mental health centres, educational facilities for the children of prison staff should also be within the reach of the prison. All the constructions in prison should adhere to ISI standards.

The prison building should be constructed with the following norms. (1) It should have a main gate and a second gate with sufficient space, (2) Entry to the prison should be through a single point, (3) There should be an administrative block near the main gate, (4) A court hall for disposal of under trials involved in petty offences should also be there, (5) A reception unit with facilities for admission, quarantine, orientation, classification, should also be provided.

Housing is an important aspect of Central Prison. All accommodation provided for use of prisoners particularly for sleeping should meet the basic requirements of healthy review. There will be three types of living accommodation in Central Prison. (1) Barracks, with accommodation not more than 20 prisoners, (2) Single room accommodation for prisoners needing privacy for pursuing studies etc., and (3) Cell for segregation of prisoners for the purpose of security and contagious diseases. Hygienic sanitary type latrines with arrangements for flushing should be built for the prisoners. Every prison should also provide bathing places for the prisoners with adequate supply of water. A general kitchen located at a central place for distribution of food to the prisoners should also be unit in the prison. Every prison should have a separate hospital with requisite number of beds for treating men and women prisoners. This hospital should be built near the main gate of the prison. Proper recreational facilities like grounds for outdoor games, auditorium for cultural activities, library, indoor games, yoga etc., should also be provided in the Central Prison.

## 8.5 Staffing Pattern:

The Institutional personnel will comprise of

### (1) Executive:

(a) Superintendents (b) Addl. Superintendents (c) Deputy Superintendents (d) Asst.

Superintendents (e) Guarding Staff - Chief Head Warders, Head Warders and Warders.

**(2) Medical Personnel:**

(a) Medical Officers (b) Psychiatrist (c) Nursing Staff and (d) Pharmacist.

**(3) Welfare Units:**

(a) Asst. Director Correctional Services (b) Welfare Officer (c) Law Officer (d) Counsellor  
(e) Probation Officer (f) Psychologist

**(4) Educational Personnel:**

(a) Teachers (b) Physical Training Instructor

**(5) Technical Personnel:**

(a) Instructors (b) Foremen (c) Electricians (d) Plumbers (e) Mason (f) Drivers (g) Motor  
Mechanic.

**(6) Agricultural Personnel:**

(a) Supervisors (b) Agricultural Assistants

**(7) Ministerial Staff:**

(a) Administrative Officer (b) Office Superintendent (c) Accountant (d) Store  
Keepers (e) Cashier (f) Office Assistants (g) Stenographers (h) Typists/Computer  
Operators (i) Miscellaneous Staff.

## **8.6 Custodial Management:**

Securing safety custody of inmates is the primacy responsibility of the prison. The overall objective of reform and rehabilitation has to be pursued within the frame work of custody. Security measures to prevent escapes from prisons like construction of secure walls, building gates, barracks should be undertaken. A good lighting facility inside and around the prison, a thorough search procedure of all incoming and outgoing prisoners and a central point monitoring for the control of the movement of prisoners should be there in every prison. The prison should be guarded properly with armed sentries. The warders should undertake the general guarding of the prison. The weapons of prison's staff should be under the custody of an Asst. Superintendent of the Prison and never be left within the reach of prisoners. The Dy. Superintendent, Asst. Superintendents and Guards should take all care that ladders, planks, bamboos and ropes which are likely to facilitate escape are not left lying in and around the prison. Dynamic security system should be adopted to prevent escapes. Proper checking of prisoners at the time of admission and removal of articles from them should be undertaken. All the prisoners should be properly educated and oriented about the rules and regulations of the prison during their stay in the prison.

## **8.7 Maintenance of Prisoners:**

The scale of diet required for the prisoners will be prescribed by the State Government. As

per the rules, the diet will be served to the prisoners. Hospital diet for the diseased prisoners will be given. Appropriate care will be taken for cleaning the grains before grinding in a flour mill. Rice, dal, vegetables, milk etc, will be cooked in clean vessels. The cooked food should be kept covered until it is distributed. The Superintendents and Medical Officer will exercise at most vigilance in the supervision of food supplies, and when the food is cooked and distributed. They make surprise inspections and taste the food distributed to the prisoners. Every prisoner shall be provided with a set of eating and drinking vessel. Any complaint with regard to food shall be enquired into on the spot by the supervising officer. Every convict under sentence of rigorous imprisonment or of imprisonment for life shall be required to wear prison clothing as per prescribed rules. The State Govt. will fix the scale of clothing and bedding according to climatic conditions. Sandals will be issued to the prisoners. The prisoners shall be required to wash their clothing at least once in a week. A prison laundry will be there to wash the items of clothing and bedding. Appropriate accommodation with ventilation should be provided to the prisoners. All the prison walls will be white washed once in a year. The prisons will be kept clean with appropriate drainages. Latrines, Kitchen, stores, bath rooms, supply of filtered water etc., will be taken care by the administrators.

### 8.8 Andhra Pradesh Prisons Department:

Andhra Pradesh Prisons Department is more than 100 years old and functions under the Home Department headed by Director General and Inspector of Prisons and Correctional Services. He is assisted by one Addl. Inspector General of Prisons, and three Dy. Inspector General of Prisons. Prison and its administration is a state subject in India as covered by item 4 under List - II, Schedule - VII in the Constitution of India. Prison establishments in different State / Union Territory comprise of several types of prisons. The most common and standard prison institutions in the States/Union Territories are better known "Central Prisons, District Prisons, Open Air Prisons, Women Prisons, Special Prisons, Borstal School and Sub-Jails".

### 8.9 Central Prisons:

The criteria for a prison to be considered as a Central Prison differs from state to state. However, the common features observed in all the States and Union Territories are that the prisoners sentenced for a longer period will be confined in Central Prison which have a larger capacity of accommodation when compared to other prisons. Tamil Nadu State has got highest number i.e., 9 Central Prisons in their state followed by Madhya Pradesh and Maharashtra (8 each). In the Andhra Pradesh State we have 7 seven Central Prisons. The following are the 7 Central Prisons in A.P. with their accommodation capacity.

Sl.No.	Name of the Prison	Place	Capacity
1.	Chenchalguda	Hyderabad	1876
2.	Cherlapally	R.R. District	2000
3.	Warangal	Warangal	1886
4.	Rajahmundry	Rajahmundry	1847
5.	Adivivaram	Visakhapatnam	2000

6.	Kadapa	Kadapa	1977
7.	Nellore	Nellore	1830

### 8.10 District Prisons:

As the very name itself indicates District Prisons are located in the Districts and they are smaller than the Central Prisons. Each District Prison caters to the needs of that particular district. Prisoners sentenced to terms upto 2 years and remand prisoners of that district will be confined in District Prisons. The following are the 9 District Prisons in A.P. State with their respective capacities of accommodation:

Sl.No.	Name of the Prison	Place	Capacity
1.	Nizamabad	Nizamabad	1862
2.	Nalgonda	Nalgonda	1916
3.	Karimnagar	Karimnagar	1897
4.	Mahaboobnagar	Mahaboobnagar	1880
5.	Sangareddy	Medak	1796

6.	Asifabad	Adilabad	1916
7.	Vijayawada	Krishna Dist.	1915
8.	Guntur	Guntur Dist.	1920
9.	Ananthapur	Ananthapur	1920

### 8.11 Sub-Jails:

These are smaller in size and located in important towns. They are meant for confining convict prisoners sentenced upto one month and the remand prisoners of that local area. Andhra Pradesh has got highest number of Sub-Jails i.e., 118 followed by Tamil Nadu (113), Karnataka & Madhya Pradesh (79 each), Rajasthan (58), Orissa (51), West Bengal (30), Kerala (26) and Bihar (24). Madhya Pradesh State with 5510 inmates has got the highest capacity of inmates in Sub-Jails in the entire country.

### 8.12 Open Prisons:

Prisoners with good behaviour satisfying certain norms prescribed in the prison rules will be admitted in open prisons. As the name itself denotes they are open. These can be called as "Wall less" prisons. There is no direct committal of prisoners to open prisons. Selected and well behaved prisoners will be sent to open prisons to work under minimum security conditions. The prisoners will be trained in agriculture and allied fields as a process of treatment. In India only 14 States have got such open prisons. In Andhra Pradesh there are 3 Open Prisons and one camp jail

with the following extent of land.

Sl.No.	Name of the Prison	Place	Extent
1.	Open Prison	Cherlapally, Hyd.	140 Acres
2.	Open Prison	Ananthapur	1400 Acres
3.	Semi-Open Prison	Rajahmundry	80 Acres

Sl.No.	Name of the Prison	Place	Extent
4.	Camp Jail	Gachibowli, Hyd.	

These prisoners in the above prisons are left open and asked to attend their work under little or no security. They will be taught modern methods of agriculture, dairy and poultry. Prisoners confined in camp jail at Gachibowli, Hyderabad will take care of cows of National Dairy Development Board which manufactures vaccines for food and mouth diseases of animals. The prisoners in the semi-open prison at Rajahmundry will attend to Horticultural operations.

### 8.13 Women Prisons:

The women prisoners will function exclusively for women prisoners. The highest number of women prisons are located in Andhra Pradesh. There are 1 women prison at Hyderabad and another at Rajahmundry, exclusively staffed by women officers and guards. The prisoners confined in these prisons will be provided with all the required facilities and amenities as per the prescribed rules of the government.

### 8.14 Special Prisons:

Special Prisons cater to the needs of prisoners of a particular category such as (1) Prisoners who have committed serious violations of prison discipline, (2) Prisoners showing tendencies towards violence and aggression, (3) Difficulty discipline cases of habitual offenders, and (4) Difficulty disciplined cases from a group of professional organized criminals. Tamil Nadu state has got highest number (7) of such Special Prisons followed by Kerala (5), West Bengal (3), Gujarat and karnataka, Orissa and U.P. (2 each), Assam and Maharashtra (1 each). The highest number of prisoners located in such prisons in there is West Bengal (942) followed by Tamil Nadu (847) and Uttar Pradesh (614).

### 8.15 Prison Labour:

Labour is being considered as a means of punishment in prisons. It should be both punitive and rehabilitative. The prison labour is also expected to be profitable to the state. The following is the production and sale of prison products in A.P.





### 8.17 Best Practices in A.P. Prisons:

The following are the best practices that are being adopted in Andhra Pradesh Prisons.

1. Constitution of Prison Development Board
2. Establishment of Video Linkage for production of prisoners before the courts.
3. Sending of children to outside schools.
4. Prisoners Panchayat System.

### 8.18 Summary:

The prison administration in general and the administration of Central Prison in particular has changed considerably. The prison administration basing on the human right issues has restructured the prison system and the prisons' conditions with proper reorientation of prison staff. The various rights of prisoners like right to human dignity, right to basic minimum needs, right to communication, right to access to law, right against arbitrary prison punishment, right to meaning and gainful employment, and right to be released on the due date are now being respected by the Prison Administration. Similarly, the prisoners are being asked to perform the duties like obeying all orders and instructions of the prison authority, abiding by all prison rules and regulations, maintaining prescribed standards of cleanliness and hygiene, respecting the dignity and right to live of every inmate, prison staff and functionary, to preserve and promote congenial correctional environment in the prison.

### 8.19 Key Words:

1. Correctional Administration
2. Adolescent Prisoner
3. Adult Prisoner
4. Convict
5. Court
6. Detenue
7. Habitual Offender
8. Prison
9. Prisoner
10. Remand Prisoner
11. Superintendent
12. Under Trial Prisoner
13. Reformation
14. Retribution
15. Prison Labour
16. Welfare

### **8.20 Self-Assessment Questions:**

1. Write about the institutional frame work of Central Prison and the role played by Central Prison in reformation of offenders.
2. What is meant by custodial management and write about the various steps to be taken by the prison authorities for the safety and security of prisoners.
3. What are the various types of prisons in India and discuss briefly about (1) Central Prisons (2) District Prisons, (3) Open Prisons, (4) Women Prisons, (5) Special Prisons, (6) Sub-Jails.
4. What is meant by Prisional Labour and write about the various production units in Central Prisons with their value of production and sale.
5. Write short notes on (1) Best practices in A.P. Prisons, (2) Types of Prisoners.

### **8.21 Reference Books:**

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## Lesson - 9

# OBSERVATION HOMES, SPECIAL HOMES, CHILDREN'S HOMES

### 9.0 Objective:

The objective of this lesson are to explain the institutions like Observation Homes, Special Homes for children in conflict with law, Children's Homes, Reception Centres and Shelter Homes for the children in need of care and protection and their role in Correctional Services. The concept of Remand Homes has been changed now. They are being called as Observation Homes.

### Structure:

- 9.1 Introduction
- 9.2 Causes of Delinquency
- 9.3 Juvenile in conflict with law
- 9.4 Observation Homes
- 9.5 Special Homes
- 9.6 Juvenile Justice Board
- 9.7 Child in need of care and Protection
- 9.8 Child Welfare Committee
- 9.9 Children Homes
- 9.10 Reception Centres
- 9.11 Shelter Homes
- 9.12 Treatment Flow Chart of J.J. Act, 2000
- 9.13 Rehabilitation and Social Integration
- 9.14 Special Juvenile Police Unit
- 9.15 Summary
- 9.16 Key Words
- 9.17 Self-Assessment Questions
- 9.18 Reference Books

### 9.1 Introduction:

The violation of law by an young offender or juvenile is known as "Juvenile Delinquency". The legal age at which a person is considered to be a Juvenile varies from country to country. A child till he completes full 18 years of age will be treated as "**Juvenile**" in our country. The Juvenile Delinquency is being regarded as a serious social problem in many countries. In the olden days the

young girls and boys who commit offences like car thefts, burglaries, sex offences and other illegal acts used to be tried on par with adult criminals in the courts. The Correctional Institutions also used to treat these young offenders like those of adult offenders. Subsequently, the attitude of Correctional Administration changed a lot and it was felt that these young offenders should not be punished brutally with harsh treatment. The juveniles after this attitudinal change of Correctional Administration and Judiciary are now being helped rather than punished severely. The trained social workers will inquire into the background of the child with conflict of law and place the information before the judge. The judge basing on the information furnished by the trained social worker will discuss the problem with the juvenile offender in a private hearing and take a decision basing on the interest of the child to let off him with a warning, impose fine or probation or refer to a learning centre or training school or institution to reform him in a suitable way.

## 9.2 Causes of Delinquency:

Criminologists and social scientists made several studies to find out the causes of delinquency. The studies revealed that there are several contributing factors for delinquency. The following are some of them:

- (i) **Broken Homes:** Every child has a right to a family. Healthy family atmosphere will provide required atmosphere for the healthy development of the child. In case of broken homes, the child will be deprived of healthy family atmosphere. The children who live in such broken homes are prone to delinquent behaviour.
- (ii) **Unhappy Family Relations:** The unhappy relations between the family members also make the children insecure and deprive them of care and protection needed for their development. The family relations should be well nit and strong enough to provide conducive atmosphere for the growth and development of children in a positive way.
- (iii) **Lack of Love from Parents:** Wherever the children are deprived of love and care of parents, they tend to become insecure and the development of their physical and cognitive capacities will be hampered.
- (iv) **Excessive Punishments:** The children who receive excessive punishment either from their parents or guardians or care takers will become totally insecure and their physical and psychological development will be disturbed and they come out of such families in search of love and affection. The vulnerability of such children will be exploited by un-social elements and leads to child abuse.
- (v) **Addition to Drugs and Alcohol:** The children who come out of their families will be some times habituated to alcohol, drugs and smoking and they finally become addicts. Such children may indulge in delinquent acts.
- (vi) **Modern Permissive Atmosphere:** The children of middle class and upper middle class families who have an exposure to modern permissive atmosphere in the society may also tend to commit offenses in the society.
- (vii) **Unemployment & Poverty:** Absolute poverty and unemployment of the elders in the family will also lead to insecure conditions for the positive development of the child. Such children will also be exploited and abused.

- (viii) **Lack of Proper Moral Education:** In the olden days, families used to provide required moral education for the children. The present day nuclear families and busy parents are unable to provide the necessary moral education to the children. As a result of which the children are becoming deviants and committing criminal acts.
- (ix) **Neighbourhood Conditions:** Unhealthy neighbourhood environment, friends, and other associations are also making the child a deviant. Such children will be exploited by unsocial elements and traffickers for child abuse.
- (x) **Un-education:** Every child should have compulsory education. A child out of school is always prone for exploitation. The state and community should take the responsibility of providing basic and elementary education to every child.

### 9.3 Juvenile in Conflict with Law:

Since the criminal justice system as available for adults was not considered suitable for being applied to a juvenile or a child by police, social workers and voluntary organisations; a review of the working of Juvenile Justice Act enacted in 1986 was made and it was felt that there is an urgent need to handle the juvenile or child in conflict with law and the child in need of care and protection separately. In order to achieve this objective the Juvenile Justice (Care & Protection of Children) Act, 2000 was enacted by Government of India, Government also felt that there is an urgent need to create adequate infrastructure for the implementation of the Act with larger involvement of social workers, families, community and voluntary organisations.

As per the provisions of the above Act, the children who commit criminal acts like an adult criminal can be called 'Juveniles in Conflict with Law'. For example in a crime like murder, dacoity or gang rape if the child participates along with adult criminals, the child if he doesn't attain the age of 18 years, he will be separated and produced before a Juvenile Justice Board. The Board which will be constituted by the State Government shall consist of a Metropolitan Magistrate or a Judicial First Class Magistrate and two social workers of whom one shall be a woman is alone competent to enquire into the alleged criminal acts of the child. A child in conflict with law will be produced before the Board for inquiry which after adopting necessary procedure refer the child to an Observation Home or Special Home for treatment. The concept of Remand Homes has changed and in its place, Observation Homes and Special Homes came into existence for treating the child in conflict with law.

### 9.4 Observation Homes:

The child in conflict with law whenever taken charge by a police or social worker or NGO, he will be produced before the Juvenile Justice Board. The Juvenile Justice Board will refer such children to Observation Homes for their temporary reception pending inquiry under the Act.

The State Government as per the provisions of law maintains these Observation Homes with prescribed standard of services for their rehabilitation and social integration. The intake Probation Officer will ensure necessary classification of the children as per their age group, physical and mental status, gravity of the crime committed and takes steps for induction into the Observation Home. The State Government either on its own or through voluntary organisations will run these Observation Homes in every District. 9 Observation Homes at Hyderabad, Warangal, Vijayawada, Rajahmundry, Visakhapatnam, Tirupathi, Kurnool, Anantapur, Nizamabad for Boys and 1 Observation Home for Girls for the entire State at Hyderabad are there.

Sl. No.	Name of the Institution	Area	Purpose
1.	Observation Home for Boys, Hyderabad.	Hyderabad, Ranga Reddy and Mahaboobnagar Districts	For the purpose of Section 8 (1) read with Sec. 10 (2) (ii) of Juvenile Justice Act, 2000.
2.	Observation Home for Boys, Warangal.	Warangal, Karimnagar, Khammam and Nalgonda Districts	- do -
3.	Observation Home for Boys, Vijayawada	Krishna and Guntur Districts	- do -
4.	Observation Home for Boys, Rajahmundry	East Godavari and West Godavari Districts	- do -
5.	Observation Home for Boys, Visakhapatnam	Visakhapatnam, Srikakulam, Vizianagaram Districts	- do -
6.	Observation Home for Boys, Tirupathi	Chittoor, Nellore and Prakasam Districts	- do -
7.	Observation Home for Boys, Kurnool	Kurnool and Kadapa Districts	- do -
8.	Observation Home for Boys, Anantapur	Anantapur District	- do -
9.	Observation Home for Boys, Nizamabad	Nizamabad, Adilabad and Medak Districts	- do -
10.	Observation Home for Girls, Hyderabad	Entire State	- do -

### 9.5 Special Homes:

The Special Homes will be established either by Government itself or by an NGO under agreement with Government. Pending inquiry by the Juvenile Justice Board and the District Probation Officer, the child in conflict with law will be treated and developed at these Special Homes till he attains the age of 18 years. All facilities extended in Juvenile Homes and Observation Homes will be provided in Special Homes also. Primary education on Vocational Training will be imparted to the inmates of these Homes. Deserving children will also be admitted in Government Schools for further studies. NGOs and trained social workers are rendering yeomen service in this field. 1 Special Home for Boys for the entire state and 1 Special Home for Girls for the entire state are located at Hyderabad.

Sl. No.	Name of the Institution	Area	Purpose
1.	Special Home for Boys, Hyderabad.	Entire State	For the purpose of Section 15 (1) Clause (g) of Juvenile Justice Act, 2000.
2.	Special Home for Girls, Hyderabad.	Entire State	- do -

## 9.6 Juvenile Justice Board:

As per the provisions of The Juvenile Justice (Care & Protection of Children) Act, 2000, the State Government will constitute a "Juvenile Justice Board" for conducting inquiries into the alleged criminal acts of child in conflict with law. The Board consists of a Metropolitan Magistrate or a Judicial First Class Magistrate and two social workers of whom one shall be a woman as members. The Members of the Board should have knowledge of social work and child psychology. The members should have experience in health education or in child welfare activities for a period of 7 years. Whenever, the child in conflict with law is taken charge by a police officer or a social worker he will be produced before the Juvenile Justice Board through District Probation Officer. Normally the Juvenile Justice Board will hand over the child in conflict with law to the parents or guardian if he responds in time. In case if the parent or guardian fails to respond or doesn't take charge of the child, the Juvenile Justice Board will send the child in conflict with law to an Observation Home or a Special Home for treatment till he attains the age of 18 years.

## 9.7 Child in need of Care and Protection:

As defined by The Juvenile Justice (Care & Protection of Children) Act, 2000 child in need of care and protection means "any child found without home or settled place or abode, without any ostensible means of subsistence or resides with a person who is likely to kill or abuse the child". The following are the examples of children in need of care and protection.

- \* Mentally or Physically Challenged Children having no one to support.
- \* Children suffering from terminal or incurable diseases having no one to support.
- \* Children abandoned by parents.
- \* Missing Children.
- \* Children run away from homes.
- \* Children found in vulnerable situations.
- \* Children likely to be abused, tortured, exploited for sexual or illegal acts.
- \* Victims of natural calamity, wars and civil commotions.

