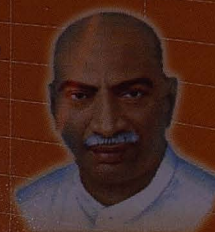




MADURAI KAMARAJ UNIVERSITY
(University with Potential for Excellence)



M.A.
(CRIMINOLOGY AND
POLICE ADMINISTRATION)
First Year

Paper - I

PRINCIPLES OF CRIMINOLOGY

(Common to PG Diploma in Criminology
and Police Administration, Paper - I)

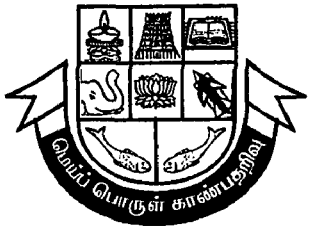
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M.A.
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PRINCIPLES OF CRIMINOLOGY
(Common to PG Diploma in Criminology and
Police Administration - Paper I)

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Dear Student,

Greetings to you. Welcome to First year M.A., Criminology and Police Administration Course. Criminology is relatively a new discipline. It is the scientific study of criminal behaviour. An important goal of criminology is to create valid and accurate theories of crime causation. The subject criminology is interested in controlling criminal behaviour not only through helping the enactment of just and effective laws, but also study how an offender could be corrected and rehabilitated. In this Paper-I Principles of Criminology, you will be learning more about various theoretical approaches to the study of crime, Indian Criminal justice system, prison system and different types of Crimes. Each unit carries model questions and try to familiarise answers for these questions. At the end, University Model Question paper is also provided for your guidance. This paper is common to the P.G. Diploma in Criminology Course also.

Good Luck to you.

Directorate of Distance Education

SYLLABUS
PAPER – I
PRINCIPLES OF CRIMINOLOGY

Unit – 1

Introduction - Criminology, Crime – Definitions; historical perspectives; nature, origin and scope; Criminology as a Social Science, Relations with other Social Sciences, Arts, Science, Commerce, Medicine and Law subjects.

Unit - 2

Theoretical approaches to the study of Crime

Schools of Criminology - Classical, Neo – Classical, Cartographic and Biological Schools.

Unit – 3

Criminal Justice

Structure of Criminal Justice System in India; Roles of Legislature, Police, Judiciary and prison system in Criminal Justice, Co-operation and co-ordination among the various such systems of Criminal Justice System.

Unit - 4

Criminal Typology

Adult and Juvenile - Habitual offenders, Professional offenders, violent offenders.

Unit - 5

Crime Typology

Crimes against person and Crimes against Property; Conventional Crimes, White Collar Crimes, Organised Crime and Victimless Crime - Cyber Crime Terrorism.

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CONTENTS

Unit No.	Topic	Pages
1.	Criminology, Definition and Scope	1
2.	Classification of Crime	14
3.	Classical and Neo-Classical Schools of Criminology	32
4.	Theoretical Approaches - Cartographic and Biological Schools	41
5.	Structure of Criminal Justice System in India	55
6.	Prison System in India	85
7.	Conventional Crimes, White Collar Crimes and Cyber Crimes	107
8.	Organized Crimes	141
9.	Criminal Typology - I	159
10.	Female Offenders and Juvenile Delinquents	169
	Model Question Paper	187

UNIT – 1

CRIMINOLOGY, DEFINITION AND SCOPE

INTRODUCTION

In this unit we are going to study the scope and definition of 'criminology' and we will be learning about a brief history of criminology. We offer arguments to consider criminology as a Science as well a Social Science. The relationship between Criminology and other Social Sciences are also analysed in this unit.

OBJECTIVES

After studying this unit you will be able to understand -

- ❖ The definition of Criminology
- ❖ Criminology as a social science
- ❖ To appreciate the historical development of Criminology.
- ❖ To analyse the relationship of Criminology with other Social Sciences

UNIT STRUCTURE

Introduction

Unit Objectives

- 1.1 Criminology - Definition, Scope and Nature
- 1.2 Other related areas of Criminology
- 1.3 History of Criminology
- 1.4 Criminology as a Science
- 1.5 Criminology as a Social Science

(Space for Hints) 1.6 Criminology and other Social Sciences.

1.7 Summary

1.8 Key words

1.9 Answers to Check your progress

1.10 Model Questions

1.1 CRIMINOLOGY - DEFINITION

Criminology is relatively a new discipline. It originated in the 20th century. It is the scientific study of criminal behaviour. Edwin Sutherland and Donald Cressey (1960) define Criminology as:

"the body of knowledge regarding crime as a social phenomenon. It includes within its scope the processes of making laws, of breaking laws, and of reacting toward the breaking of laws ... The objects of Criminology is the development of a body of general and verified principles and of other types of knowledge regarding the process of law, crime, and treatment".

This definition includes the most important areas of interest to Criminologists:

- a. the development of criminal law and its use to define crime,
- b. the cause of law violation, and
- c. the methods used to control criminal behaviour.

1.1.1 The development of Criminal Law

Criminal laws are formalized or codified norms