Such children should be provided with necessary care and protection by the police, social workers and NGOs whenever they take charge of them.



## 9.8 Child Welfare Committee:

The State Government as per the provisions of the Juvenile Justice (Care & Protection of Children) Act, 2000 will constitute in every district or group of districts one or more Child Welfare Committees for exercising the powers and duties in relation to the child in need of care and protection under this Act. The Child Welfare Committee consists of a Chairperson, and 4 other members appointed by the State Government, 1 among them shall be a woman. The Committee shall function like bench of Magistrates and empowered with the powers conferred by Code of Criminal Procedure, 1973. The Child Welfare Committee is the final authority to dispose the cases of children in need of care and protection for treatment, development, rehabilitation etc. It should ensure provision of basic needs and protection of their rights. The social workers and the police officers whenever they come across with children in need of care and protection as mentioned above should produce them before the Child Welfare Committee through District Probation Officer which in turn will send them to Children Homes, Reception Centres, Shelter Homes or Drop in Homes depending upon the convenience.

## 9.9 Children Homes:

The State Government as per the provisions of the Juvenile Justice (Care & Protection of Children) Act, 2000 will establish and maintain Children's Homes on its own or in association with NGOs in every district or in group of districts for reception of children in need of care and protection. In these Homes the children will be kept as per the orders of Child Welfare Committee till the finalization of its inquiry. During their stay the children will be provided with necessary care and protection, various educational, vocational training programmes for their development and rehabilitation. The Government will prescribe the standards of services to be rendered to these children. 4 Children's Homes for boys are located at Hyderabad, Eluru, Visakhapatnam and Kadapa. 1 Special-cum-Children Home for Girls is located for the entire state at Hyderabad itself.

Sl. No.	Name of the Institution	Area	Purpose
1.	Children's Home for Boys, Hyderabad	Hyderabad, Ranga Reddy Medak, Mahaboobnagar, Nalgonda, Warangal, Karimnagar, Khammam, Nizamabad and Adilabad Districts.	For the purpose of Section 32(1), 33(1) and (3) read with Section 34 of Juvenile Justice Act, 2000.
2.	Children's Home for Boys, Eluru, W.G. District	West Godavari, Krishna, Guntur and Prakasam Districts.	- do -
3.	Children's Home for Boys, Visakhapatnam	Visakhapatnam, Srikakulam Vizianagaram and East Godavari Districts	- do -
4.	Children's Home for Boys, Kadapa	Kadapa, Nellore, Chittoor, Kurnool and Anantapur Districts	- do -
5.	Special-cum-Children's Home for Girls, Hyd.	Entire State	- do -

The prime objective of Children’s Home or Shelter Home is to restore the child back to their parents or adopted parents or foster parents to enjoy the family environment for which they were deprived of.

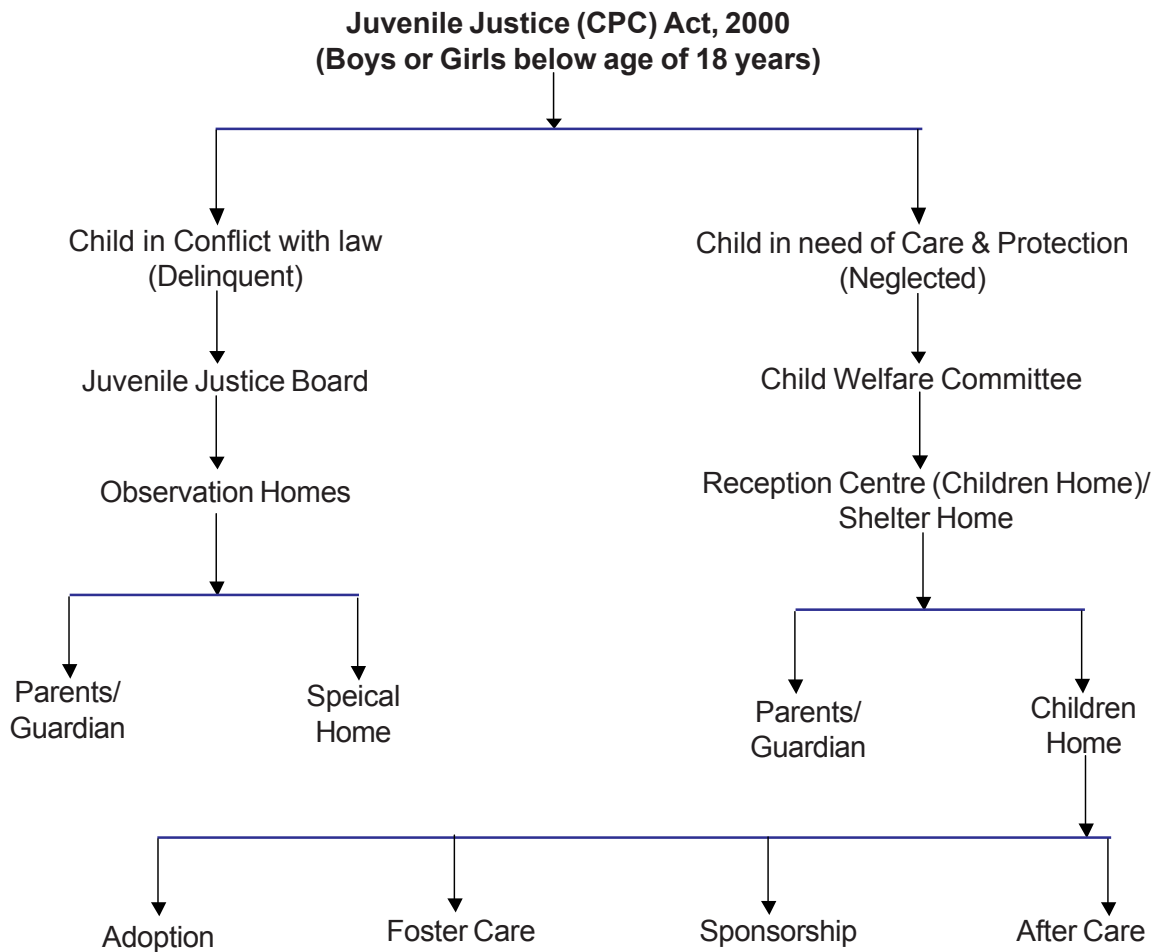
**9.10 Reception Centres:**

Reception Centres at the Children Homes will receive the children in need of care and protection whenever they are produced by social workers or police officers on referral by the Child Welfare Committee. The initial treatment, classification of the children will be attended by these centres. They will be run either by the State Government or by the NGOs.

**9.11 Shelter Homes:**

The Shelter Homes will be established and maintained by NGOs with due authorization by the State Government. The State Government will recognize only reputed and capable NGOs to run Shelter Homes for the children in need of care and protection. The Government will provide necessary financial support and assistance to these Homes. These Shelter Homes will function like Drop-in-Centres for the children who are brought by social workers and police officers for their urgent need of support. These Shelter Homes will cater to all the needs of these children during their stay.

**9.12 Treatment Flow Chart of J.J. Act, 2000:**



### 9.13 Rehabilitation and Social Integration:

The Rehabilitation and Social Integration of the Child will begin right from their stay in the Children's Homes or Special Homes. The services are: a) Adoption, b) Foster Care, c) Sponsorship and d) Referring the Child to an After Care Institution. The State Government will make necessary rules and regulations from time to time for effective organization of these Rehabilitation and Re-Integration of the child in need of care and protection.

**a) Adoption:** The orphaned, abandoned, neglected and abused children should be rehabilitated through a process called '**adoption**' as per the provisions of various guidelines for adoption issued by State Government.

**b) Foster Care:** Foster Care is a process of keeping the child in another family for a short period before giving finally for adoption. This also will be implemented as per the rules of State Government.

**c) Sponsorship:** To meet the medical, nutritional, educational, needs of the children, sponsorship programmes will be provided as supplementary support to families, Children's Homes and Special Homes etc.

**d) After Care:** The State Government permits NGOs to establish After Care Organisations to take care of juveniles or children who leave the Children's Homes or Special Homes and to enable them to leave honest, industries and useful life.

### 9.14 Special Juvenile Police Unit:

The Juvenile Justice (Care & Protection of Children) Act, 2000 provides for the constitution of Special Juvenile Police Units in each District with specially trained Police Officers having appropriate social work background to function as Special Juvenile Police Units (SJPU). In these Units, a Child Welfare Officer will be identified to exclusively deal with juvenile or the child in coordination with Police. This radical reform of treating juveniles and the children has taken place after the enactment of J.J. Act, 2000.

### 9.15 Summary:

After the introduction of The Juvenile Justice (Care & Protection of Children) Act, 2000, the treatment of juvenile offender has been changed drastically. The juvenile offenders are now being called as '**child in conflict with law**' and '**child in need of care and protection**'. The handling of the children and the applicability of laws and trial of these children who are alleged to have committed criminal acts also changed considerably. The child in conflict with law till he attains the age of 18 years will be referred to Juvenile Justice Board through District Probation Officer by the social workers and police officers. Generally, the children will be subjected to an inquiry about their background, family and other circumstances by the Board. If the Board satisfies with the inquiry caused by it, the children will be handed over to their parents or guardians by releasing them on probation of good conduct or the children will be sent to Special Homes for their treatment and development till they attain the age of 18 years. The other category of Children who are found in vulnerable conditions are called children in need of care and protection. Such children will be referred to Child Welfare Committee by the social workers and police officers through District

Probation Officer. The Child Welfare Committee after due inquiry either hand over the custody of these children to the parents or to Children Homes or Reception Centres or Shelter Homes/Drop-in-Centres for their treatment. The entire approach of the social worker and the police officer should be sympathetic, helpful but not harsh. Subsequently, these children will be Rehabilitated and Re-integrated through services like: 1) Adoption, 2) Foster Care, 3) Sponsorship and 4) After Care.

### 9.16 Key Words:

- 1) Juvenile Justice Board
- 2) Child
- 3) Observation Homes
- 4) Special Homes
- 5) Children's Homes
- 6) Shelter Homes
- 7) Child Welfare Committee
- 8) Probation Officer
- 9) Adoption
- 10) Foster Care
- 11) Sponsorship
- 12) After Care
- 13) Special Juvenile Police Unit (SPJU)
- 14) Child Welfare Officer

### 9.17 Self-Assessment Questions:

1. What is meant by Delinquency and explain the causes of delinquency?
2. Distinguish between the 'child in conflict with law' and the 'child in need of care and protection' .?
3. Distinguish between the "Juvenile Justice Board" and "Child Welfare Committee".
4. What are the Homes meant for 'child in conflict with law' and what are the Homes meant for 'child in need of care and protection'.

### 9.18 Reference Books:

1. "*Juvenile Delinquency in India - An Etiological Analysis*" by Chandana Sarkar.
2. *Principles of Criminology* by Sutherland, Cressy (The Times of India Press).
3. *Juvenile Delinquency* by Lewis Yablonsky and Martin R. Haskell.

## **Lesson - 10**

# **BORSTAL SCHOOL**

### **10.0 Objective:**

The objective of this lesson are to explain the concept of “Borstal Schools”, and their role in treating the young offenders. Young persons are impressionable. A young offender of today can be a hardened recidivist of tomorrow. Such offenders can be reformed and brought to the mainstream as useful citizens of the society. A scientific and progressive approach needs to be adopted, if these offenders are to be saved from the damaging and traumatic experiences of incarceration. This lesson aims at explaining the functioning of a Borstal School in the reformation of a young offender.

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- 10.2 Young Offender**
- 10.3 Historical background of Borstal Schools**
- 10.4 Guiding principles**
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- 10.7 Non-Committal of Inmates**
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- 10.11 House System**
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- 10.18 After Care and Rehabilitation**
- 10.19 Summary**
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### **10.1 Introduction:**

There was an institution for young offenders known as “Borstal Institution”. Since it is located in Borstal town of England, the institution is being called “Borstal Institution”. In British India

the same name was adopted and such institutions were designated as “Borstal Schools”. It is neither a prison nor a children institution meant for juveniles. It solely caters to the needs of adolescent offenders. The youthful offenders acquire a differential treatment when compared to adult prisoners. Adolescent age is difficult period for the purpose of advice, guidance and treatment. According to Juvenile Justice (Care & Protection of Children) Act, 2000, a boy or girl below the age of 18 years will be treated as “Juveniles”. If such persons come into “conflict with law”, they will be tried under the provisions of Juvenile Justice (Care & Protection of Children) Act, 2000. If they commit offences, they will be sent to “Observation Homes” or “Children Homes”. They will not be sent to a prison.

### **10.2 Young Offender:**

Adolescent offenders or youthful offenders are defined as young offenders who are between the ages of 18 and 21 years. Those in the age group of 18-21 years, if they commit offences, they will be tried under the normal circumstances as per the provisions of Borstal Schools Act and sent to Borstal School instead of a prison. Adult prisoners who are of 21 years and above, will be confined in prisons for the purpose of implementing the sentences awarded by a court.

### **10.3 Historical Background of Borstal Schools:**

Before independence, the “Indian Borstal Schools Act” was passed and implemented in British India. On the basis of the recommendations of Indian Jail Committee (1919 - 1920) the various states in India passed Special Laws for detention and training of adolescent offenders. These places of detention of adolescent offenders are known as “Borstal Schools”. The following are the Acts passed by the States in India:

- 1) The Madras Borstal Schools Act, 1926.
- 2) The Punjab Borstal Schools Act, 1926.
- 3) The Bengal Borstal Schools Act, 1928 (Repealed by the West Bengal Children Act, 1959)
- 4) The Central Provinces Borstal Schools Act, 1928.
- 5) The Bombay Borstal Schools Act, 1929.
- 6) The United Provinces Borstal Schools Act, 1938.
- 7) The Mysore Borstal Schools Act, 1943.
- 8) The Travancore Borstal Schools Act, 1945.
- 9) The Kerala Borstal Schools Act, 1961

After independence the Madras Province adopted the same Borstal Schools Act, with little modifications and implemented in Madras Province as Madras Borstal Schools Act. After formation of Andhra Pradesh our State also adopted the same madras Borstal Schools Act as A.P. Borstal Schools Act. But, no government had ever tried to enact fresh legislation to suit the needs of young offenders.

Thus, the primary objective of Borstal School is to ensure care, welfare and rehabilitation of Young Offenders and to keep them away from contaminating atmosphere of the prison. Borstal Schools can not be treated as either a miniature jail or substitute of it. Inmates are only kept and they are never imprisoned. The offenders who are detained in Borstal Schools are subjected to various vocational training. They are also given education with the help of trained teachers.

Twelve States namely; Andhra Pradesh, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Punjab, Rajasthan and Tamil Nadu have one Borstal School each in their respective jurisdiction. The highest capacity of such schools was reported from Madhya Pradesh with the provision for keeping 408 inmates followed by Tamil Nadu (405), Haryana (335) and Punjab (300). Existence of Borstal Schools were not reported from any of the Union Territories.

In Andhra Pradesh there were originally two Borstal Schools, one at Nizamabad for Telangana area and another at Visakhapatnam for Andhra area. The third Borstal School was started in Ananthapur for Rayalaseema area in early 1990. But slowly, the strength of these institutions dwindled subsequently; two institutions at Visakhapatnam and Ananthapur were closed and the remaining inmates were shifted to Borstal School at Nizamabad. Thus, presently the Borstal School Nizamabad is only the institution for adolescent offenders in entire State of Andhra Pradesh. The strength of this institution is reported to be in single digit number. Courts rarely commit young offenders to these institutions. In normal course only short term prisoners will be sent to this institute.

#### **10.4 Guiding Principles:**

The guiding principles for the Borstal Schools are that as far as possible young offenders should not be kept in institution meant for adult and habitual offenders. Secondly, the institutions for young offenders should be so classified that diverse training programmes, designed to suit each homogenous group.

#### **10.5 Training and Treatment:**

In every Borstal School individual offender's personality, and careful planning of training and treatment programmes to suit the needs of each inmates should be given utmost importance. Training and treatment shall include education, work and vocational training, recreational and cultural activities, discipline, case work approach, group work activities, group guidance, individual guidance, counseling, character building, periodical review, release planning, pre-release preparation, aftercare on a comprehensive basis and follow up study. The personal influence of the member of the Borstal School will have considerable bearing on the young offenders.

#### **10.6 Non-Institutionalized Treatment:**

The young offenders should be saved from the evils of incarceration. Non-custodial treatment for these young offenders should always be preferred to imprisonment. The following process should be followed for treating the young offenders.

- (a) When any young offender is found guilty, and is likely to be punished with imprisonment not exceeding one year, the court should take recourse to any of the following non-custodial methods.
- (i) Release on admission.
  - (ii) Release on taking on bond of good conduct, with or without conditions from the young offenders and from parents/guardians/approved voluntary agencies.
  - (iii) The young offenders can be released on probation under the Probation of Offenders Act on any of these following conditions:
    - (a) continuation of education/ vocational training/employment.
    - (b) obtaining guidance from probation officer/teacher/counselor.
    - (c) getting work experience in work camps during week ends and on holidays.
    - (d) doing useful work in work centres (Agricultural farms, Forestry, Housing Projects, Road Projects and Apprenticeship in workshops etc.)
    - (e) Constant supervision of young offenders released on probation.

Young offenders likely to be sentenced to periods above one year of imprisonment should also, as far as possible, be processed through the above mentioned non-institutional approach. Young offenders should be sent to prison only as a last resort.

- (b). (i) The Courts dealing with young offenders will be known "Courts for young offenders". They will exercise powers and discharge the duties conferred on them in relation to the trial, and commitment of young offenders between 18 - 21 years of age, should be set up for specified areas according to requirement in each state of union territory. Before making any order, the court should take into account the pre-sentence investigation report of the probation officer. This report should be a statutory requirement for deciding the cases of young offenders.
- (ii) Pre-sentence investigation report should include, information about the social, economic, and psychological background of the offender so as to identify the sequence of his criminal behaviour. It should also seek to determine the degree of young offenders involvement in crime. This report should attempt a prognosis in regard to the young offender's involvement in a socially useful way of life.
- (iii) Young offenders involved in minor violations should not be kept in Police custody, instead they should be kept with their families/guardians/approved voluntary agencies on the undertaking that they will be produced before the police, as and when required, for investigation.



- (iv) Young offenders involved in serious offences while in Police custody, should be kept separately from adult criminals and the Police custody should be only for the minimum period required for investigation.
- (v) The investigation of cases of young offenders must be expeditiously completed.
- (vi) Bail should be liberally granted in case of young offenders.
- (vii) When it is not possible to release a young offender on bail, he should be kept in a Reception Centre/Kishore Sadan/Yuva Sadan during the pendency of his trial.

### **10.7 Non-Committal of Inmates:**

The period of stay in Borstal School is a minimum of two years and a maximum of five years. Short term offenders committing petty offences are not inclined to go to Borstal School as they have to stay there for minimum of two years. A person sentenced to six months to two years prefers to go to jail as they will get remission for sentence and get an early release. If they go to Borstal School, they have to stay there for two years, even though their sentence is less than two years. That is why, Advocates plead for jail term, hoping for early release after earning remission. Hence, offenders who commit petty offences are generally not being sent to Borstal Schools, as they are preferring jail term keeping in view the set of remand period against their sentence and remission etc. This facility is not available in Borstal Schools.

The second important reason for non-committal of inmates is that young offender who gets life sentence, if sent to Borstal School will be released within five years. Then the ends of justice will not meet. If an young offender of 20 years sentenced to life imprisonment and sent to Borstal School, he will be released once when he attains the age of 23 years. The "Lifer" spends just 3 years in the custody. According to provisions of the Act, the Government have powers to transfer adolescent offender from prison to Borstal School. But the government is not inclined to send him to Borstal School as he has to be released at the age of 23 years and cannot be detained further.

Previously the life term offenders (young) transferred to Borstal Schools were being retransferred to Prison after they attain the age of 23 years to undergo the remaining period of sentence. But Supreme Court of India interpreted the Act and said such retransfer is illegal. Hence, the government have almost stopped transfer of young offenders from prison to Borstal School. Courts are also do not commit nor inclined to commit young offenders to Borstal Schools. For the above two reasons the population in Borstal school is coming down. Due to some lacunas in the Act, it is not being implemented in the right spirit and institution faces closures. The same is the case with most of the states.

### **10.8 Administration of Borstal School:**

The Borstal School will be under the Administration control of Director, General of Prisons. It is not a prison. The treatment process in the prison is different from that Borstal School. The following are the salient features of Borstal School:

- (a) The minimum is two years. The adolescent offender will not earn any remission and will not get the benefit of set off against.
- (b) It is a school where emphasis is laid on formal education and vocational training.
- (c) Rigorous physical training will be given to the inmates every day in the morning hours.
- (d) The gradation of inmates will be done according to their character, participation in programmes unlike prison routine.
- (e) The inmates will also go to outside schools in order to continue their studies.
- (f) After release from the Borstal School they will not carry any stigma of conviction and are eligible for jobs. Whereas, the prisoners carry the stigma of conviction.
- (g) There is the system of "House Management". The star grade and senior inmate will be in charge of each house, where he will look after discipline, among the inmates. The well behaved inmates will be encouraged by awarding star grade.
- (h) The inmates will enjoy the facility of availing short leave say one or two weeks granted by Superintendent. They will be released on licence, basing on the recommendation of the licencing committee, which also supervises the management of the institution.
- (i) The inmates will be provided with more nutritional right when compared to prisoners. Their diet scales are better than that of adult prisoners.
- (j) They are trained in the management by organizing Panchayats and taking part in the Security Management.
- (k) The Borstal School will look like an educational institution rather than a correctional institution. It will not have the prison atmosphere.
- (l) It will be managed by a Supdt. and other executive staff.

## 10.9 Reception Centres:

For the young offenders Reception Centres need to be established for their treatment. There should be separate Reception Centres for young female offenders. These Reception Centres should be organized at District Level or Regional Level as per the requirement of each State/Union Territory to provide safe custody for young offenders who can not be released on bail or probation for their initial classification and subsequent placement. The period of detention in the Reception centre should be from 2 to 8 weeks. It should not exceed 8 weeks. The following programmes should be there in each Reception Centre.

- (a) Admission, Quarantine and Orientation
- (b) Study and Evaluation of individual offender's personality.

### **10.10 Kishore Yuva Sadan:**

Reception Centres/Kishore Yuva Sadan need to be established for the treatment of young offenders. The programme of these Kishore Yuva Sadan should be as follows:

- 1) Initial admission
- 2) A system of proper custody, positive, constructive and firm discipline.
- 3) The care and welfare of the inmates
- 4) Basic segregation according to requirements
- 5) Attending to immediate and urgent and problem of inmates.
- 6) Orientation to institutional life
- 7) Study of the individual offender - history taking, case recording, tests and observation.
- 8) Scientific classification
- 9) Attending to long term needs of inmates like education and vocational training.
- 10) Re-processing of inmates from admission till release
- 11) Guidance and counseling.
- 12) Release planning
- 13) After care
- 14) Follow up.

### **10.11 House System:**

The institution for the young offenders should have an House system. Each house should be under the control and supervision of a House Master. Each House should normally comprise of not more than 40 inmates. Suitable age groups of offenders should be organized within the Houses. As far as possible each House should have a mixed group. The House Staff should consist of House Master, Asst. House Master and Supervisors. Each House should elect their leaders for maintenance of cleanliness, sanitation, distribution of good and organizing games, recreational and cultural activities.

### **10.12 House Committee:**

Each House should have a House Committee consisting of House Staff Members. The following are the functions of the committee:

- (a) To study each inmate individually and understand the various problems presented

by him.

- (b) To assist and advise the Supdt. and the classification committee in all matters pertaining to inmates.
- (c) To gauge inmates response to training and treatment.
- (d) To extend help and guidance to inmates at the individual level.
- (e) To look after the welfare and discipline of inmates.
- (f) To associate the inmates, leaders with House problems like sanitation, hygiene, welfare and planning of recreational and cultural activities.

### **10.13 Education:**

In the institution for the young offenders the educational needs must be adequately met. Special emphasis should be laid on the following aspects in education of young offenders.

- a) Physical health education;
- b) Social and Moral education;
- c) Literary education;
- d) Vocational education;
- e) Arts and Handicrafts etc.

### **10.14 Work and Employment:**

These young offenders should be taught such crafts and skills and vocational courses as would be useful to them after release. They may be employed by rotation as assistants in running the institution's essential services like sanitation, hygiene, kitchen, canteen, laundry and plumbing services.

### **10.15 Vocational Training:**

In these institutions there should be special emphasis on the vocational training of young offenders in trades suitable for their rehabilitation in the society.

### **10.16 Cultural Activities:**

Cultural development of these offenders should be main emphasis of these schools. Programmes of recreational nature and cultural activities should be so planned as to suit the needs of various groups of young offenders. The following activities need to undertaken by these schools:

- a) Indoor games
- b) Outdoor games

- c) Gymnastics
- d) Athletics
- e) Films
- f) Music
- g) Community and Folk dances
- h) Dramatics
- i) Arts and Crafts
- j) Quiz Programmes
- k) Sports Meets
- l) Excursions
- m) Gardening.

### **10.17 Discipline:**

Maintenance of discipline of young offenders is an important function of these schools. As far as possible minor offences should be dealt with by withdrawal of concessions. When this approach fails, recourse should be taken to other forms of punishment.

### **10.18 After Care and Rehabilitation:**

Special care should be taken in providing after care services and rehabilitation of these young offenders.

### **10.19 Summary:**

Thus Borstal Schools play a great role in the correction of young offenders of the society. It is neither a prison nor a correctional home. It is more like an education institution to provide healthy atmosphere for the scientific and progressive development of the young offender and help to come out of his traumatic experiences of the criminal activities.

### **10.20 Key Words:**

- 1) Adolescent Offender
- 2) Borstal School
- 3) Training and Treatment
- 4) Reception Centre
- 5) Kishore Yuva Sadan
- 6) House System
- 7) House Committee

- 8) vocational Training
- 9) Discipline
- 10) After Care and Rehabilitation

### **10.18 Self Assessment Questions:**

1. Write about the Historical background of Borstal Schools and their role in treating the Juvenile Offender.
2. Write about the functioning of Borstal Schools and its various programmes.
3. What is meant by House System? Write about the importance of House System in a Borstal School.
4. What is meant by House Committee? Write about the role played by House Committee in the reformation of young offender.

### **10.19 Reference Books:**

1. Principles of Criminology - Sutherland and Cressey
2. Juvenile Delinquency - Lewis Yablonsky Martin R. Haskell
3. Criminology and Criminal Administration - J.P.S. Sirohi.

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**Lesson — 11****JUVENILE COURTS****11.0. Objective :**

The objective of this lesson is to explain the concept of “Juvenile Court”, its Historical background and the various procedures to be adopted in handling the juvenile offenders. After the introduction of Juvenile Justice (Care and Protection) Act, 2000 the concept of “Juvenile Court” has been changed and in its place the “The Juvenile Justice Board” for handling “Juveniles in Conflict with Law” and the “Child Welfare Committee” for handling “Child in Need of Care and Protection” came into existence.

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- 11.2. Social Perception
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- 11.6. Juvenile Justice Board
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- 11.9. Order that may be passed regarding Juvenile
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- 11.18. Self Assessment Questions
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**11.1. Introduction:**

In order to define a “Juvenile delinquent” professional social workers have to take three important socio-psychological perspectives into consideration. They are 1. Social perceptions of delinquent behavior. 2. Self concept. 3. As defined by a juvenile court. In the contemporary society the most valid definition for juvenile delinquency will be that of one which has been defined by law and interpreted by the juvenile court. These three perspectives of juvenile delinquency are the important factors in the adjudication of the matters in a juvenile court. The following is a brief account of these three perspectives.

## **11.2. Social Perception:**

In some of the societies without even any punishment by a juvenile court youth will be named as juvenile delinquents. The children who indulge in acts of thefts, violent behavior, sexual promiscuity, drug abuse etc. will be some times branded as juvenile delinquents by the family, neighbourhood, teachers and the large scale society even without any punishment by a juvenile court. As a result of this unofficial labeling, the child will develop a self concept of delinquent.

## **11.3. Self Concept:**

Once the society labels the child as a juvenile delinquent he will develop a self concept of delinquency. The child feels that if the society thinks that he is "bad" he would always try to show how bad he could be. He always thinks that once the society brands him as a juvenile delinquent he has nothing to lose by committing more deviant acts. Such children may continue the deviant behavior till they are convicted by a juvenile court. Even after conviction these delinquents tend to rationalize their behavior by blaming their parents, teachers and the society. A young drug addict who develops a delinquent self concept may try to rationalize his or her drug addiction and the thefts necessary for supporting the habit. While treating such juvenile delinquents the social workers have to concentrate on changing their behavior by stopping them to rationalize their acts.

## **11.4. Juvenile Court:**

A juvenile court is an important institution in our society to define juvenile delinquent. There are several elements in the process of juvenile court like 1. Social perceptions, 2. Social norms, 3. Family, 4. Neighbourhood and 5. Police. The judgments of these segments of the society will ultimately determine the juvenile justice system in the award of juvenile delinquent status to the child by the juvenile court. The juvenile court definition of juvenile delinquency is most valid and accepted definition. The following analysis will give a clear picture in the official labeling of a youth as a juvenile delinquent.

## **11.5. Historical background of Juvenile Court:**

Till recently children in U.S, U.K and in India are being tried for their criminal acts by the criminal courts only. The age of the child was an important factor in determining whether he or she should be responsible for the delinquent acts. However the treatment process was similar to that accorded to an adult criminal. The child used to be detained in the same jail as an adult criminal after the trial by a criminal court. The child below the age of 7 years since he or she doesn't have "mens rea" are criminal intent will be exempted from the guilt of committing a criminal act. But in the olden days the children between 7 and 14 used to be tried and convicted on par with adult criminals.

The chancery courts which had their origin in 15th century England dealt with the problems of children. English common law imposed a duty on parents to provide support, supervision and care for the children. It also provided that parents had a right to custody of their children. Chancery courts were created by the king to protect the children in need. Some times because of divorce, abandonment, death of father, children would become destitute without any support. The chancery courts used to consider the welfare of such children and wives in providing care and protection. The chancery courts. never handled the cases of alleged misbehavior of children. They used to



protect and support the children in place of parents only, by referring them as “neglected” or “independent” children.

In 1825, with the establishment of “House of Refuge” in New York City many states started providing separate correctional services for children. The House of Refuge was restricted to children convicted by a criminal court. By 1860 in the United States 16 such specialized institutions were established, after the prison reforms. In 1841, with the efforts of John Augustus, a shoe maker, the juvenile offenders were treated on “probation”, outside a correctional institution under the supervision of criminal court. In 1869, Massachusetts officially established probation for juvenile delinquents. By the end of the 19th century criminal courts began to send children for training schools instead of prisons for delinquent acts and to place children on probation for minor offences. The prison reform activists at this juncture agitated for the establishment of specialized courts for children different from those of criminal courts. They wanted a court to understand the child, diagnose his or her problem and provide necessary treatment for reintegration into the society. Thus the welfare of the child was considered more important than the question of guilt or innocence. These considerations are the motivating factors for the juvenile courts. The first statute to define a “delinquent child” and create a juvenile court to deal with dependent, neglected and delinquent children was enacted in Illinois in 1899. With the establishment of juvenile court specialized treatment for children and probation as a method of treatment came into existence. The American social workers played an influential role in the establishment of juvenile courts throughout United States and by 1945 every state in U.S passed laws for the specialized treatment of juvenile delinquents. The juvenile court is not a criminal court nor is it a chancery court. But it performs the functions of both as far as children are concerned. The juvenile court justice system has grown enormously in recent years.

In India also the juvenile delinquents till the introduction of JJ Act, 1986 used to be treated on par with adult criminals for their criminal acts. The JJ Act, 1986 defined a juvenile delinquent as a juvenile who was found to have committed an offence. According to this act juvenile means a boy who has not attained the age of 16 years or a girl who has not attained the age of 18 years. Neglected juvenile as per this act means a neglected juvenile who (i) is found begging, or (ii) is found without having any home or settled place of abode and without any ostensible means of subsistence and is destitute, (iii) has a parent or guardian who is unfit or incapacitated to exercise control over the juvenile or (iv) lives in a brothel or with a prostitute or frequently goes to any place used for the purpose of prostitution, or is found to associate with any prostitute, or any other person who leads an immoral, drunken or depraved life, (v) who is being or is likely to be abused or exploited for immoral or illegal purposes or unconscious gain. The JJ Act, 1986 also provided for the constitution of juvenile courts. Accordingly a juvenile court can be constituted by State Government through a notification to exercise powers and discharge duties in relation to juvenile delinquents. The Bench of a juvenile court shall be constituted either with a Metropolitan Magistrate or a Judicial First class Magistrate as the case may be and appointed by State Government. Of these two one shall be designated as the Principal Magistrate and every such Bench shall have the powers conferred by the Cr.P.C on a Metropolitan Magistrate or a Judicial First class Magistrate. Every juvenile court shall be assisted by a panel of two honorary social workers of whom at least one shall be a woman, appointed by State Government. They should possess the prescribed qualifications

for handling the child related issues. The Act also provided for the constitution of Juvenile Welfare Boards with Chairman and two members appointed by State Government. The Board also can function like a Bench of Magistrate and shall have the powers conferred by the Code of Criminal Procedure. The Boards and the juvenile courts have all the powers exclusively to deal with neglected juveniles or delinquent juveniles as the case may be. Subsequently the JJ Act, 1986 was amended and the new enactment called the Juvenile Justice (Care and Protection of Children) Act, 2000 was made on 30th December 2000 to consolidate the law relating to juveniles in conflict with law and children in need of care and protection and for their ultimate rehabilitation through various institutions. As for JJ (Care and protection of Children) Act, 2000 juvenile or child means a person who has not completed 18th year of age. The terms juvenile delinquent and neglected juvenile mentioned in JJ Act, 1986 have been replaced with Juvenile in conflict with law and child in need of care and protection respectively in the new enactment. Similarly the juvenile court concept of JJ Act, 1986 has been totally removed and in its place the Juvenile Justice Board and Child Welfare Committees came into existence to handle juvenile in conflict with law and child in need of care and protection.

### **11.6. Juvenile Justice Board:**

As per the provisions of The Juvenile Justice (Care & Protection of Children) Act, 2000, the state Govt. will constitute a “Juvenile Justice Board” for conducting inquiries into the alleged criminal acts of child in conflict with law. The Board consists of a Metropolitan Magistrate or a Judicial First Class Magistrate and two social workers of whom one shall be a woman as members. The members of the Board should have knowledge of social work and child psychology. The members should have experience in health education or in child welfare activities for a period of 7 years. Whenever, the child in conflict with law is taken charge by a police officer or a social worker he will be produced before the Juvenile Justice Board through District Probation Officer. Normally the Juvenile Justice Board will hand over the child in conflict with law to the parents or guardian if he responds in time. In case if the parent or guardian fails to respond or doesn't take charge of the child the Juvenile Justice Board will send the child in conflict with law to an Observation Home or a Special Home for treatment till he attains the age of 18 years.

### **11.7. Procedures of Juvenile Justice Board:**

The Board as per the rules prescribed by the State Government shall meet and handle the cases relating to juvenile or child in conflict with law. The child can be produced before any member of the Board whenever the entire Board is not sitting. Even if anyone member of the Board fails to attend the meeting the remaining members of the Board can proceed further and pass orders. These orders are valid and binding. However at the time of final disposal, there shall be at least two members including the Principal Magistrate. If there is any difference of opinion among the, members of the board in the interim or final disposal, the opinion of majority members shall prevail. In case if there is no such majority, the opinion of the Principal Magistrate shall prevail.

### **11.8. Powers of Juvenile Justice Board:**

Juvenile Justice Boards will be constituted for every district or a group of districts as per the convenience of State Government. These Boards have all the powers under this act to handle the

issues relating to Juvenile or Child in conflict with law. If anybody is aggrieved with the orders of Juvenile Justice Board they can go on appeal to court of sessions or High Court. In such circumstances High Court and Court of Sessions can also exercise the powers of Juvenile Justice Board. If any person is produced before a Magistrate who is not empowered under this act to exercise the powers of Juvenile Justice Board, he shall without any delay record his opinion and forward the juvenile or child along with the record to the competent authority having jurisdiction. The competent authority on-receipt of such proceedings shall hold the Inquiry as if the juvenile or the child had originally been brought before it. When any juvenile is arrested, the officer in charge of the Police Station or the Special Juvenile Police Unit to which the juvenile is brought, as soon as possible has to inform the parent or the guardian of the juvenile about his arrest. The parent has to be directed to be present at the Board before which the juvenile will appear. The District Probation Officer should also be informed to enable him to obtain information regarding the antecedents and family background of the juvenile.

### **11.9. Order that may be passed regarding Juvenile:**

The Juvenile Justice Board after conducting its Inquiry, satisfied that a juvenile or child has committed an offence, notwithstanding any thing to the contrary contained in any other law for the time being in force, the Board may (a) allow the juvenile to go home after advice or admonition following appropriate inquiry against and counseling to the parent or the guardian and the juvenile (b) direct the juvenile to participate in group counseling and similar activities (c) order the juvenile to perform community service (d) order the parent of the juvenile or the juvenile himself to pay a fine, if he is over 14 years of age and earns money (e) direct the juvenile to be released on probation of good conduct and placed under the care of any parent, guardian or other fit person, on such parent, guardian or other fit person executing a bond, with or without surety, as the Board may require, for the good behavior and well-being of the juvenile for any period not exceeding three years (f) direct the juvenile to be released on probation of good conduct and placed under the care of any fit institution for the good behavior and well-being of the juvenile for any period not exceeding three years (g) make an order directing the juvenile to be sent to a special home (i) in case of a juvenile over 17 years but less than 18 years of age for period of not less than 2 years and (ii) in case of any other juvenile for the period until he ceases to be a juvenile. The Board shall obtain the social investigation report on juvenile either through a probation officer or a recognized voluntary organization or otherwise and shall take into consideration the findings of such report before passing an order. The Board in the interest of the juvenile and of the public may also keep the juvenile in conflict with law under the supervision of a probation officer named. Afterwards if at any time the Board receives a report from the probation officer that the juvenile in conflict with law has not been of good behavior during the period of supervision he can be sent to a special home. The Board while making the supervision orders will explain the juvenile, and the parent, guardian or other fit person or fit institutions under whose care the juvenile has been placed, the terms and conditions of the order.

### **11.10. Order that may not be passed against Juvenile:**

No juvenile in conflict with law shall be sentenced to death or life imprisonment or committed to prison in default of-payment of fine or in default of furnishing security. A juvenile who has attained

the age of 16 years commits a serious offence or misbehaves in the special home, the Board may order the juvenile in conflict with law in some other secure place and report the matter to the Government. On receipt of such report from the Board the State Government makes such arrangements to keep the juvenile under the protective custody at a fit place. No proceeding shall be instituted and no order shall be passed against the juvenile for keeping peace and good behavior. No juvenile shall be charged with or tried for any offence with a person who is not a juvenile. The Board can direct separate trials for the juvenile and the other person if they are found accused of an offence contained in section 223 of Cr.P.C. No report in any news paper, magazine, newsheet or visual media of any inquiry regarding a juvenile in conflict with law shall disclose or publish the name, address or school or any other particulars of the juvenile.

### **11.11. Child in need of Care and Protection:**

As defined by The Juvenile Justice (Care & Protection of Children) Act, 2000 child in need of care and protection means "any child found without home or settled place or abode, without any ostensible means of subsistence or resides with a person who is likely to kill or abuse the child". The following are the examples of children in need of care and protection. 1. Children found without any home or settled place or abode and without any ostensible means of subsistence, 2. Child who resides with a person who has threatened to kill or injure the child and there is a reasonable likelihood of the threat being carried out. 3. Child who resides with a person who has killed, abused or neglected some other child or children and there is a reasonable likelihood of the child in question being killed, abused or neglected by the person, 4. Mentally and physically challenged children, 5. ill children or children suffering from terminal or incurable diseases having no one to look after, 6. Children having incapacitated parents or guardians. 7. Children who do not have parent or caretakers. 8. Abandoned children. 9. Missing children. 10. Children runaway from their homes. 11. Children likely to be abused, tortured or exploited for illegal acts. 12. Children found vulnerable and likely to be inducted into drug abuse and trafficking. 13. Children who are victims of armed conflict, civil commotion or natural calamity. Such children should be provided with necessary care and protection by the police, social workers and NGOs whenever they take charge of them.

### **11.12. Child Welfare Committee:**

The State Govt. as per the provisions of The Juvenile Justice (Care & Protection of Children) Act, 2000 will constitute in every district or group of districts one or more Child Welfare Committees for exercising the powers and duties in relation to the child in need of care and protection under this Act. The Child Welfare Committee consists of a Chairperson, and 4 other members appointed by the state Govt., 1 among them shall be a woman. The Committee shall function like Bench of Magistrates and empowered with the powers conferred by Code of Criminal Procedure, 1973. The Child Welfare Committee is the final authority to dispose the cases of children in need of care and protection for treatment, development, rehabilitation etc. It should ensure provision of basic needs and protection of their rights. The social workers and the police officers whenever they come across with children in need of care and protection as mentioned above should produce them before the Child Welfare Committee through District Probation Officer who in turn will send them to Children Homes, Reception Centres, Shelter Homes or Drop in Homes depending upon the convenience.

### **11.13. Procedures of Child Welfare Committee:**

The Child Welfare Committee as per the rules prescribed by the State Government shall meet and handle the cases relating to Child in need of care and protection. The child can be produced before any member of the Child Welfare Committee whenever the entire Child Welfare Committee is not sitting. Even if only one member of the Child Welfare Committee fails to attend the meeting the remaining members of the Child Welfare Committee can proceed further and pass orders. These orders are valid and binding. However at the time of final disposal there shall be at least two members including the Chairperson. If there is any difference of opinion among the members of the Child Welfare Committee in the interim or final disposal, the opinion of majority members shall prevail. In case if there is no such majority, the opinion of the Chairperson shall prevail. .

### **11.14. Powers of Child Welfare Committee:**

Child Welfare Committee will be constituted for every district or group of districts as per the convenience of State Government. These Committees have all the powers under this act to handle the issues relating to child in need of care and protection. The committee is the final authority to dispose of cases for the care, protection, treatment, development and rehabilitation of children and to protect their human rights. Any child in need of care and protection can be produced before the committee by any one of the following persons. 1. Any Police Officer or Special Juvenile Police Unit or a designated Police Officer 2. Any public servant 3. Child Line, a registered voluntary organization or any other organization recognized by State Government 4. Any social worker or public spirited citizen authorized by the State Government and 5. By the child himself. On receipt of a report, the child welfare committee shall hold an inquiry and pass an order to send the child to a children's home. The inquiry should be completed within 4 months on receipt of the order by the concerned authority and report submitted to the committee. After completion of inquiry if the committee is of the opinion that the said child has no family or ostensible support, the child will be permitted to remain children's home or shelter home till suitable rehabilitation is arranged or till he attains age of 18 years.

### **11.15. Children's Home:**

In these Homes the children will be kept as per the orders of Child Welfare Committee till the finalization of its inquiry. During their stay the children will be provided with necessary care and protection, various educational, vocational training programmes for their development and rehabilitation. The Govt. will prescribe the standards of services to be rendered to these children. 4 Children's Homes for Boys are located at Hyderabad, Eluru, Visakhapatnam and Kadapa. 1 Special-cum-Children Home for Girls is located for the entire state at Hyderabad itself. The prime objective of children's home or shelter home is the restoration of child to a) parents b) Adopted parents and c) Foster parents.

### **11.16. Summary :**

The concept of "Juvenile Court" has changed after the introduction of the Juvenile Justice (Care & Protection of Children) Act, 2000 in India. Earlier the children who commit criminal acts or

exhibit deviant behavior used to be tried by the criminal courts on par with adult criminals. Juvenile Courts started functioning with the enactment of Juvenile Justice Act, 1986. But the social reformers, social workers and other elite people thought that the children should not be treated harshly by the correctional institutions and the concepts of court, trial, police, lockup, arrest, handcuffs and jail should be deleted from the Juvenile Justice System. As a result the Juvenile Justice Act, 1986 was reviewed thoroughly and the treatment of juvenile offender has been changed drastically. The new Act called Juvenile Justice (Care and Protection of Children) Act, 2000 came into existence. In the new Act the concept of "Juvenile Court" has been replaced with Juvenile Justice Board and Child Welfare Committee to handle 'children in conflict with law' and 'children in need of care and protection' as distinguished by it. The functioning of Juvenile Justice Boards and Child Welfare Committees will be thoroughly reviewed and inspected by the Government from time to time.

### **11.17. Key words:**

- 1) Juvenile Court
- 2) Juvenile Justice Board
- 3) Child Welfare Committee
- 4) Child in conflict with law
- 5) Child in need of care and protection
- 6) Inquiry
- 7) Probation Officer
- 8) Child Welfare Officer

### **11.18. Self Assessment Questions:**

- 1) Write about the Historical background of Juvenile Court and the role of Juvenile Court in handling young offenders.
- 2) Distinguish between the 'Juvenile Court' and "Juvenile Justice Board and Child Welfare Committee".
- 3) What are the powers and procedures of Juvenile Justice Board and its role in Juvenile Justice system?
- 4) What are the powers and procedures of Child Welfare Committee and its role in Juvenile Justice system?

### **11.19. Reference Books :**

- 1) "Juvenile Delinquency" by Lewis Yablonsky and Martin R.Haskell.
- 2) Criminal Behavior - A Psychosocial Approach by Curt R.Bartol and Anne M.Bartol.
- 3) Juvenile Delinquency in India - An Etiological Analysis by Chandana Sarkar.



## Lesson – 12

# PRISON REFORMS

### 12.0. Objective:

The objective of this lesson are to explain prison reforms.

### Contents:

12.1. Introduction

12.2. Prison Reform in India

12.3. After – Care Programmes

12.4. Developments in Prison Reforms

12.5. Summary

12.6. Keywords

12.7. Self Assessment Questions

12.8. Reference Books

### 12.1. Introduction:

Before British rule in India, the Muslim law of crimes was applied in our country. The Muslim law was severe in its attitude towards criminals. After the advent of British rule also, the basic attitude towards the criminal remained the same i.e punitive. It was only after independence, there has been change in the attitudes towards criminals, the change from punitive to therapeutic or corrective approach.

In the early days, cellars, gatehouses and towers were used to serve as detention houses. They were kept in extremely inhuman conditions. Criminals, guilty of serious as well as of petty offences, debtors and insane persons were all put together in those detention houses. There was no separate arrangement for men and women. There was no serious thinking about the problems inside the jails.

The growth of the 'enlightenment' era in England and Europe paved the way for the more humane approach towards the criminals. The 'enlightenment' stood for the original worth and dignity of all human beings. The rational philosophers believed in the natural rights of human beings. Montesquieu was more concerned with improving the behaviour of people rather than the punishment. He believed that moderate punishments would result in better administration of justice and the punishments must not be out of proportion to the offence. These ideas had great appeal to the middle class people. The middle class were moved by the sufferings of the poor, the disabled, lunatics, defectives and prisoners. The concern for the criminals was a part of the general feeling for the under dog. The process of reformation of criminal law system was initiated. It led to the improvement of prison system and the introduction of probation, parole, juvenile courts and other institutions and crime prevention.



**British Prison Reforms:**

John Howard may be rightly called the pioneer in the prison reform movement in England. He believed in the reformation of personal character as the goal of imprisonment. He tried to do something about the bad sanitary conditions prevailing in prisons and made separate arrangements for prisoners of different sex. He recognized the importance of religious and moral instruction and the utility of learning trades and crafts in the prison.

**Pennsylvania system:**

According to this system, solitary confinement was an effective means of regeneration. As the person left to himself, he would have better opportunity of reflection. He would be saved from the bad influence of the fellow prisoners. The inmates were kept in complete seclusion all through the sentence. Denial of work was the rule. Emphasis was on exposure to religious sermons. At Auburn prison at New York, it was discovered that character reformation was not achieved by solitary confinement. Many suffered in health and some made attempts to commit suicide.

**Auburn system:**

According to this system, the inmates were allowed to associate during daytime only to do hard work for maximum production. They were kept separate from one another at night. The prisoners were not allowed to speak to one another and strict discipline was maintained inside the jail.

Due to the problem of overcrowding in the prisons, from 1853, the system of 'ticket of leave' was resorted to. Under this system, the prisoners could be released before the completion of sentence on the condition that they would not indulge in crime and instead, find employment. In this practice, the basis of the modern, system of parole can be found. In 1898 the prison act was passed in England, making provision for allowing remission of a part of the sentence of a convict on the basis of good conduct and hard work inside the prison. The Gladstone committee recommended that men and women coming to prisons should go out as better persons, physically and morally.

**American Prison Reform:**

American prison reform was Pennsylvania system which was a model for prisons for about forty years. In Pennsylvania system, the separation of prisoners round the clock, was in practice. In Auburn system, Prisoners work together and as a result, there was better industrial potential. Hence, the Auburn system was accepted and it continued to provide the basic structure of prison administration in the U.S.A. Over the years, many new ideas have modified the system.

**12.2. Prison Reform in India:**

At the time of the takeover of the country by the East India company, the prisons in India were in a terrible condition. The East India company was not interested in the improvement of the jails. The committee appointed by the Government in 1836, in their report ruled out the introduction of any reformatory ideas in the prison policy.

The second jail committee of 1864 recommended a certain minimum space for each prisoner inside the prison, better clothing and food, and regular medical check-up of the prisoners. The third jail committee of 1877 made unproductive recommendations. The reports of the committees appointed in 1889 and 1892 led to the passing of the prisons act of 1894. Reformatory measures were not reflected in the act. For the first time, the principle of reformation of the convict was accepted by the Indian jails committee appointed in 1919.

The report of the committee in 1919 discovered aged the use of corporal punishment in jails. It suggested that the labour in the prison should be productive. Its main object should be to reform the offenders. The committee also made suggestions regarding the education for the convicts and the after-care programmes for helping the ex-convicts.

After independence, the Government of India sought to achieve further reforms in the prisons. W.C. Reckless, an expert of the U.N.O was invited to make recommendations. A committee was appointed to prepare an All India jail manual in 1957 on the basis of the recommendation of Dr. Reckless. Some of the important recommendations were as follows.

1. The correctional services should be integrated together under a Director or commissioner under the control of the home Department in each state.
2. Greater use of probation system to avoid too much pressure on prisons.
3. Creation of a central Bureau of correctional services at the centre.
4. Establishment of state After care organization in every state.
5. Abolition of solitary confinement as a mode of punishment.
6. Classification of prisoners according to their needs in terms of personality.
7. Periodic revision of the jail manuals in the states.

These recommendations provide guidelines to achieve uniformity in all the states. Most of the states followed these recommendations.

### **Reforms relating to young offenders:**

The Reformatory schools act of 1897 was enacted in the interest of children below the age of 15 years. Whenever any youthful offender is sentenced to imprisonment, he should be sent to a reformatory school according to the act. The court may direct that instead of undergoing his sentence, he shall be sent to such a school.

Children's acts have also been passed in recent times by the various states and the centre. They lay down guidelines for juvenile courts and other institutions for delinquent and neglected children.

### **Problems in Prison Administration:**

There are many problems prevailing in the prisons. The local and central jails are

over-crowded. The working group on prisons appointed by Government of India (1972-73) made a forceful plea for a through review of the prison population and to reduce the number of under trials, youthful offenders and short termers in jails, through appropriate measures, including speedy trials effective use of bail, admonition, fine, compensation, parole and others. The convict population needed to be reviewed to determine which of them can be safely released on parole, with or without conditions.

The correctional settings need to be examined in the broad perspective of universal human rights in consonance with U.N charter and provisions appropriate to the fundamental rights and directive principles of state policy. One has to think as to how the criminal justice system operates in reality and conflicts with human rights and fundamental freedoms. The United nations have framed standard minimum rules for the treatment of prisoners, both undertrials and convicts.

The prisons have still to establish their claim and capacity to reform. Mostly the present-day prisons are holding, herding together without much conscious effort at facility or classification. Very often, children and young people get mixed up in the mainstream of the hardened and the casual, the repetitive and the first offenders. Individualization of treatment has not been possible. The types of training made available inside the prisons leave much to be desired. There is little stimulation to acquire literacy or pursue academic studies to even those who are capable of such activity. In essence, most of the prisons are good for only 'holding on' operations in maximum security conditions; the planning for rehabilitation or individual treatment is poor. For women prisoners, due to their small number, no educative work or out door programmes are feasible. It will be very useful if women prisoners who are simple, illiterate and capable of learning are transferred to non-penal, women's residential institutions, where they can acquire literacy and some useful skills, in better environment, to stand them in good stead after release

The objective of prison sentence is not to have retribution against the offender, but to make him a better human being. The compulsive element of detention has all the evil consequences in terms of the social relationships and of the individual personality of the offender. We cannot be over optimistic about the efficacy of various measures for correction and rehabilitation of the offenders. The response to the various reformatory measures will be different for different categories of offenders. Hardened criminals obviously do not have much likelihood of changing themselves. Some of the convicts might have committed even serious offences like murder in a highly exceptional situation. They may not need reformation, since they are not criminals in the true sense. He is not sent to jail for 'reformation' but to deter other potential killers in a similar situation. There may be difference in response of criminals to reformation owing to the age factor. The chances of an impact of the corrective measures on the younger convicts are more powerful as compared to the older ones.

### **Classification of offenders:**

Individualization of treatment of offenders means that the personality of each offender is to be assessed. Prison programmes are designed to suit the individual requirements. Hence there is need for classification of offenders. Classification of offenders is required in two different stages; for determining which type of prison, the offender is to be sent secondly offenders are classified

through medical, psychiatric, and psychological examinations; through educational and vocational studies, and through case work interviewing. Classification is also necessary in terms of their security. Prisons with maximum security are used for dangerous and escape-prone convicts. Minimum security prisons are used on the basis of trustworthiness of prisoners. There are also medium custody prisons in the U.S.A. There are also specialized institutions for women, first offenders and psychotics.

For classifying the convicts, it is necessary to have the details of their backgrounds for diagnosis. After the diagnosis is made, treatment is the next step. All this requires cooperation of persons of diverse fields like social workers, doctors, psychiatrists. Classification is done by a body of experts in U.S.A and England.

In India prisoners are classified on the basis of age, sex, mental health, nature of offence, whether a habitual or a casual prisoner. Casual prisons are sub-classified into (1) Star, and (2) general; and habitual into (1) Non- professional, and (2) Professional. Casual prisoners are first offenders who have no criminal mentality. The prisoners whose previous character was good, antecedents not criminal, are classified into the 'star' sub-category. Other casual prisoners are placed in the 'general' sub-category.

Non-professional habituals are those prisoners who lapse into crime, due to their surroundings, physical or mental defect and who are not first offenders. Habitual prisoners are those who are men with an object, sound in mind and body, often highly skilled. They prefer life of crime and know the manoeuvres necessary for that life. In India classification work is not performed by committees of experts in the prisons. It is done by the court convicting the offender.

### **Prison education:**

In India, due to mass illiteracy most of the prisoners do not have even elementary education. According to Mac cormick, the prison education should have the following components.

1. Fundamental academic education is needed in study and training and in his everyday life.
2. Vocational education, designed to give training for an occupation.
3. Health education, to teach the fundamentals of personal and community health.
4. Cultural education for intellectual or aesthetic satisfaction.
5. Social education includes all types of education and all the activities of the institution.

Diversified education is the principal channel of correctional treatment.

Academic education gives a sense of achievement to the prisoner. In the Indian prisons, there is no adequate number of teachers. Due to economic incapability, qualified teachers at least on part time basis should be utilized. The members of the local community may also be utilized on voluntary basis.

Vocational education should be relevant to the sort of life which the convict would lead after the

completion of the sentence. Agricultural orientation is most suitable for a majority of the prison population in the Indian context.

### **Religious and Rural Education:**

Religion represents a rich resource in the moral and spiritual regeneration of mankind. Religious instruction and counseling, together with group worship of the inmates' own choice are essential for the correctional programme. Religious instruction forms an important part of the treatment programmes.

In India jail manuals recognize the significance of religion and religious instruction for the reformation of prisoners. All the communities are offered facilities for their religious observance. Honorary teachers deliver lectures on religious and moral subjects for an hour once a week. It will be much better to confine the programmes to the teaching of general principles of morals and ethics without reference to any particular religion in the secular set-up of our country.

### **Prison Labour and Industry:**

The primitive approach used labour as a form of punishment. In the reformatory approach, it is a means to achieve certain skills in the prisoner. It is helpful to him in finding some vocation after his release. He may also earn wages while serving in prison. From a utilitarian angle, the prisoner is in a position to contribute something for his maintenance in jail. There are many difficulties faced in organizing industry in prisons. There was hostile reaction from organized free labour and industrialists when the movement of prison labour and industry was launched in the first time. In the U.S.A

In India, there were other problems. Many prisoners do not find any occupation to put to use any of the skills or trades learnt in prison. Many inmates were not interested in learning the trades due to lack of aptitude or its irrelevance after his release. The payment of wages for the industrial work for the prisoners was also criticized. The need for deterrent element of the Jail sentence was not served. It has been argued that punishment should involve the deprivation of the earning capacity of the offender. It is anomalous that while many law-abiding citizens find it difficult to find employment, work and wages are provided to a convicted person

### **12.3. After – Care Programmes:**

The difficulties of the prisoner are not overcome simply because, he is released from the prison. After the release, other difficulties will arise. Many a prisoner are in a state of fear as to what the future will hold for him. This is evident in view of the stigma, loss of job loss of family ties and alienation from friends.

After-care has two connotations. In a narrower sense, it is like probation. i.e the released person is put under the care of a probation officer performing the role of a social worker. In a wider sense, after-care implies all efforts to enable the prisoner to overcome all the various social, economic and psychological problems after his release. The after –care work, in a way, should commence as soon as the convict begins his personal life. At the time of departure, the prisoner is

given some money by the state or his savings, made out of the wages earned in the prison and a set of clothes to equip him for the 'new life'.

According to the all India jail manual committee, 1957, "After-care is the released person's convalescence..... institutional training, treatment and post-release assistance is a continuous process. After-care service, therefore, should form an integral part of correctional work".

Maxwell committee recommended that aid societies should be more concerned with "after-care" and less with 'aid on discharge'. In England, there is the home-leave system. Home – leave may be granted to prisoners on corrective or long sentences. The leave is up to five days and gives an opportunity to the prisoner to contact those responsible for his after-care and also the potential employers. According to J.P. Martin, "An effective penal system must aim for the re-integration of prisoners into society".

#### **11.4. Developments in Prison Reforms:**

There are radical developments in prison reforms. There is the recent concept of part-time imprisonment in Brlgium. In this system, the convicts continue to work or study in the community, their evenings and weekends being spent in prison. The Scandinavian countries had weekend goal sentences.

In U.S.A the above technique was employed much earlier under Huber law in 1913. This is similar to the open institution idea termed as " day parole" or " work release". This system stands between probation and imprisonment.

#### **Open Jails:**

The creation of open prisons is a major development in penological practices and jail reforms. A beginning in the open prison system was made in U.P. in 1952. At present 11 states have open prisons we have 26 open jails in our country. There are many advantages of open jails

1. inmates do productive work, thus helping in the nation building;
2. working hard and earning for their sake and for the community makes the convict feel self-reliant;
3. over crowding in jails can be avoided;
4. convicts have the advantage of living with their families;
5. the burden of the family members of the inmates is not thrown to the mercy of the society. Even under prison sentence, the inmate can take care of his family;
6. idleness as in the conventional prison is not seen in the open jails. The work here gives good exercise to the body and spirit;
7. mutual trust and confidence between the inmates and prison staff develop.

Model prisons are the only institutions where some classification of convicts is done. The model prisons have been established for the well-behaved casual offenders.

Hermann Mannheim is too optimistic regarding the eventual demise of the prison as a means of punishment. Imprisonment as a mode of punishment has already been affected adversely to a significant extent by other methods like probation, parole and work release.

## 12.5. Summary:

In the early days, there was punitive approach towards criminals. The growth of the 'enlightenment' era in England and Europe paved the way for humane approach towards the criminals.

John Howard may be rightly called the pioneer in the prison reform movement in England. He believed in the reformation of personal character as the goal of imprisonment.

According to Pennsylvania system, solitary confinement was an effective means of regeneration. As a person left to himself, he would have better opportunity of reflection. According to auburn system, the inmates were allowed to associate during daytime only to do hard work for maximum production. They were kept separate from one another at night. The Auburn system was accepted in U.S.A and it continued to provide the basic structure of prison administration

At the time of the takeover of the country by the East India company, the prisons in India were in a terrible condition. The first jail committee in 1836 has not brought out any reformatory ideas in the prison policy. The second jails committee of 1864 recommended a minimum space for each prisoner inside the prison better clothing and regular medical Check-up of the prisoners. The reports of the committees in 1889 and 1892 led to the passing of the prisons Act of 1894. Reformatory measures were not reflected in the act. The principle of reformation was accepted by the Indian jails committee in 1919 for the first time. A committee was appointed to prepare an all India jail manual in 1957.

The Reformatory schools Act of 1897 was enacted in the interest of children below the age of 15 years. The objective of prison sentence is not to have retribution against the offender but to make him a better human being. Prison programmes are designed to suit the individual requirements. Hence there is need for classification of offenders. In India prisoners are classified on the basis of age, sex, mental health, nature of offence, whether a habitual or a casual prisoner.

Diversified education is the principal channel of correctional treatment. Academic education gives a sense of achievement to the prisoner. Religious instruction and counseling, together with group worship of the inmates' own choice are essential for the correctional programme. In the reformatory approach prison labour is a means to achieve certain skills in the prisoner. It is helpful to him in finding some vocation after his release.

Many a prisoner are in a state of fear as to what the future will hold for him after release. This is evident in view of the stigma, loss of job, loss of family ties and alienation from friends. After care service should form an integral part of correctional work.

Imprisonment as a mode of punishment has already been affected adversely to a significant extent by other methods like probation, parole and work release.

**12.6. Key words:**

- a) Pennsylvania system
- b) Auburn system
- c) After-care programmes

**12.7. Self Assessment Questions:**

1. Trace the origin and development of prison reforms
2. Give an account of the recent trends in prison reforms.

**12.8. Reference Books:**

1. Government of India 1987 : Encyclopaedia of social work in India, Vol3 Publication Division, Ministry of welfare.
2. Siddique, Ahmad : Criminology, problems & Perspectives, Eastern Book Company, Lucknow.

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## **Lesson – 13**

# **PROBATION, PAROLE AND AFTER CARE SERVICES**

### **13.0. Objective:**

The objective of this lesson are to explain probation, Parole and aftercare services .

### **Contents:**

**13.1. Introduction**

**13.2. Probation**

**13.3. Parole**

**13.4. After-Care Services**

**13.5. Summary**

**13.6. Key Words**

**13.7. Self Assessment Questions**

**13.8. Reference Books**

### **13.1. Introduction:**

The ultimate object of punishment is the reformation and rehabilitation of offenders. The reformation process involves study, diagnosis and treatment of the individual offender. A new approach, called the de-institutionalized correction in the form of probation and Parole has emerged. These approaches involve community based correctional services.

Probation and Parole emerged as techniques to mitigate the consequences of severe punishment when imprisonment became the common mode of punishment. Probation came into existence to save some selected types of persons from the rigours of punishment even if found guilty by a court of law. In England and U.S.A, the source of probation can be traced to the bindings over a person for good behavior and his appearance in the court is required when ever called for. Probation and parole mean placing them in free society subject to certain conditions. Both probation and parole imply compassion to the offender, and can be effective measures of correction and rehabilitation.

### **13.2 Probation- Meaning:**

Probation is derived from a Latin word ‘ Probo’ meaning ‘ to prove’ An employee on probation is to prove himself in the period of probation to continue in that job. In the same way, an offender under probation will have a chance to prove himself.

Probation is a treatment programme. It is a combination of two elements viz., suspension of punishment and personal supervision. Probation is the postponement of sentence in criminal case. The offender is given an opportunity to correct himself in the community under the guidance and supervision of an officer of the court.

**Objects of Probation:**

The object of probation law is to give persons of a particular type a chance of reformation which they would not get if sent to prisons. The type of persons who are eligible for probation are those who are not hardened or dangerous criminals but those who have committed offences under some momentary weakness of character or some tempting situation. By placing the offender on probation, the court saves him from the stigma of jail life and also from the bad influence of hardened prison inmates. Probation also helps in eliminating overcrowding in jails by keeping many offenders away under probation programmes.

**Probation and Parole distinguished:**

Probation and parole have the same objectives-rehabilitation of offenders. Supervision of selected offenders is involved outside the prisons in both the techniques. There is also difference between the two. In probation, the offender is not sent to jail. The decision to grant probation is to be made by the court. In parole, the convict is released after serving his sentence for some time. The release is not the result of any judicial decision.

**Suspended Sentence:**

There is difference between probation and suspended sentence. In suspended sentence, imprisonment or fine is pronounced, but the execution of it is suspended for a period. The use of suspended sentence is confined to offenders not previously imprisoned for crimes. The period of suspension is five years. Severe punishments and long-term imprisonment cannot be suspended. If during the period, the offender is not convicted of a further crime, the conviction is wiped out, and the sentence lapses. If he is convicted, the sentence is automatically enforced.

**Eligibility for probation:**

Selection of suitable cases for being placed on probation and parole and supervision of probationers and parolees are two basic elements of the programme. The report of the probation officer will help the court to take the decision regarding probation. The probation officer should give information regarding family history, personal, social and economic factors. He has to evaluate the personality of the offender. Probation shall not be granted in some serious offences. The risk involved in releasing the prisoner on probation should be taken into consideration. Probation is more desirable in case of younger offenders. The court shall have to exercise its discretion regarding various factors.

**Supervision in Probation and Parole:**

The objectives of probation and parole are the rehabilitation of the offender and protection of society from his actions. The probation officer should see that effective programme for the rehabilitation of the offender is implemented. If there is violation of probation or parole order, he has to recommend alternative prison term to the court. The probationer or parolee officer has to provide help, counsel and guidance for the probationer or parolee. The officer works like a policeman. He should make the client adjust to the community.

David Dressler describes four general techniques of supervision.

**1. Manipulative Technique :**

Modification is sought in the offenders environment in terms of family relationships, employment and community life.

**2. Executive technique:**

The probation or parole officer tries to help the offender by referring him to the appropriate organization.

**3. Guidance technique:**

The officer may give advice or even help the client through psychological methods. The client is encouraged to be self reliant. Good factors in client's personality are to be recognized.

**4. Counselling techniques:**

These techniques differ from guidance techniques. They require training and skill. The probation and parole officers may not possess training and skill. These techniques are needed to solve serious personality problems.

**Probation of offenders Act, 1958:**

Section 562 of the code of criminal procedure gave discretion to a criminal court to release a person who was convicted of an offence, on probation of good conduct, by entering into a bond, with or without sureties.

Section 3 of the probation of offenders act, 1958, provides for un supervised release, after due admonition in offences like theft, cheating or any offence punishable with imprisonment up to two years. The section applies to first offenders and the court has to use discretion in view of the circumstance of the case including the nature of the offence and the character of the offender. The courts use discretion quite liberally. Under section 4, the court may release a person on probation on his entering into a bond with or without sureties. Sub-section (3) of the section, provides for an additional order of supervision if in the interests of the offender and of public, it is expedient so to do. In other words section 4 of the act has not fully incorporated the philosophy of probation in which supervision is an essential element. Section 6 of the act provides for the consideration of the probation officer's report when the decision to grant or refuse probation to a person below the age of 21 years is to be taken.

**13.3. Parole:**

The word ' parole' has been derived from the French word 'Paroled' honneur' (" word of honour). Parole is release from incarceration on condition of good behaviour. The word parole was first used in 1846 by Samuel G.Howe, a Boston penal reformer. The prisoner has to spend his final portion of the sentence in the free community. He a serves part of his maximum sentence in the

institution. He is allowed to serve the remainder of the sentence under the supervision outside the prison on certain conditions. If the conditions are not met, the person can be returned to the prison.

Parole has two objectives i.e protecting the society and at the same time bringing about the rehabilitation of the offender. Parole is a treatment programme. The offender after serving a part of his sentence, he is released on certain conditions. According to Burnes and Teeters (1966) 'parole is a form of conditional release granted after a prisoner has served a portion of his sentence in a correctional institution'. Like probation, parole is a treatment programme in the interest of society and the individual. The prisoner has to show satisfactory behaviour, during the period of his detention inside prison. Parole as a reformatory process, needs careful selection of offenders, their adequate preparation for conditional release and proper supervision in the community by the parole officers.

### **Eligibility for parole:**

It is not a matter of right. Some prisoners can never be paroled. "good time" is the key note. It refers to the number of days deducted from a sentence for (1) good behaviour, (2) meritorious service, (3) Particular kinds of works or (4) other considerations. It is always left to the discretion of the prison authorities. But it cannot exceed in the aggregate 1/3 of the term imposed by the court. Good time is not a matter of right; it can be earned and may be forfeited.

### **Parole selection:**

1. The welfare of the society must be kept in view.
2. Offender's prior criminal record.
3. his personality
4. Physical condition;
5. Employment record.
6. Intelligence
7. Family status,
8. Institutional conduct,
9. Parole plan,
10. Previous probation, Parole history,
11. His intention for the future.

### **Conditions of parole:**

Parole conditions can be divided into two groups.

#### **1. Reform conditions:**

1. Comply with the laws,
2. Maintain employment and support dependents,
3. Refrain from usage of drugs.

#### **2. Control conditions:**

1. Report to parole officer upon release and periodically thereafter,
2. Cooperate with the parole officer,
3. Yet permission to change employment or residence.

According to paranjape, N.V (1993), the following are the essential requisites of an ideal parole system,.

1. Emphasis must be on supervision and guidance.
2. Before release on Parole, the parolees must be thoroughly prepared for parole.

3. The parolees must be assured honorable employment and favorable surroundings at the time of their release on parole
4. The parole authorities should seek active cooperation of the public since the parolees are to be rehabilitated within the society.
5. The parole boards should be completely free from political pressures.
6. The staff associated with parole agency should be whole-time workers.

The American correctional association (1969) considered the following elements of an adequate parole system.

1. Flexibility in sentence and parole laws
2. A qualified parole Board
3. A qualified parole staff
4. freedom from political or improper influences
5. Parole assigned to a workable position in the government administrative structure.
6. Proper parole procedure
7. Pre-release preparation within the institution
8. Parole research
9. A proper public attitude towards parole

The task force report on corrections (1961) listed the following objectives of parole system.

1. Release of each person from confinement at the most favorable time, with appropriate consideration to expectations of subsequent behaviour.
2. The largest possible number of successful parole completions
3. The smallest possible number of new crimes committed by released offenders.
4. The smallest possible number of violent acts committed by released offenders.
5. An increase of general community confidence in parole administration.

### **Role of Parole officer:**

The parole officer has an important role to play. He undertakes the responsibility of supervision and guidance to the parolees. "the parole officer must not be a policeman. He acts as an advisor. He thoroughly understands the individual's peculiar problems arising from his term in prison. He has responsibility to arrange and provide food, shelter and clothing to his parolees. He has to see that the parolees do not use narcotics and liquor. They should keep away from bad

association. They should not carry weapons. They should not visit or correspond with inmates of penal institutions. They should refrain from Gambling etc.,

In addition to individual counseling, parole officers may help in the development of employment plans and job readiness, work with families in the resolution of problems. In New York and other states of U.S.A, they do the duty of police officers. Parole officers are armed peace officers. They are gun carrying social workers.

Parolees tend to be more dangerous and serious offenders. Many of them have been incarcerated for long periods of time with intensive exposure to prison violence. The stigma of the ex-convict label and former inmate status lessens the potential for community adjustment. All these combine to make it difficult for the law enforcement role of the parole officer and hinder the effective pursuit of rehabilitative goals of parole.

### **Parole violation and revocation:**

If a parolee violates the rules imposed or commits any crime, a warrant is issued and the parolee is taken into custody. The parole board can make either of the two decisions.

1. Restore to supervision or 2. return to prison

### **Advantages of Parole:**

Parole helps the inmates to be in contact with their families, friends and prospective employers, solve their property and family problems, and if necessary, get themselves treated and trained. It counteracts the evils of long-term institutionalization. It contributes positively towards social and vocational rehabilitation. It assists the offender in getting suitably adjusted to the community before discharge. Some of the progressive countries have now made it an essential part of their correctional processes.

It aims at social readjustment of those institutionalized offenders who were not released on probation initially. It attempts to rehabilitate more difficult cases, through specialized case work techniques, after putting them on parole.

### **Limitations:**

Parole as a reformatory measure suffers from certain limitation. There are procedural delays in selection, lack of proper appreciation of the ends to be served. Sometimes there is preference for intramural employment, where there are shortages of prison labour. Borstal schools act and children act in India contain provisions for treatment in the community. Delinquents are released under supervision on statutory requirements and are not on parole, but on license.

Most states grant to prisoners temporary releases of varying duration (of a fortnight to six weeks) in the course of their detention. Such releases are related to agricultural operations or to special emergencies like illness, death or marriages in the family or looking after property affairs or finding employment. In Bihar the releases are effected on the basis of reports from probation officers while in most states district authorities have to be consulted. This has helped to liberalize procedures and extend the benefit to larger number in Bihar.

### **13.4. After- care services:**

The term 'after –care' is borrowed from the field of medicine. It resembles the medical concept of convalescence which means restoring the patient to his former good health. Now the term is universally employed in the field of social welfare, especially corrections. It refers to specific kinds of aid given to discharged prisoners. It includes all services and programmes of rehabilitation of discharged prisoners.

#### **Objectives:**

The advisory committee on after-care programmes (1956) appointed by the central social welfare Board mentions the following objectives.

1. It is intended for persons who have undergone certain period of care and training within an institution
2. These persons have special need by reason of a social, physical or mental handicap.
3. It is intended to complete the process of rehabilitation of an individual and to prevent the possibility of his relapse into a life of dependence or custodial care”.

#### **Scope:**

After-care is a service to remove the beneficiary's dependence. It helps him to get over his social, mental, or physical handicap. It attempts to remove any stigma attached to him because of institutionalization. It accelerates the process of his rehabilitation. It intends to make him physically, mentally, socially and vocationally a well-adjusted person,

After-care implies extended attention and care bestowed on a handicapped individual. It is a helping process and a service programme. It is mostly executive social work.

#### **After-care Programmes:**

The difficulties of a prisoner are not over after his release. His personal freedom may not be recovered. His prison training may not make him a fit person to start a new life on a clean slate. The central after-care association of England put it aptly, “Many a prisoner approaches at the end of a long sentence in a state of bewilderment and fear as to what the future will hold for him”. This is evident in view of the stigma, loss of job, loss of family ties and alienation from friends.

Maxwell committee on discharged prisoners aid societies, described the plight of many offenders:

Such offenders often have no home or family ties. They may not have trustworthy friends. He enters a world with which he cannot come to terms. He cannot build a useful and honest life.

After-care has two connotations. In its narrower sense, the released person is put under the care of a probation officer, performing the role of a social worker. In its wider sense, after-care implies all efforts to enable the prisoner to overcome all the problems after his release.

In India after-care work was done for a very long time by philanthropic organizations. But they had all limitations. The all India jail manual committee, 1957, observed,

“After-care is the released person’s convalescence. It is a process which carries him from institutional custody to satisfactory citizenship, resettlement and rehabilitation in the free community. After-care services should form an integral part of correctional work”.

### **Types of after-care services:**

A person discharged from correctional institutions needs several kinds of help to be able to move from dependence to self-dependence. These can be grouped under four headings.

#### **1. Economic assistance:**

Assistance in the form of (1) employment assistance, 2) Providing tools or implements to start a trade or craft or small business 3) Financial aid to meet immediate personal needs such as food, clothing and personal kit.

#### **2. Educational and vocational training:**

Assistance in the form of 1. Apprenticeship in an industrial unit, 2. Vocational training; 3. Aid to education or training; 4. Aid to become literate.

#### **3. Social rehabilitation assistance:**

Assistance in the form of 1. help toward reconciliation with family; 2. help to remove marital estrangement; 3. individual counseling in personal problems; 4. moral support.

#### **4. Shelter and health restoration:**

Support in the form of 1. temporary shelter; 2. convalescence care; 3. Free medical aid/ check-up; 4. free legal aid.

### **After-care Plan**

For the resettlement of the released person, supportive services are needed, when he moves from an institutional environment to an environment which is conducive to his rehabilitation.

The following supportive services are required for an after-care plan for the individual

1. Finding a sponsor who is respected in the community to help the released person
2. Securing a stable job or occupation for him.
3. Find a shelter where he can live in peace immediately on release.
4. Helping him to come close to a stable family
5. Encouraging him to have his own family.
6. Helping him to keep himself away from undesirable contacts or old associates



7. Encouraging him to develop some constructive interest, skill or hobby
8. Making him feel that it is up to him to improve the skills, he has already acquired.
9. Impressing on him the fact that his rehabilitation mainly lies in his own effort, to restore the status he once enjoyed in the community.
10. Interpreting with sympathy his background and present status to the local community and to his neighbours.

Institutional care programme and after-care service constitute a continuum. This is the cardinal principle which an after-care worker/agency should bear in mind.

### **Limitations:**

In spite of the recommendations of different committees, the present status of the existing after-care services in our country is not satisfactory. The stigma attached to the persons in the correctional institutions, general public apathy, lack of cooperation of family members of the ex-convicts poses a serious problem for the proper rehabilitation of offenders. The lack of governmental support, insufficient infrastructural facilities, inadequate financial back up and want of trained personnel are the major handicaps for the rehabilitation of institutionalized offenders.

Srivastava (1977) has rightly observed, "modern methods of penal treatment seek the social rehabilitation of the offender by endeavouring to prepare him for carving out his place in the society as a law abiding citizen. But all this cannot be done until the offenders feel that they are part of the community, and community takes a continuing interest in the welfare. The efforts of the prison based correctional programmes might go fruitless unless the difficult transition to life in the world outside the prison gate is helped and guided by a humane and efficient system of after-care that takes over the responsibility and continues the efforts till the purpose is achieved".

Margolin's (1967) statement sums up the need for community based corrections as given below.

"..... The rehabilitation of the offender is a joint effort, involving the offender, professional worker and the community. Unless the community accepts its responsibility and indeed plays a strategic role, successful rehabilitation of the offender will be jeopardized....."

### **13.5 Summary:**

Probation is a treatment programme. It is a combination of two elements Viz., Suspension of punishment and personal supervision. Probation is the postponement of sentence in criminal case. The offender is given an opportunity to correct himself in the community under the guidance and supervision of an officer of the court.

Parole is a treatment programme. The offender after serving a part of his sentence, he is released on certain conditions. Parole as a reformatory process, needs careful selection of offenders, their adequate preparation for conditional release and proper supervision in the community by Parole officers.

After-Care has two connotations. In its narrower sense, the released person is put under the care of a probation officer, performing the role of a Social Worker. In its wider sense, after-care implies all efforts to enable the prisoner to overcome all the problems after his release.

After-Care is the released person's convalescence. It is a process which carries him from institutional custody to satisfactory citizenship, resettlement and rehabilitation in the free community. After-care service should form an integral part of correctional work.

### **13.6 Key Words:**

- a) Probation
- b) Parole
- c) After-Care

### **13.7 Self Assessment Questions:**

- 1) Discuss the objectives, of probation and the role of probation officer.
- 2) Explain the advantages, limitations of parole and the Role of Parole officer.
- 3) Explain the objectives, scope and limitations of After-Care programmes.

### **13.8. Reference Books:**

- 1. Government of India (1987) : Encyclopaedia of social work in India, vol I, Publication Division, Ministry of Welfare.
- 2. Siddique, Ahmad : Criminology: Problems and perspectives, Eastern Book company, Lucknow.

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## **Lesson 14**

# **Correctional Social Work – Concept, Meaning and Importance**

### **14.0. Objective:**

The Objective of this lesson is to explain the concept meaning and importance of correctional social work.

### **Contents:**

- 14.1. Introduction**
- 14.2. Correctional Social work- Concept and Meaning**
- 14.3. Problems of Prisoners.**
- 14.4. Correctional Institutions for Children**
- 14.5. Theories of Punishment**
- 14.6. Professional Social Work**
- 14.7. Importance of Correctional Social work**
- 14.8. Summary**
- 14.9. Key words**
- 14.10. Self Assessment Questions**
- 14.11. Reference Books**

### **14.1. Introduction:**

Correctional social work is intended to work with the criminals, delinquents and other deviant individuals for their recovery, re-education and rehabilitation. There is shift in focus from crime to the criminal and the resultant emphasis on an individualized treatment and reformation of the offender in consonance with his personality traits and requirements of social mainstreaming. The correctional strategies aim to bring the offender back into the society as a law – abiding, self-reliant and dignified citizen. The ultimate object of protecting the society against crime could only be achieved by reshaping the behaviour considered deviant through concerted measures and social work intervention strategies to change the attitudes and system of beliefs within the individual.

The essential elements of correctional treatment include individualized therapy, education, vocational training, productive work, socio-cultural uplift, community based rehabilitation, transformation of the personality of the criminal, using social work methods. The professional social worker plays a key role in correctional institutions for working with the individual prisoners for reshaping their behaviour and inculcating in them the values of good citizenship, a sense of responsibility towards their families and the larger society and the dignity of law – abiding respectful life.

## **14.2. Correctional Social work – Concept and Meaning:**

The professional social workers play an active role in working with the prisoners using social work methods for reforming and rehabilitating them. The social worker is expected to play a key role for functioning as a link between the prisoner and the prison authorities, and between the prisoner and the community. He is required to use various resources both from within and outside the institutions for their social rehabilitation. The correctional functionary stands for the prisoners as a tiny oasis in the vast desert.

There is immense scope for social work practice in the correctional setting. It will be worthwhile for academic personnel, field work agencies and correctional experts to see how the problems in the correctional setting can be better tackled by social work methods and techniques, with a view to improve and upgrade the standards and effectiveness of the services.

In the correctional field, social work methods can be employed with advantage in many situations. There is need for case work intervention in working with the prisoner during probation and parole, for his readjustment to the family, community and his occupations. The case worker will deal with the psycho-social problems of the prisoner and tries to remove the social stigma attached to the prisoner on account of his imprisonment. He will work with the family members, community and the employer for changing their negative attitude towards the prisoner. He will convince them to accept the prisoner and the transformation that has taken place in his personality.

The social worker uses the resources of the community for rehabilitating the discharged prisoner. An offender, immediately after release from prison has to confront with a lot of personal and social problems, such as loss of family contacts, lack of suitable employment opportunities, social stigma of prison sentence and so on. It is for solution of these serious problems that a discharged prisoner needs community solace, sympathy, help and care without which, he will, in all probability, find no other alternative but to revert to crime. Absence of after care, therefore, gives rise to recidivism. The social worker plays an active role in rehabilitating the discharged prisoner.

## **14.3. Problems of Prisoners:**

To day, as per the philosophy of reformation, a criminal is being considered as a patient suffering from some ailment which needs effective diagnosis or proper treatment (reformation) and cure. Extra – Mural treatments in the form of probation and parole have been devised in order to make the process of reformation and rehabilitation methods more easier. Besides, open prison have been established in order to get rid of the prisonization process. By this process, the prisoners can be readjusted to the society without much of difficulties. But these facilities are extended to the persons involved in petty offences and first offenders whose conduct could be brought under normalcy. But there are many hardened and serious offenders who undergo imprisonment for several years in closed prisons. For them after care services on release are of utmost importance. They have to start a new life in the society after a long period of detachment.

It is a truism that when the prisoner steps into the community after long period of detention inside the prison, people are not prepared to accept him as normal human being; people attach stigma to the prisoner and they do not render any assistance. Even the family members are not prepared to welcome him. The released prisoner faces a lot of problems from different quarters to get himself rehabilitated. Keeping these problems of the released prisoners in mind, after care services developed to enable him to get rehabilitated happily.

Correctional institutions for adults. i.e, the local and central jails are over crowded. The working group on prisons (1972-73) recommended for reducing the number of under trials, youthful offenders and short-terms in jails by taking measures such as speedy trial, effective use of bail, admonition, fine, compensation, parole and others. The under trial prisoners who committed offences of a minor or technical nature, who were not habitual should be released. One of them can be safely released on parole. In India, the criminal law and procedure are quite out-of-date. The old prison manuals drawn up in different states are a great bottleneck for extending any new correctional measures. The all India jail manual committee drafted a model jail manual in 1960, but most states have not adopted it in their respective prison manuals.

The all India jail manual committee (1957-59) had also recommended that non-habitual offenders sentenced to imprisonment for less than one year be sent to work camps and the long-term non-habitual offenders to semi – open and open institutions. Separate institutions are necessary for youthful offenders, women prisoners, mentally sick, and diseased prisoners etc., the main focus of prison reforms, has been on the humanization of prison conditions and the removal of repressive aspects of incarceration. The reformatory process entails study, diagnosis and planning for the treatment of individual offender. This cannot be accomplished in a situation characterized by a mass handling of various types of inmates, outmoded methods and limited therapeutic devices.

#### **14.4. Correctional Institutions for Children:**

Correctional services are organized under the statutory provisions of children acts or Borstal schools act. The remand / observation home offers a place of safety and facilities to suitably plan the treatment services. Each child has a different background and has to be followed by case work techniques of social work, recording the child's background.

The juvenile court or Child welfare Board is expected to be well informed of the physical and psychological needs of children. The probation officer is expected to inform the court about the home and school background of the child. A child cannot be sentenced to a prison term. Well trained and, motivated probation officers, the case workers work together in planning the future of the child. Special schools provide education and training as provided in the children acts. Borstal schools are to follow the same principles and provide and cater to the needs of grown-ups in the age-group of 16 to 21 years.

#### **14.5. Theories of Punishment:**

There are four important theories of punishment. They are expiation, retribution, deterrence and reformation

##### **Theory of Expiation:**

Punishment is accorded with an intention that the offender must atone for his crime, with suffering. The principle of balance between crime and punishment occurs in the doctrine of retribution. From a religious sense, expiation means atonement. Once a crime has been paid for, the society should come to the offender's help to rehabilitate him. The social worker will have to take up aftercare or follow up actions for rehabilitating the offender, so that he can lead the life of a normal citizen.

**Theory of Retribution:**

“You hurt me and I will hurt you” is the literal meaning of retribution. ‘Tit for tat’ is the basic philosophy behind this theory. ‘An eye for an eye’ and ‘A tooth for a tooth’ is the method adopted. Retribution is said to be pain, which a criminal deserves to suffer because, he had broken the law and hurt some one. Retribution is a revenge taken by the victim for an injury caused to him by the offender. It is against the process of reformation. Retribution approach does not coincide with modern humanitarian correctional approach in dealing with the offender.

**Theory of Deterrence:**

By deterrence, we mean that people will refrain from committing the crime due to fear of severe punishment. It serves two – fold purpose. The intention is to teach the offender a lesson that he will be deterred from repeating his offence. It is also to demonstrate to the potential offender the consequences if he violates the law. The more severe the punishment, the more certain the deterrent effect. It prevents others from committing crimes.

Various researches revealed that death penalty is ineffective as deterrence for the crime of murder. Certainly this deterrence works not in all circumstances, but in specific cases. Deterrent method of punishment did not work well in case of sex offenders and persons with low intelligence. Deterrent method of punishment did not work well in case of hardened habitual offenders.

**Theory of Reformation:**

Today efforts are being made to reform the prisoners inside the prison as well as outside the prison, though extra – mural treatment. Methods of probation and parole are used to reform the prisoners without taking him into the prison or conditionally releasing him after spending a part of his sentence inside the prison. The reformatory theory aims at doing this, the offender should be put to educative and healthy influences. He should be re-educated morally and spiritually and his character be reformed and then put him once again into the society to lead a normal life. The theory aims at treatment of the offender instead of punishment. Punishment in the modern context should act as a method for rectification of the prisoner’s immoral conduct.

Under reformation, the punishment should include treatment of physical defects, the reduction of personality maladjustment and inculcation of the values of good citizenship. There is restriction of liberty. But such restriction of liberty of the offender should be explained to him in proper perspective. He must be made to realize the importance of it in order to make the process of reformation easier. In the case of professional criminals who are very intelligent and skilful, there is not much scope for their reformation.

The social worker in the role of a probation officer and parole officer should aim at reforming the prisoners inside and outside the prison by reducing the personality maladjustment and by inculcating the values of good citizenship. The social worker should put the prisoner to educative and healthy influence. He should be re-educated morally and spiritually.

To make the reformation and rehabilitation easier and effective, cooperation and involvement of both the parties, the offenders and the correctional officials or social workers are of utmost necessity. Open prison camps have been organized with an intention to make the offenders feel that they are not excluded from the main stream of the society. Grant of ‘furlough’, probation, parole, bail etc, are the methods which help the offenders to keep in touch with their family members and the society at large.

The social workers play an active role in working with prisoners for their reformation and rehabilitation during probation and parole. They will help the prisoners for readjustment to their families and community. They will also help them to get employment in the community. They will convince the employers to accept them in view of their reformation.

When one talks of prison reforms or treatment programmes, it is remarked that the prisoners get at least two square meals a day, while the honest man has to starve because of poverty. The increasing rate of crime and the cases reported in the newspapers and other mass media creates a sense of insecurity and fear in the minds of the citizens.

The crime rates are rising. The crimes which are not reported are enormous. The police and court proceedings are very slow. Either the legislation is defective or the procedures of enforcement are very lengthy. There is delay in disposal of criminal cases by the police and the judicial courts.

#### **14.6. Professional Social Work:**

Social work is a recent branch of knowledge. It deals with scientific solution and treatment of psycho-social problems. It aims to increase human happiness in general. It is oriented toward the attainment of two ends, first, the creation of those conditions which help to make a more satisfying way of life, and second the development within the individual and the community as well as of capacities which help to live that life more adequately and creatively.

According to Indian conference of social work, "social work is a welfare activity based on humanitarian philosophy, scientific knowledge, and technical skills or helping individuals or group or community to live a rich and full life".

Prof. Herbart Bisno has defined social work "social work is the provision designed to aid individuals in single or in groups, in coping with present or future social and psychological obstacles that present or like to prevent full and effective participation in society; such services are limited on the one hand by agency function and the workers competence; on the other, by already established professions well defined functional area and by certain practices and prejudices".

According to Helen Wintner, "The prime function of social work is to give assistance to individuals in regard to the difficulties, they encounter in their use of an organized group service, or in their performance as members of an organized group".

Social work in its theoretical aspect is based on the knowledge of human relations with regard to the solution of psycho-social problems. In its applied aspect, social work is a professional service based on scientific methods and skills. It seeks to approach the social world scientifically. In the field of social sciences, social work occupies a very important place.

The objective of social work is to help individuals and groups. The social worker is equipped with necessary training and skills in handling problem situations. The help is rendered through established methods and techniques of case work, group work or community organization. There is no 'charity; patronage or 'philanthropy' involved in rendering such assistance.

The skill of the social worker lies in manipulating the social factors. He gives to the client a proper appraisal of his own problems. The worker builds up the client's inner strength to help him to cope with his own problems. The worker is not subjectively involved with the client. The situation of the client's dependence has to be avoided. The worker has to maintain confidentiality in



regard to the personal life or history of the client. This is the basic principle and precondition in scientific social work. Social work needs the support of other disciplines also.

### **14.7. Importance of Correctional Social work:**

The trained social worker plays an important role in correctional setting. There are misconceptions about the scope of services for the prevention of crime and the treatment of adult or young offenders. The reaction to crime is characterized by feelings of revenge or hostility against the offenders. People expect more stringent enforcement of punishment by the police and judiciary and longer sentences of imprisonment.

Correction is part of criminal justice system which seeks to prevent criminal behaviour. It attempts to deal with the underlying causes of anti-social behaviour for the ultimate objective of rehabilitation of offenders back into society. Crime has always been there in the form of violation of the socially accepted norms of behaviour and conduct. The causes of crime are still being investigated. Society should be alert in controlling or preventing factors conducive to crime and treating the offenders leading to their correction for ensuring protection of society against crime in future.

The correctional settings need to be examined in the broad perspective of universal human rights in accordance with U.N. charter, fundamental rights and directive principles of state policy. Most often the criminal justice system conflicts with human rights and fundamental freedoms. This should be examined by all thinking people and the professional social worker. Most of the workers are not aware that the united nations have framed minimum rules for the treatment of prisoners, both undertrials and convicts.

Prisons are “ people changing institutions”. The programmes in prison have a direct bearing on the improvement in the quality of life and on the protection of society. The institutionalized offenders should be scientifically treated, re-educated and rehabilitated to assume a constructive role. The newly emerging forms of crime and delinquency cannot be tackled without diagnostic, therapeutic and rehabilitative approaches.

### **14.8. Summary:**

The trained social worker plays an important role in correctional setting. Correction is part of the criminal justice system which seeks to prevent criminal behaviour.

Society should be alert in controlling or preventing factors conducive to crime and treating the offenders leading to their correction for ensuring protection of society against crime in future.

The professional social workers play an active role in working with the prisoners using social work methods for reforming and rehabilitating them. The social worker is expected to play a key role for functioning as a link between the prisoner and prison authorities, and between the prisoner and the community.

There is immense scope for social work practice in the correctional setting. In the correctional field, social work methods can be employed with advantage in many situations. The case worker will deal with the psycho-social problems of the prisoner and tries to remove the social stigma attached to the prisoner on account of his imprisonment.

To day, as per the philosophy of reformation, criminal is being considered as a patient suffering from some ailment which needs effective diagnosis or proper treatment (reformation).

Extra-rural treatments in the form of probation and parole have been devised in order to make the process of reformation and rehabilitation methods more easier.

It is a truism that when the prisoner steps into the community after long period of detention inside the prison, people are not prepared to accept him as normal human being.

There are four important theories of punishment namely, (1) Theory of expiation, (2) Retribution, (3) Deterrence and (4) Reformation.

The social workers play an active role in working with prisoners for their reformation and rehabilitation during probation and parole. They will help the prisoners for readjustment to their families and community. They will also help them to get employment in the community. They will convince the employers to accept them in view of their reformation.

#### **14.9. Key words:**

- a) Correction
- b) Correctional Social work
- c) Probation
- d) Parole

#### **14.10. Self Assessment Questions :**

- 1) Discuss the concept, meaning and importance of correctional social work.
- 2) Explain the role of Professional social worker in correctional institutions

#### **14.11. Reference Books:**

- 1. Government of India : Report of the working group on prisoners in the country. Ministry of home affairs, New Delhi.
- 2. Government of India : Encyclopedia of social work in India, Ministry of welfare, Vol.3, New Delhi.
- 3. Shafer, Stephen : Theories in Criminology
- 4. Tappan, Paul, W : Crime, justice and correction.

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## **LESSON: 15**

# **CORRECTIONAL SOCIAL WORK WITH CRIMINALS AND DELINQUENTS**

### **15.0 OBJECTIVE:**

The objective of this lesson are to explain concept of correctional social work with criminals, and delinquents.

### **Contents:**

- 15.1 Concept of crime**
- 15.2 Meaning of crime in modern society**
- 15.3 Social work intervention**
- 15.4 Community organization**
- 15.5 Group work with near criminals**
- 15.6 Group work based on the collectivity**
- 15.7 Correctional social work with delinquents**
- 15.8 Introduction (Delinquency)**
- 15.9 Social work with intervention**
- 15.10 Case work with near delinquency**
- 15.11 Group work with near delinquency**
- 15.12 Role of correctional social worker**
- 15.14 Social worker as a friend**
- 15.15 Summary**
- 15.16 Key words**
- 15.17. Self Assessment Questions**
- 15.18 Reference Books**

### **15.1 Concept of Crime:**

In order to understand the reformation of criminals, a brief reference of the concept of crime is essential; the concept of crime is closely associated with the concept of human society. In every society, there are persons who do not conform to the social norms. Hence in the study of crime, we are interested in the negative activities of man. These negative activities which do not conform to the social norms are called anti-social activities. The anti-social activities are of two types namely an offence against an individual and an offence against the state. The offence against an individual is called civil offence. On the other hand the offence against the state is called criminal offence. In other words, crime is an act which is prohibited by law.

Crime is relative. The criminal law is constantly changing. Therefore many primitive crimes are no longer crime in our modern society. In primitive society, human conduct and behaviour was regulated by customs and conventions. These were based on certain beliefs and superstitions. Therefore any breach of custom or convention was considered an offence against whole society.

### **THE OFFENDER:**

Let us take the instance of a person who has committed theft and is caught. This man must have developed a system of thinking and feeling and a pattern of behaviour which are at variance with the accepted notions of other members of the society. Theft is generally condemned. Those who disapprove of theft have now apprehended the thief, and by an institution of this society, the thief is to be tried and treated. Quite naturally, the thief looks upon society and its institutions of police, laws and courts as hostile to his interests. The thief does not accept these, and these do not accept the thief. So if the thief, under these circumstances is punished with imprisonment, he may react in several ways. He may repent and reform himself which is not quite likely. He may become vengeful and look forward to the day of his release when he would commit greater crimes, thus punishing society in retaliation. Or he may become bitter, morose, melancholy, a mental patient. He could react in many other ways, depending on his personality make up, and on the opportunities and hopes the society affords him.

### **15.2 Meaning of Crime in Modern Society:**

In Modern society, man is rational. In his actions he follows reasons rather than superstition. Consequently, crime in modern society is considered as a social, psychological and psycho-social problem. It is completely detached from the influence of customs and religion. Previously, emphasis was given on the nature of crime. But in modern society emphasis is also being laid on the study of criminals.

### **15.3 Social work intervention:**

### **15.4 Community organization:**

Prevention of crime also depends on the personal groups of the local community. It has been already explained that criminality is derived from the crime dominated groups. It develops when the anti-crime forces of local community are not strong. Therefore, in order to prevent crime it is essential to create anti-crime attitudes among the members of local community. It has also been suggested that crime should be defined as undesirable by the primary and personal groups in which a person participates. In this sense control of crime lies within the local community.

### **15.5 Group work with near Criminals:**

Group work is one of the important contributions of sociological development. It refers to the extension of case work beyond the person and his family.

## **15.6 Group work based on the Collectivities:**

According to this type of group work attempts are made to re-direct the activities of a group of persons who are criminals or near criminals. Therefore some workers participate in a group of criminals members and try to convert- them in to law-abiding citizens.

### **THE GROUP RELATIONS METHOD:**

According to this method, the behaviour of an individual is the product of his group relationships. The traits which are manifested in individual personality, are the properties of his group. The behaviour, attitudes, beliefs and values which an individual exhibits are firmly based on the groups to which he belongs. Therefore, treatment of an individual offender is possible only with reference to his group relationships. The method is very useful if proper consideration is given to the following points.

1. The group should be attractive to the offender.
2. The group should have a relevant basis attraction.
3. The group should be of high prestige.
4. The group should strongly be organized as an anti-criminal group.
5. The source of change in the offender should rest within the group.

### **Co-ordinating council:**

Till the recent century, the various agencies engaged in crime prevention have worked separately. Now in many countries works of various agencies have been integrated with the help of co-ordinating councils. These councils bring co-ordination between the efforts of various agencies which deal with prevention of crime and delinquency. In other words, co-ordinating councils work as a counselling body.

## **15.7 Correctional Social Work with Delinquents:**

### **15.8 Introduction: (Delinquency):**

It is in this context of rapid urbanization and industrialization, of shifting social values and behaviour, that one must consider ways and means of combating crime and delinquency. One of the measures of crime and delinquency prevention is the treatment of those who have been accused, or convicted of crime. Social conditions associated with these two processes have affected the family pattern. This resulted in an atmosphere that is favourable to the growth of juvenile delinquency. A large number of children moving from rural areas to the cities or living in slums in cities are found to be highly vulnerable to this process. This has almost become a universal problem in most of the industrialized countries including India.

**Meaning and Definition: (Delinquency)**

Delinquency is a kind of abnormality when an individual deviates from the course of normal social life, his behaviour is called "delinquency"; when a juvenile, below a specified age under a statute, exhibits behaviour which may prove to be dangerous to society and/ or to himself, he may be called a 'Juvenile delinquent'; each state has its own precise definition of the age range covered by the word juvenile.

**Definition:**

Delinquency is a juvenile misconduct that might be dealt with under the law.

Delinquency as occurring in a child "when his anti-social tendencies appear so grave that he becomes or ought to become the subject of official action

**15.9 Social work intervention:****15.10 Case work with near Delinquency:**

In every community we find certain children who are supposed to be pre-delinquently. These children suffer from various emotional problems namely neurosis, temper, tantrums, sullenness and timidity. As a result of these problems they face difficulties in schools and play-groups. If they are corrected in the early childhood, they are expected to be less delinquent. At present there are two types of agencies which deal with the correction of near delinquents. They are known as child guidance clinics and visiting teacher movement. In many countries child guidance clinics have been organized by the public welfare departments. Generally problem children are referred to the clinics by their parents. On the other hand visiting teacher movement is also of recent origin. The visiting teacher is agent of the school in problem cases.

The visiting teacher "receives reports from the regular school teacher regarding attendance, scholarship, misbehaviour in schools and other difficulties. On the basis of these reports the visiting teacher makes an investigation of the home and neighbourhood with the purpose of tracing the difficulty to its source, and attempts control on the basis of this information.

**15.11 Group work with near Delinquency:**

Group work is one of the important contributions of sociological development. It refers to the extension of case work beyond the person and his family. Group work with near delinquents may be classified into two categories: 1) Individualistic group work.

2) Group work based on the collectivity.

**INDIVIDUALISTIC GROUP WORK:**

In Individualistic group work, an individual is induced to become a member of a group. Attempts are made to adjust the individual in the group. As a result of this adjustment the individual

overcomes the tendencies which are conducive to delinquency. Thus this type of group work is concentrated on the problems of particular individual.

### **GROUP WORK BASED ON THE COLLECTIVITY:**

According to this type of group work attempts are made to re-direct the activities of a group of persons who are delinquents or near delinquents. Therefore, some workers participate in a gang of delinquent members and try to convert them into law abiding citizens.

### **Institutional reorganization:**

It has also been suggested that institutional reorganization is also essential for prevention of crime and delinquency. According to Taft prevention of crime and delinquency requires a wide spread modification of the institutional structures. In his opinion the present methods, namely repression, clinical treatment, character education, case work, group work and child guidance clinic, can only bring slight reduction in crime rate. These methods are not able to cut the deeper roots of crime and delinquency. According to Taft, our main aim is to establish a crimeless society. Hence institutional reorganization is essential for the achievement of this aim.

### **Organised recreation:**

Organised recreation is also important for the control of crime and delinquency. It is method of occupying the leisure time. It includes youth centers' recreational groups, boys, clubs, reading rooms, motion pictures, cultural and social activities, etc. As a result of these activities, criminal tendencies are diverted towards sound social life.

## **15.12 ROLE OF CORRECTIONAL SOCIAL WORKER:**

Correctional social work functions in institutions to which offenders are committed. These institutions are prisons for adult offenders. Correctional homes for children (child delinquents), are also called certified schools, shelters where normally adolescent and adult women, sex-offenders are kept. When a young offender is sentenced for an offence, he is not directly sent to prison but is put under the care and the ward of a social worker with certain conditions. This system of being put under the supervision of a ward is called "probation", and the probation officer is expected to be a social worker. If an makes a promise of good behaviour and requests for release. Such a one may be released and bound for good behaviour under the supervision of officer. Such a system of a prisoner being released on promise of good conduct and under supervision of an officer is called "parole", and officer supervising is a "parole officer". This officer, again, should be a social worker. The difference between probation and parole is mainly this, that in the former case the person is sentenced but not committed to prison, while in the latter the offender is not only sentenced but is undergoing imprisonment. Also the probationer is generally a young person, but the offender under parole is an adult. However the purpose of probation as well as parole is to help the offender overcome his inclinations to take to crime, and correct himself, return into society as a normal and

helpful individual. To-day even the prison is coming to be looked upon not as a place of confinement and punishment, but an institution for giving psychiatric, social and psychological treatment to prisoners whereby they are helped to divest themselves of their deviant behaviour propensities. They are clothed and fed, sheltered in prison (!) They are taught the three R's, and given training in book binding, printing, basket and cloth & carpet weaving, carpentry, smithy work, paper manufacture, sewing and even engineering and other trades. In Uttar Pradesh, Andhra and a few other states open prison system is being tried out, and authorities have reported excellent results from its operation. In open prison administration, horticulture, fruit-growing, agriculture are introduced with profit. While learning these trades, the prisoners produce goods which are sold in the community and these sales, the prisoners are allowed to accumulate some money which would be useful to them after release. Not all entertainment and recreation and physical exercise are denied to them. They conduct to cinema shows, group games, and provide opportunity for exercise.

### **15.14 SOCIAL WORKER AS A FRIEND:**

Now rehabilitating an offender is a highly complex process. Even a qualified social worker cannot be too confident of recovering and rehabilitating an offender. But the role and position of the social worker are more scientific and promising than those belonging to the institutions of law, courts and prisons. The social worker arrives on the scene as a sympathizer and friend, not as a critic and punisher. This is a very important point of difference between the social worker and the others. In his very attitude and approach lies the possibility of bringing about the offender as a friend; and be it noted that the social worker comes to the offender as a friend. He first establishes friendly relations with offender. This is what is called 'Rapport'. After this, he uses his social work skills which include, probing into the personality of the offender and making an inventory of the creative and destructive, useful and harmful tendencies of the person; locating these to their probable or possible causes, through persuasion, counseling, and environmental manipulation, helping the man to overcome his own evil propensities and to develop his useful and constructive abilities. This, of course, includes treating person to healthful and socializing programmes, and training him to acceptable occupations. The social worker so manages his skills and works out the programmes that the progress of the person in his charge is recorded consonantly and cumulatively. However, by all human manner of means known to social work, the offender is slowly and gradually helped to become a useful citizen.

### **15.15 Summary:**

Social work method is relevant and effective in its own field and for special problems. Social case work is useful where individualized attention is necessary. Group work techniques are utilized to provide worthwhile experiences to small groups engaged in creative and recreative programmes. The method of community organization enables members of communities to discover and use their own resources co-operatively to improve their own conditions of life. Each method has its own uses and advantages. It has also its own limitations. All the four methods are required to meet the social problems in our country.



**15.16 KEY WORDS:**

1. Delinquents.
2. Criminals
3. Social work intervention
4. Correction

**15.17 SELF ASSESSMENT QUESTIONS:**

1. Discuss the provisions regarding the reformation of juvenile delinquency?
2. Define crime. Discuss the methods regarding the reformation of offenders?

**15.18 REFERENCE BOOKS:**

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# **CORRECTIONAL SOCIAL WORK WITH BEGGARS AND SEX WORKERS**

## **16.0 Objective:**

The objective of the lesson is to explain the concept of correctional social work with beggars and sex workers.

## **Contents:**

- 16.1 Introduction**
- 16.2 Beggary**
- 16.3 Correctional Social Work with Beggars**
- 16.4 Sex Work / Prostitution**
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## **16.1 Introduction:**

Correctional social work refers to work with the delinquents, both children and adults. Correctional social work functions in institutions to which offenders are committed. These institutions are prisons for adult offenders; correctional homes for children (child delinquents) also called certified schools, shelters where normally adolescent and adult women sex-offenders are kept. When proper attention is not given to beggars there is a tendency for them to turn to delinquency. Social work philosophy states that man is not inherently sinful, evil in him is due to external and historical circumstances. Evil should be distinguished from the essential man. The man who has done wrong or committed a crime, who is a beggar or a sexual deviant should be taken care of, treated so that he is cleansed or chastened of his evil and is recovered to his normal self and delivered to society as a useful citizen. The delinquent, a beggar or a sex-offender is reconditioned through the process of social work. This reconditioning is called as rehabilitation.

## **16.2 Beggary:**

In our great country, in every city and town, there are a great number of beggars, beggars who are poor, and physically and mentally disabled. Some present themselves alone, and some

with dependents of all ages, even with infants in their arms. A few are so maimed by leprosy that they are left with stumps of hands with fingers eaten away. They can hardly hold the things you give them. At the sight of such miserable spectacle we are rightly overcome by pity. We give the beggar a coin or a piece of used cloth or some left over food. There is no doubt that we have done him a service and vindicated our human duty thus satisfying our sentiments. As far as the beggar deserves, your charity is aptly dispensed. But unintelligent and indiscriminate charity may sometimes lead to anti-social conclusions.

We do not often closely look into the credentials of a beggar when we dispense charity. It is found by experience and research that when a beggar is given a coin or food, he has a tendency to appear and reappear before the donor, may be the next day or sometime afterwards. All psychologists and philosophers are agreed that begging destroys self-reliance. It leads to personal or social dependence. When one beggar thus makes and manages to live without labour, others may be encouraged to take to begging. Thus able-bodied beggars join the fraternity and the ranks swell into the proportions of a menacing social problem, which now it is.

### **Beggars turn out as Delinquents:**

Again, some beggars, women as well as men, steal children from maternity homes, and passing off as parents, exhibit the infant to wrest pity from the bosom of the onlooker. There are beggars who even pierce the eyes of the stolen child, twist the child's hands or cripple its legs and otherwise violently deform it for exhibition so that people may pity more deeply and give more readily. Thus, while charity to individuals or groups may be social service, indiscriminate and unintelligent charity of the type we are mentioning may result in several evils. In this instance the beggar's mind gets further demoralized and dependant; others may follow his example and swell the number of beggars; able bodied beggars come into the ranks; child lifting and child-torture may become accessories to the trade, petty thievery may also be associated with beggary; public health may be endangered; to mention only some of the evils which follow unthinking alms giving to whomsoever asks for help. Misplaced charity is antisocial. The deserved, ofcourse should be helped.

### **16.3 Correctional Social Work with Beggars:**

The social worker adopts a professional approach in dealing with beggars. First he would make a study of the problem of beggary in a given area. He would then classify beggars according to their disabilities and abilities, and list their needs, immediate needs as well as long term needs, such as medical and psychiatric help, food, clothing, shelter, training in arts and crafts (vocational training) which would later stand the beggars concerned in good stead.

Then the social worker would appeal to the community members to contribute money, clothes, grain and if possible a building. In this regard, he will only be pooling together or assembling the resources of the community. Perhaps the social worker will enlist the honorary services of enthusiastic and qualified persons whose help he may need. The services of qualified persons are also an important portion of the community resource. The totally disabled beggars will

be given custodial care that is they will be provided with food, clothing and shelter medical help and recreational services. The partially disabled and the able bodied, will, in addition to custodial care, be given training in arts and trades, such as book binding, basket and mat-weaving, spinning and weaving, sewing, carpentry; smithy; and if possible, training in more modern trades like electricity, engineering and other mechanical arts. The view is that they should be trained in useful trades and rehabilitated to lead a worthy life. Through these activities the social worker enables the helpless beggars to help themselves.

### **16.4 Sex Work / Prostitution:**

Sex work also known as prostitution is one of the major social problems, which has a tremendous impact on the society. Prostitution calls for immediate attention since it is one of the important causes leading to HIV/AIDS. Man's sexual needs outside marriage, his polygamous nature and women's coincidental need of protection against rape and violence have been justifications for prostitution for ages. Prostitution is an evil and we must try to get rid of it rather than tolerate it. In India no serious efforts have ever been made to control prostitution. Here in our country it has been looked down upon by a section of the society, while it has also been adored by a certain section, while another section seems to have been indifferent to the problem and while looking down upon the prostitutes itself. Various steps are taken for the suppression of prostitution but is regarded as a necessary evil.

### **16.5 Definition of Prostitution:**

Prostitution is the practice of habitual or intermittent sexual union with more or less promiscuous for mercenary inducement.

#### **Element of Prostitution:**

1. Illicit and promiscuous sexual intercourse.
2. Mercenary basis whether in cash or in kind.
3. Lack of affection or personal interest.

### **16.6 Causes of Prostitution:**

#### **1. Social values against unchastity:**

A raped woman or a woman who had illicit sex experience because of some reasons is often to feel that she had nothing with her status and she had to accept whatever comes on her way. It is true, the society forgives the conduct of such a man, while it is different in the case of women. Thus the offender escapes while the victim is punished.

#### **2. Ignorance:**

It was poor women, especially widows who have none to support them or are ill-treated by

their relative becomes a prostitute. In such time they become reconciled to their fate and become a prostitute.

### **3. Unhappiness in marital relationship:**

Unhappy marital relationship causes many women to resort to prostitution. Indissoluble marriage, especially when the bridegroom is old or a man of bad character leads to such an action. The old man by his caresses stimulates the slumbering sexual passion in the girl which he cannot satisfy fully. The result was often secret relation with women of young age.

### **4. Hardship in life:**

Another important factor that increases prostitution was the difficulties on widow to remarry. The widows were sometimes considered as a burden by their relatives. The ill treatment and the cruelties sometimes lead to leaving their homes with men who offer them life of comfort and luxury.

### **5. Inordinate sex desire:**

Some girls have uncontrolled sex desire for sex stimulation for its own sake. The desire for new experience either by sex or for the promiscuous social contacts also lead one to prostitution. Some women are by nature easy going as well as comfort loving. This desire for easy and comfortable living also becomes contributing causes to prostitution. At the same time it is possible that a girl who is addicted to drink also may undergo her first sex experience.

### **6. Vested interests:**

The highly profitable nature of the business makes many girls to resort to prostitution. Profit motive is the aim of business. In order to attract fresh recruits in the form of young girls, some managers formed organization, the aim of which is to interest young girls in prostitution and keep them in business that they have once entered.

## **16.7 Impact of Sex Work on the Society:**

The sexual impulse is natural to man. Both man and animal feel attracted towards opposite sex due to natural and normal development of the sexual impulse. The mutual attraction makes person come closer and this proximity of body and mind generates feeling and emotion of love. This feeling of love culminates in the proximity of bodies' inmates and the result is the oblivious bliss of sexual intercourse. In the absence of the opportunities to consummate sex heterosexually, man may seek self-gratification or gratification through homosexuality. He may also succeed in sublimating the sex energy and canalize it to creative and constructive channels. The paradise of man and woman in an unfettered embrace is a dream of the visionary. As a matter of fact society tries to restrict and control the sexual contacts between man and woman. The main reason for this is that sex is not a mere play; it procreates. Man and woman multiply to produce their replica. The children born out of love and sex play cannot be left untended; otherwise there will be chaos in the society. They must be properly reared up, given adequate opportunities for development.

For this purpose society has the institution of marriage. The purpose of family is not only to help bringing up of children but also to restrict the unfettered expression of sexual impulse. The experience shows that promiscuous and unbridled sex harms the personality and leads to personal and social disorganization. The free love also breeds violence and jealousy, rape and murder. Though unbridled sex is harmful, too much repression of sex is even more harmful. In order to strike a balance between unbridled sexual indulgence and total repression, every society has invented the institution of marriage in one form or the other. The balanced sexual repression is only that which fits in well in the personality structure of man and also which is within the accepted social limits. These limits of course vary from one society to the other.

Each instinct of man has two sides, healthy and morbid. The healthy expression of instinct promotes individual as well as social welfare and also increases the sense of well being. A married person enjoying marital bliss and procreating strong and healthy offspring commits no vice. As a matter of fact he is doing his duty. This is a healthy aspect of sex. But the morbid and perverted sex is wasteful and harmful to both the individual and society. Though sexual indulgence is no vice and each man has his own capacity for sexual indulgence, perverted sex that harms the personality of man and perpetrates cruelty and injustice on others is vicious. The prostitution is harmful in as much as in it the bond between sex and love is served and the personality of others is exploited. Rarely does a prostitute derive true sexual bliss. As a matter of fact too much friction in her body may become painful in the end. Besides she or he risks venereal disease. A prostitute as a matter of fact caters to a number of perverted desires of man which he cannot satisfy with his wife. Thus we see that prostitution is a repository of the entire gamut of perverted sex.

### **16.8 Correctional Social Work with Sex Workers:**

Social workers working with sex workers play a vital role. Correctional social work in the field of sex work is a challenging task since it deals with a delicate issue of sex as well as stigma and discrimination associated with sex work. Women and girls who work as commercial sex workers need to be educated about their susceptibility to sexually transmitted diseases (including AIDS the most dreadful of these diseases) and about the preventive measures. Legal education should be given about the Suppression of Immoral Traffic (among women and girls) Act 1956. Other responsibilities of social work professional working with sex workers include:

1. Generating awareness about the various schemes for education, training, employment and rehabilitation being implemented by government and non government agencies for the welfare of exploited and destitute women.
2. Adoption of various strategies for effective preventive and rehabilitative measures and towards changing male attitudes for commercial sex and sexual exploitation of women and society's attitudes towards sex workers.
3. Counselling to enable the commercial sex workers to access and avail help to escape from exploitation.

In short, correctional social work activities include investigation and research, implementation of social legislation, education and propaganda, medical and public health programmes and rescue and rehabilitation.

### **16.9 Devadasi System and Sex Work:**

The system of Devadasi seems to have existed in Southern India for quite a long time except in Kerala where there was the matriarchal system. The belief in the concerned groups was that one girl in a family should be offered to temple duty (Goddess Yelhamma in certain communities). The Devadasis pleased the deity with songs and dances which they had to learn as part of their duties. The devotees gave clothes and ornaments and other necessities to the Devadasis who lived on the offerings alone. It was not long before affluent and rich devotees established the custom of picking up good looking Devadasis and making them their concubines. Later when they were discarded and thrown to want, they took to prostitution. General poverty also drove other less attractive and less fortunate women in these families to prostitution. Although Devadasi system has been legally abolished, the problem exists in some form in certain areas of Karnataka, Andhra Pradesh and Maharashtra.

### **16.10 Correctional Social Work with Devadasis ( Devadasi System Abolition):**

Correctional social worker working with Devadasis educates the concerned communities about their susceptibility to health problem especially sexually transmitted diseases. Legal education about the ban on Devadasi system is undertaken.

Social work in this regard includes

1. Dealing with psycho-social problems of Devadasis during their adolescence and youth.
2. Dealing with economic problems during their old age by helping them utilize various schemes being implemented by government and non-government agencies.
3. Organizing medical treatment and effective preventive and rehabilitation measures.

The social work professional acts as a liaison person in the rehabilitation of these women in distress by securing vocational training-cum-employment and residential care leading to economic independence.

### **16.11 Child Victims of the Flesh Trade:**

A child victim of the flesh trade is any individual under 18 years of age involved in sexual activity that he/she does not really comprehend, for the monetary gain of an adult – a procurer or a pimp. In certain communities, the sex trade receives social sanction hence preventive strategies need to be evolved for necessary intervention. Child victims of the flesh trade are not only abused physically, sexually but also emotionally. Children are the most vulnerable sections of the society since they are not aware that they are being abused or even when they are aware of it they are helpless.

## **16.12 Correctional Social Work with Child Victims of the Flesh Trade:**

Social Workers play a crucial role while dealing with child victims of the flesh trade. Child victims of the flesh trade are one of the most vulnerable groups of children and need special legal provisions and services. Therefore social work intervention includes provision of services and legal protection so as to help children in the process of repatriation and rehabilitation.

These children are victims of circumstances beyond their control and social work professional takes special efforts to re-integrate them into the society.

The social work professional helps the children utilize the various services offered by government and non-government agencies so as to give a new life to these child victims of the flesh trade.

## **16.13 Summary:**

Beggary is one of the social problems calling for social work intervention. Beggary when left unattended can lead to individual or social disorganization. It leads to personal or social dependence. Beggars can be rehabilitated and made useful citizens in the society through social work intervention. Similarly sex workers also called, as sex offenders need professional help. Sex workers are often confronted with diseases such as STDs; HIV/AIDS who primarily need case work services as well as counselling. Though these diseases are basically physical ailments, they do impose mental and emotional stress on the sufferer and bring about even social disabilities in that the sufferer is isolated, even ostracized in certain cases of STDs, HIV/AIDS. He may be looked upon as unfit for marriage, employment or companionship. Therefore there is physical disability, mental as well as emotional anxiety. This is not only true for the sufferer but is so for the dependants as well as near and dear ones, too. The social work professional deals with sex workers as well as her near and dear ones.

## **16.14 Key words:**

1. Correctional social work
2. Beggars
3. Sex workers
4. Prostitutes
5. Commercial sex workers
6. Devadasi system
7. Child victims of flesh trade

## **16.15 Self Assessment Questions:**

1. What is Beggary? Discuss the role of a social worker in dealing with beggars.



2. Is sex work a deviant behaviour? Explain the social worker's role in dealing with sex workers.
3. Explain the causes of prostitution.
4. Prostitution has an impact on the society - Justify.

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## Lesson - 17

# CORRECTIONAL SOCIAL WORK WITH ALCOHOLICS AND DRUG ADDICTS

## 17.0 Objective:

The main objective of this lesson is to explain how the psychiatric social work will help the alcoholics and drug addicts in their treatment and rehabilitation process.

## Structure:

- 17.1 Introduction
- 17.2 Alcoholism
- 17.3 Habit of Alcoholism
- 17.4 Effects of Alcoholism
- 17.5 Treatment of Alcoholism
- 17.6 Drug Addiction
- 17.7 Symptoms of Addiction
- 17.8 Types of Drugs and Effects
- 17.9 Prevention and Treatment of Drug Addiction
- 17.10 Role of Social Worker
- 17.11 Summary
- 17.12 Key Words
- 17.13 Reference Books

## 17.1 Introduction:

Alcoholism and drug addiction have been a source of serious behavioural problems for thousands of years in the world. Excessive indulgence in them has been considered undesirable or criminal behaviour. From time to time in almost all the countries the law of the land has been given teeth for dealing with this menace but alcoholism and drug addiction are not so much the law and order problems. Recent studies have established that these are more of psychiatric, psychological and social problems than anything else which ruin the individual and the society emotionally and economically.

## 17.2 Alcoholism:

Alcoholism is usually referred to excessive drinking or dependence on alcoholic beverages, which people drink for many reasons and in many ways, situations and styles. They

should not all be considered alcoholics. The World Health Organisation (WHO) has defined alcoholics as “excessive drinkers whose dependence on alcohol has attained such a degree that they show noticeable mental disturbance or an interference with their mental and bodily health, their interpersonal relations and their smooth social and economic functioning, or who show the prodromal (beginning) signs of such developments”.

### **17.3 The Habit of Alcoholism:**

The habit of excessive drinking dependent on alcoholic beverages is perpetuated gradually. E.M. Jellinck (1971), an authority on alcoholism has pointed out the following four stages in the development of alcoholism.

#### **1. Pre-Alcoholic Phase:**

This initial phase lasts from two months to two years. The beginner who drinks for social reasons or merely on account of curiosity finds that it relieves him of anxiety and tension and as a result learns to use alcohol as a relief measure. Gradually he begins to experience an increased tolerance for alcohol and needs a large amount to reach the same stage of sedation. This phase is characterized by gradual shift from infrequent or light of frequent or heavy drinking.

#### **Prodromal Phase:**

At this stage alcohol begins to be used more as a drug and less as a beverage with dependency on it increasing and manifested through the following behavioural phenomena.

- \* The individual becomes preoccupied with drinking, worrying where and when he will have his next drink.

- \* He feels guilty about drinking and usually avoids references to alcohol in conversations. At the same time he feels a strong urge to drink and thereby often resorts to surreptitious rather than open drinking.

- \* There is a sudden onset of ‘blackouts’ for some of the periods of drinking.

- \* There is considerable memory impairment. One may remain conscious at the time of drinking but later unable to recall the events.

#### **The Crucial Phase:**

The third stage is alarming. The dependency on alcohol increases to the extent that there is a danger of an individual losing everything that one values. He may drop friends, lose jobs and leave the members of his family including children and wife but not giving up the habit of drinking. The behaviour compels one to withdraw from the social environment ending in the isolation further making him drink heavily at any time. In this phase drinking is sought to be rationalised as a source of comfort. The need for liquor becomes a constant source of worry, detrimental to diet combined with the harmful effects of alcohol deteriorates his health, lowers his sexual drive and makes him hostile towards the persons and environment completely ruining his harmony and peace.

### **The Chronic Phase:**

This is the most crucial stage where the individual lives only to drink. His bodily systems become so conditioned that these must be supplied with alcohol or he suffers withdrawal reactions. In case alcohol is not available, he is ready to consume any liquid containing alcohol like shaving lotion, spirit or a medical preparation. He loses control upon his behaviour and prolonged bouts of intoxication often lead to marked ethical deterioration (character disorders), complete neglect of personal appearance and concern for others, impairment of mental processes and even alcoholic psychoses in some cases. In comparison with the crucial phase, the chronic phase results in the loss of tolerance for alcohol usually when even a small amount leads to intoxication. At a more advanced stage, the alcoholic admits defeat and unless he receives treatment is unlikely to give up drinking.

### **17.4 The Effects of Alcoholism:**

Alcoholism may result in severe disturbances of physiological, psychological and social functions as given below:

#### **1. Physiological Damage:**

Almost every tissue and organ of the body is adversely affected by alcohol. Since an alcoholic largely depends upon alcohol as a major source of food, he neglects his diet. Consequently he suffers from vitamin and nutritional deficiencies. A drastic reduction in the intake of protein causes cirrhosis of the liver. Prolonged consumption of alcohol can damage the endocrine glands or cause heart failure, hypertension, shrinking and inflammation of the lining of the stomach, and capillary haemorrhage. It can also lead to the lowering of overall resistance to disease as a result of which the life expectation of an alcoholic is considerably reduced. The incidence of death in the case of alcoholics may occur on account of depression leading to suicide; intercurrent infection, especially from respiratory infections; liver or cardiac failure; and inhalation of vomitus.

#### **2. Psycho-Physiological Damage:**

The damage may result in a number of neurological and psychotic disorders (brain syndromes) such as pathological intoxication, delirium tremens, alcoholic hallucinosis, alcoholic deterioration and Korsakoff's syndrome.

#### **3. Behavioural Damage:**

Alcoholism can cause severe deterioration in the thought processes and damage intellectual functioning. Sufficient intoxication may lead on individual to 'black-out' causing inability to remember what he said or did. Motor behaviour is adversely affected. It may also cause severe personality and character disorders. It adversely affects the sex behaviour of an individual.

### **17.5 Treatment of Alcoholism:**

There is no single effective way to deal with the problem of alcoholism. In some or very few cases individuals may stop drinking apparently because of the fear of being arrested and

imprisoned. But alcoholism is in fact a medical and psychological problem rather than a law and order problem. Attempts should therefore be made to tackle it on medical, social and psychological. Thereby a psychiatric social worker who has got knowledge in socio-psychological and psychiatry can deal with the drug addicts more effectively in their treatment and rehabilitation. In the process of treatment procedure at every level his involvement is necessary. He provides information to the psychiatrist of his social, environment, personal and the psychology of the drug addict, so that a good coping mechanism can be developed to overcome from the problem.

\* In many cases, compulsory hospitalization is not needed, but important to keep the alcoholics away from aversive life situations and keep their behaviour under control.

\* It should include investigations like full blood count, chest and skull radiography, liver function tests as a result proper medical treatment should be provided for the deficiency and damage.

\* The first step in treating alcoholics is deintoxication, that is removal of alcoholic substances from the body and treatment of withdrawal symptoms.

\* After deintoxication the following deterrent measures like, the patient may be given drug like disulfiram (Antabuse) or citrated calcium carbamide (Abstem) for helping him resolve not to drink. These drugs will act as strong deterrents in preventing drinking.

\* When the patient has stopped drinking, he may be given group or individual psychotherapy for helping him gain insight into his behaviour and develop more effective adjustment techniques other than alcohol or drug addiction.

## 17.6 Drug Addiction:

The literal meaning of "Drug" is any dry herb and is derived from the French Word "DROGUE". A drug is defined as any substance used for the purpose of diagnosis, prevention, relief or cure of a disease. According to World Health Organisation, " a drug is any substance or product that is used or intended to be used to modify or explore physiological systems or pathological states for the benefit of the recipients. Drug abuse is taking a drug for reasons other than medical, in any amount, strength, frequency or manner that damages the physical and mental functioning".

Conceptually, an addict is a person who has surrendered himself to the habitual taking of a drug without medical supervision to the extent that he gets into physical agony and mental trauma if the drug is suddenly withdrawn. Drug addiction can therefore be defined as the compulsive use of one or more of the five substances (cannabis, hallucinogens, stimulants, sedatives and solvents) resulting in the mental or physical dependence of the abuser on the substance he consumes.

### Factors Contributing to Drug Addiction:

There are numerous factors or reasons contributing and responsible for Drug addiction. Most important of them are : most of the addicts start using drugs out of curiosity or to have some pleasure, often under the influence of their friends and peer group; some take to drugs to overcome boredom, depression or fatigue; lack of love or understanding on the part of those the person is attached to also becomes a cause of addiction in many cases, most the cases are found to suffer from various kinds of frustrations in life caused by poverty, unemployment, non-fulfillment of legitimate hopes and aspirations, social injustice, inequality corruption, nepotism and favouritism

are rampant society to the exclusion of merit, family feuds, parental relations etc. Of course, easy availability of dependence producing drugs is a major factor in the proliferation of drug abuse.

### **17.7 Symptoms of Addiction:**

A person suffering from drug addiction exhibits certain symptoms in his physical and mental conduct and behaviour which can help in determining and confirming that he/she is a victim of this vice, and necessary steps can be initiated to commence his treatment. These symptoms are loss of interest in sports and daily routine, loss of appetite and weight; clumsy movement, tremors reddening and puffiness of eyes, unclear vision; slurring of speech; strange friends etc. at home; nausea; vomiting and body pain, drowsiness or sleepiness, lethargy and passivity; acute anxiety, depression, and profused sweating; mood disorder or changes, temper tantrums; depressionalisation and emotional detachment; impaired memory and concentration suicidal tendencies; spending long hours in toilet and disappearance of articles and money from home.

### **17.8 Types of Drugs and Effects:**

Depending upon the nature of their effects, drugs may be classified as stimulant, sedative and deliriant (mind blowing).

#### **a. Stimulant Drugs:**

These Drugs stimulate the brain and sympathetic nervous system resulting in alertness and increase in response and motor activity. The major drugs in this category are nicotine, cocaine, caffeine, and amphetamines like benzedrine, dexedrine and methedrine.

#### **b. Sedative Drugs:**

These drugs slow down the activities of an organism and diminish the response of the brain and nervous system. As a result they are used as pain relievers and sleep inducers and may be classified as narcotics and hypnotics. The major narcotic drugs are opium, morphine, heroin, codeine, demerol and methadone. Hypnotic drugs include barbiturates like amytal, nembutal, seconal, and non-barbiturates like bromides, and paraldehyde chloral hydrate.

#### **c. Deliriant or Mind-Blowing Drugs:**

These drugs produce transient states resembling psychoses resulting in marked confusion, distortion in thought process, delirium, illusion and hallucinations; Marijuana, LSD-25; Mescaline, Psilocybine, Bufotenin and Methamphetamine are some of them are Deliriant and Mind-Blowing drugs.

### **17.9 Prevention and Treatment of Addiction:**

Drug addiction is not a law and order problem as is imagined in certain circles. It is predominantly a social and psychological problem.

In treating and guiding the addicts a person having knowledge with psychiatry can deal properly with their knowledge. Psychiatric social workers have good exposure both theoretically and practically in field psychiatry and sociological aspects of human being, so the help of social worker is required to help the patient to come out from the problem.

**a. Compulsory Hospitalization:**

Compulsory hospitalization is a major step in the treatment of drug addicts. Drug addicts do not want treatment, they want drugs and in their surroundings and environment they can not be deprived of drugs so the admission in hospital is compulsory to treat them.

**b. Deintoxicating:**

Attempts should be made to deintoxicate or dry out the patient. It may be achieved through (1). the 'cold turkey' procedure, i.e. sudden total discontinuation of drugs, (2). giving the patient progressively diminishing doses of drug leading towards complete cessation; and (3) substituting a less addictive drug and later seeking gradual reduction of intake.

**c. Medical Measures:**

With some patients, specially psychotic addicts, ECT or tranquilizing drug may prove quite helpful. Adequate care is to be taken for the provision of antibiotics as there is an inherent danger of possible infection.

**d. Psychological Treatment:**

Psychological treatment of drug addicts needs patience and time. Long range psychotherapy and sociotherapy is essential if the patient is to learn to face his problems and seek adjustment in the society without the use of the drug.

**PREVENTION:**

The primary task in the prevention involves educating the public about the causes and consequences of drug addiction. There is a need of restructurization of unhealthy environment and reduction in the problems leading to frustrations, tensions and anxieties among the youth.

**17.10 Role of Social Worker:**

By the above discussion we can understand both the drug and Alcoholic addictions are purely due to psychological and social reasons. Most of the studies reveal that an individual is addicted to any drug or alcohol is that the problems of him, his environment and also his personality will precipitate for that problem so the therapist who deals with them should have knowledge of family situations, parental relationships, group dynamics, peer-group influence neighbourhood influence, personality of an individual, and atleast about the dynamics of society. The therapist needs not only psychology and sociology knowledge but also he must have good exposure towards abnormal psychology also. The psychiatric social worker will be well equipped with above knowledge and also been trained in all these fields. Thereby for the treatment, prevention and rehabilitation of any individual who needs the help of psychiatric social worker at every level/stage of the above three aspects is more effective and also his role play is an important part. In the individual level he uses his case work knowledge, at group level his group work, at community level his techniques of community organisation and at the society level he uses his social action method.

**17.11 Summary:**

Alcoholism and drug addiction have been a source of serious behavioural problems.

Recent studies have established that these are more of psychiatric, psychological and social problems than anything else. Both the addictions have numerous factors or reasons to contributing and responsible. Most of them using alcohol or drugs start using out of curiosity or to have some pleasure. The addictions can be treated and rehabilitated through the specialised people who have training in psychiatric social work.

### **17.12 Key Words:**

1. Pre-Alcoholic Phase
2. Prodromal Phase
3. Stimulant Drugs
4. Sedative Drugs
5. Deliriant

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## **Lesson – 18**

# **Social Work and Correctional Institutions – Application of Methods of Social Work**

### **18.0 Objective:**

The Objective of the present lesson is to explain the significance of social work in correctional institutions and application of methods of social work:

### **Contents:**

- 18.1 Introduction**
- 18.2 Social Defense and Social Work**
- 18.3 Correctional Work**
- 18.4 Reformation of Offenders**
- 18.5 Methods of Reformation**
- 18.6 Professional Services and Reformation**
- 18.7 Failures of Methods of Reformation**
- 18.8 Social Work Methods in prevention of Crime**
- 18.9 Summary**
- 18.10 Key Words**
- 18.11 Self Assessment Questions**
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### **18.1 Introduction:**

Social Work functions to find solutions for problems of social adjustment. Its aim is not only to help the individual, the family and the group in their relationships but it is also concerned with the improvement of general social conditions. This goal is achieved through social welfare institutions like schools, hospitals, welfare centers, etc. They are the societal means to assist people who face psycho-social and economic problems, in meeting the demands of their environment or in their personal relations. Social work is practiced in these welfare institutions.

### **18.2 Social Defense and Social Work:**

Social defense is generally understood as the protection of society through the prevention of crime and the treatment of offenders. It encompasses within its ambit not only correctional services, but also the entire gamut of the criminal justice system. It endeavors to ensure the prevention of crime with the ultimate objective of re-socialization, rehabilitation and re-integration of offenders. Social defense programme includes mainly (i) Prevention and control of juvenile delinquency through implementation of Juvenile Justice Act; (ii) Probation Services; (iii) Prison welfare services, Suppression of Immoral Traffic, (v) Anti-beggary programmes, (iv) After-care and Rehabilitation, (vii) Correction training and research.

Any behavioral pattern is the result of interaction between personal factors and those in the social milieu. The mode of behavior expresses basic reaction patterns known as psychogenic traits. Biogenic and sociogenic elements together combine to create the psychogenic and sociogenic traits unique to each individual's personality. Thus, a leaving takes place amongst biogenic, psychogenic and sociogenic traits in order to manipulate the dynamics of personality and it holds a special promise for lending a new intellectual thought to criminological explanation. It has brought the scope of social work in the field of corrections.

The role of social work starts with the very beginning of the offenders of delinquent in the correctional institutions. In the very first interview h receives the offenders affectionately and with warmth. He bears his problems with interest and behaves in such a manner that a delinquent or adult offender feels that the social worker does not belong to authority. Professional handling of intake facilities, the establishment of rapport between the social worker and the delinquent, which promote free ventilation of pent-up feelings of the delinquents, which promote free ventilation of pent-up feelings of the delinquent and gradually bring about changes in his attitude and behavior through opportunities of reality testing.

After the intake, the social worker screens the offender in the institution by keeping him under close observation. He prepares case study of each offenders. On the basis of the findings of the different tests and information gathered, diagnostic formulations and tentative treatment plan for the offenders in chalked out. He helps in the court system also.

Every treatment of an offender must be geared towards rehabilitation. For this, social worker visits the home of the offender and makes personal contacts with offender's parents, and relations. Subsequent home visits he tries to change the attitudes of others in order to facilities offenders and see that he is rehabilitated as a respectable citizen.

### **18.3 Correctional Work:**

Indian prisons as we know them today came into existence during the British period. Prior to the establishment of these institutions, ordinary offenders were punished by beheading, mutilation, branding, fines, confiscation of property, banishment, etc. Care of offenders in institutions was not popular mainly because it involved considerable direct expense.

Though the early prisons in India were based on British institutions, the Directors of the East India Company were indifferent to spending money on them. Therefore, there was over crowding as well as inadequate food, clothing and medical attention for prisoners. Prisons were run by district magistrates who did not give sufficient attention to prison administration.

In 1835, Lord Macaulay moved the British Administration to look more carefully into the conditions in prisons. A Committee of which he was a member was appointed in 1836. After two years of work, the Committee submitted its report strongly criticizing corruption, laxity of discipline and extramural employment on public roads. Reformation through moral teachings education or any other system for rewards for good conduct was vigorously rejected. But the Committee recommended the construction of central prisons where offenders may be engaged in dull and

monotonous tasks with no hope of early release for good performance. Apparently, the Committee was overwhelmed by its reactions to the conditions in prisons. In spite of its unusual approach, the report of the Committee marks a great advance in prison reform in India. Its recommendations for new buildings and intramural paved the way for further development of prison reform which would have been delayed otherwise.

Considerations such as the high death rate in prisons led the Government of India to appoint management. This Committee included some expert element not present in the 1836-38 Committee. Still the report of this committee was not as forcible as that of the previous committee. In 1877, a third Committee, consisting mainly of officials engaged in prison work, was instituted in Calcutta. All aspects of jail administration were discussed by this committee. The Report gave vivid information about the conditions of prisons.

The fourth Committee constituted in 1888-89 was mainly concerned with finding out ways and means to implement the principles laid down by previous Committees and to develop plans for uniformity in prison officials, Drs. Walker and Lethbridge, were entrusted with this project. Their report examined the whole field of internal administration of the prison department.

Their work was supplemented by another Committee which met in Calcutta in 1892. it was this Committee which drew up proposals on the subject of prison offenses and punishments, later incorporated in the Prisons Act of 1894. Since 1899, the administration of prisons has progressed, steadily. Constant efforts have been made to study the factors involved in crime, prison administration and crime prevention. Buildings have been constructed, better diet plans enforced, prison labour system improved, remission system introduced, and death rates reduced. Systematic work done by officers in various states led to these improvements.

Immediately after the First World War, the government of India appointed another Committee in 1919, of which Sir Alexander G. Cardew was Chairman. The Committee's enquiries have particular reference to the efficacy of and appropriateness of prison administration and restraint on liberty. Further, they examined the possibility of strengthening the reformatory influence of prison administration and discrimination in regard to the treatment of criminals of different classes and ages. The committee also gave attention to the best means of assisting prisoners after release to regain their position in society. The main report of the Committee running over 500 pages is a major contribution to thinking and practice in prison administration in India.

During 1951-52, the services two experts, Dr. Walter Reckless and Dr. Edward Galway, were made available to the Government of India by the United Nations. Besides conducting training for prisons officers, at the Tata Institute of Social Sciences, these experts prepared a report on prison on prison administration in India. Based on the evaluation of prison administration, suggestions were made which included the following : (1) the juvenile delinquents of India should be taken out of adult jails, adult courts and police lock-ups, and special facilities for delinquent juveniles should be provided in the form of juvenile courts, remand homes, probation, certified schools, and after-care. (2) the development of full-time probation on a district basis in the various states of India, with appropriate central and state legislation, (3) the development of full time after-care service for

prematurely released prisoners. (4) The establishment of full-time revising boards which will be concerned with selection of prisoners for premature release. (5) New Jails should perform specialized functions such as an agricultural colony, an open Borstal, a medical and psychiatric unit, a vocational unit, etc. (6) several of the old jails should be converted into jails with a specialized programme. (7) The Jail manual should be revised. (8) The superior staff of the jail need training for correctional work. (9) Legal substitutes should be found for short sentences. (10) Ways should be found to reduce the number of under trial prisoners and period for which they are remanded to jail, etc.

The Government of India appointed a Committee during 1957 for the purpose of preparing an all-India Draft Jail Manual, examining Prisons Act and other relative Central Laws suggesting any central legislation, and making proposals for prison reforms to be adopted uniformly throughout the country. The majority of the members of the Committee were inspectors. General of Prisons, who actively associated with problems, policies and programmes, in the field of correctional work. The Committee prepared a Draft Prison Manual as well as report. There were submitted to the Ministry of Home Affairs towards the close of 1959.

The Borstal Schools Acts have been put into operation in several states for offenders between 15-21 years of age (offenders between 16 and 21 of age where Children Acts are in force). A borstal school functions as a correctional institution, and inmates are given industrial and other related training. Besides, disciplinary and moral influences are emphasized.

The Reformatory Schools Act VIII of 1897 and preceding legislations provided for the treatment of juvenile offenders in reformatory schools. Later, some states passed children acts which provided for a more comprehensive approach to the problem of juvenile delinquency. These Acts provided for the appointment of probation officers and the establishment of the remand homes, juvenile courts and certified schools. Bombay, Madras, and West Bengal have decades of experience in this field of work.

Legislations pertaining to the release of offenders on probation were existence in the states of Bombay, Madras, West Bengal, Uttar Pradesh; etc who has experimented with Probation of offenders Act was passed which compares favorably with probation legislation in the most progressive countries. Extensive programmes of after care have been developed in the recent years following the recommendations of the Advisory Committee on After-care appointed by Central Social Welfare Board, Government of India. These include short-term rehabilitation home as well as institutions providing services on a long term basis.

## **18.4 Reformation of Offenders:**

A Century ago, severe punishment was thought to be best method for the prevention of crime. The idea of severe punishment was based on two assumptions. Firstly, severe punishment reforms to the offenders who are punished. Secondly it deters or prevents other from committing crimes. But the recent investigations made in this field of criminology have revealed somewhat different conclusions. According to recent investigations, the method of severe punishments is not

very useful, consequently, punishment is being replaced by the treatment of reformation and prevention. These are the two positive and non-positive methods for dealing in the criminals. With the help of these two methods namely 'prevention' and 'reformation', society could be protected from crime.

### 18.5 Methods of Reformation:

The following are some of the important methods used during the process of reformations:

(1) Mechanical Methods: The mechanical method of reformation suggest the reformation in a mechanical manner. The methods which we include under this category are as follows:

(a) Infliction of pain: this notion has been derived from the classical theory. It has been regarded that reformation is possible when sufficient amount of pain is inflicted upon the offender. In the light of present sociological and psychological knowledge this method has become obsolete. Although pain is essential for the control of crime, but even then it cannot change the situation which is thought to be responsible for criminality.

(b) Meditation: the second method designed to reform the offender was the meditation. This method was prevalent in the early part of nineteenth century. The assumption behind this method was the "Crime was due to failure to think, and that meditation would develop remorse and repentance". In order to test this method some prisoners were labeled to think over their careers. As a result of this method some prisoners were successful to reform themselves. However, this method has not been very useful. It has been observed that constant thought of remorse become a hindrance to individual reformation.

(c) Moralizing: The third method used for the reformation of offenders in the early and later times was moralizing. According to Sutherland and, "By tracts, sermons and personal exhortations, in the name of God, mother and country, appeals were made to the offenders. These exhortations generally produce antagonism in prisoners. Exhortation is an extremely important method of social control when it used by the members of a group upon other members upon other members of the same group".

(d) Pledge: According to this method, offenders were induced to sign a pledge in order to make up their minds or reformation is possible only when the offenders decide to reform them. Psychologically, this method of reformation is not very sound.

2. The Clinical Method: Under the clinical methods, the form of reformation is individualized. These methods provide individual treatments and do not imply any technique or theory of reformation. But in the clinical method attention has been given on the criminal rather than on the crime. Therefore attempt is made to diagnose the cause of criminality.

The clinical method is based on the certain assumptions. It regard crime as a type of disorder which can be treated on an individual basis. In other words, the clinical method regards criminality in terms biological disorder. This method is thus based upon an individualistic and psychiatric theory of criminality. The individualistic theory regard crime as an expressions of emotional disorders.

The criminal is a person who is unable to sublimate his primitive antisocial impulses. Therefore, his treatment requires eradication of emotional maladjustment.

(3) The Group-relations method: According to this method the behaviour of the individual is the production of his group relationships. The traits which are manifested in individual personality, are the properties of his group. The behaviour, attitudes, beliefs and values which individual exhibits are firmly based on the groups to which he belong. Therefore, treatment of individual offender is possible only with reference to his group relationships. This method is very useful if proper consideration is given to the following points:

(i) The offender who is to be reformed and the reformer who is exert change must belong to the same group. They should be similar status and ethnic background.

(ii) the group should be attractive to the offender. It should constituted in such manner so that the criminal may achieve his own status. He should be given recognition for social behaviour and anti-criminal activities. In other words, the group should fill up his unmet needs with a provision of ego expansion.

(iii) The group should have a relevant basis of attraction. Greater the group attraction to the criminal, larger are the chances, the chances of influence which the group can exert on the criminal.

(iv) The group should be of high prestige. If the group prestige is high in eyes of those who are reformed, in that case the influence will also be high. According to Sutherland and Gressey, "the prestige assigned to a group member may spring from the members social position outside the groups or it may spring from some attribute or tract which the member seem to possess. In assigning prestige to reformer reformers may criterial different from those use by other rerormes."

(v) The group strongly by organized as anticriminal group. If any member deviates from group norms, that means a deviation in the direction of criminality. The offender, who understand the psychology involved in criminal conduct will accept anti-social values easily.

(vi) The source of change on the offender should rest within the group. The behavioural of the offender should be modified with the help of group relationships.

### **18.6 Professional Services and Reformation:**

The professional services regarding the treatment and reformation of offenders is of recent origin. The professional workers are trained specifically in the field of crime and delinquency. In this connection various sciences have their own contribution. The psychologists have given a basis for the interpretations and analysis of tests and interviews. The psychiatrists have provide a base for the study of behaviour problems. They have attempted to analyse crime in terms of psychopathology. Similarly sociologists have provided indispensable knowledge for an understanding of individual offenders.

### **18.7 Failures of Methods of Reformation:**

Like the methods of punishment, the methods of reformation have not been successful in the reducing crimes. As observed by Sutherland and Gressy, " They have most frequently in reformatting offenders who have been reared in the situation where crime flourishes most. Thus they have been least effective in dealing with the offenders who come from the most potent crime-breeding situations, from which a considerable proportion of all criminals, who are dealt with by official methods do come. Moreover, a very small proportion of those who commit crimes receives official treatment for those crimes.

### **18.8 Social Work Methods in prevention of Crime:**

Social Work interventions had tremendous impact in prevention of crime. Prevention is better than cure. Therefore a policy of prevention must be followed in we really want to reduce the crime rates. Till recent century, corporal punishment has been used to prevent crime but in spite of this fact criminality remained prevalent in society. Similarly we are using reformatory methods for crime prevention yet the result which we have obtained are not very satisfactory. In fact, punishment and the methods of treatment are methods of defense against criminals. Therefore, the modern sociologists have given superiority to crime prevention. Prevention of crime involves the following things:

1. **General Programme:** Various general programmes have been suggested regarding crime prevention. According to Bentham a general programme of crime prevention should include education and a moral code. Similarly, Ferri, one of the exponent of Italian school suggested the following facts for crime prevention;

- (i) Free trade;
- (ii) Reduction in consumption in alcohol;
- (iii) Metal money instead of paper money;
- (iv) Street lights;
- (v) Reduction in hours of labour;
- (vi) Lowest interest on public securities; and
- (vii) Local political autonomy.

### **2. Community organization:**

Prevention of crime also depends on the personal groups of the local community. It has been already explained that criminality is derived from the crime dominated groups. It develops when the anticrime forces of local community are not strong. Therefore in order to prevent crime and delinquency, it is essential to cerate anti crime attitudes among the members of local community. It has also been suggested that crime and delinquency should be defined as undesirable by the primary and personal groups in which a personal participates. According to Sutherland and Cressey; 'policies for prevention of crime and delinquency, therefore, should be directed primarily at these personal groups. In this sense, control of delinquency and crime lies within the local community '.

### **3. Organised Recreation:**

Organized recreation is also important for the control of crime and delinquency. It is a method of occupying the leisure time. It includes youth centers, recreational groups, boys' clubs, reading rooms, motion pictures, cultural and social activities, etc. As a result of these activities, criminal tendencies are diverted towards sources of sound social life.

### **4. Case Work with Delinquents:**

In every community we find certain children who are supposed to be pre-delinquents. These children suffer from various emotional problems namely enuresis, temper, tantrums, sullenness and timidity. As a result of these problems they face difficulties in schools and play grounds. If they are corrected in the early childhood, they are expected to be less delinquent. At present there are two types of agencies which deal with the correction of near delinquents. They are known as child guidance clinics and visiting teachers' movement. In many countries child guidance clinics have been organized by the public welfare departments. Generally problem children are referred to the clinics by their parents. On the other hand visiting teachers' movement is also of recent origin. The visiting teacher is an agent of the school in problem cases.

"The visiting teacher," as observed by Sutherland and Cressey, 'receives reports from the regular school teacher regarding attendance, scholarship, misbehavior in school and other difficulties. On the basis of these reports the visiting teacher makes an investigation of the home and neighborhood with the purpose of tracing the difficulty to its source, and attempts control on the basis of this information.

### **5. Group work with delinquents:**

Group Work is one of the important contributions of sociological development. It refers to the extension of case work beyond the person and his family. Group work with delinquents may be classified into two categories:

(i) **Individualistic Group Work:** In individualistic group work, an individual is induced to become a member of a group. Attempts are made to adjust the individual in the group. As a result of this adjustment the individual overcomes the tendencies which are conducive to delinquency. Thus this type of group work is concentrated on the problems of particular individual.

(ii) **Group work based on collectivity:** According to this type of group work attempts are made to re-direct the activities of a group of persons who are delinquents. Therefore, some workers participate in a gang of delinquent members and try to convert them into law-abiding citizens.

### **6. Coordinating Council:**

Till the recent century, the various agencies engaged in crime prevention have worked separately. Now in many countries work of various agencies has been integrated with the help of



co-ordinating councils. These councils bring co-ordination between the efforts of various agencies which deals with prevention of crime and delinquency. In other words, co-ordinating councils work as counseling body.

### **7. Institutional reorganization:**

It has also been suggested that constitutional reorganization is also essential for the prevention of crime and delinquency. According to Taft, prevention of crime and delinquency requires a widespread modifications, of the institutional structures. In his opinion the present methods, namely repression, clinical treatment, character education case work, group work and child guidance clinics, can only bring slight reduction in crime rate. These methods are not able to cut the deeper roots of crime and delinquency. According to Taft, our main aim is to establish a crimeless society. Hence institutional reorganization is essential for the achievement of this aim.

### **18.9 Summary:**

The role of social work starts with the very beginning of the offenders of delinquent in the correctional institutions. In the very first interview h receives the offenders affectionately and with warmth. He bears his problems with interest and behaves in such a manner that a delinquent or adult offender feels that the social worker does not belong to authority. Professional handling of intake facilities, the establishment of rapport between the social worker and the delinquent, which promote free ventilation of pent-up feelings of the delinquents, which promote free ventilation of pent-up feelings of the delinquent and gradually bring about changes in his attitude and behavior through opportunities of reality testing. Social work interventions has brought a lot of change in bring down the percentage of crime and prevention of delinquent behaviour among the children.

### **18.10 Key Words:**

1. Interventions
2. Juvenile delinquency
3. Reformation

### **18.11 Self Assessment Questions:**

1. Explain importance correctional institutions in social work education
2. what are the methods in correctional work?
3. How correctional social work is helpful in prison administration ?

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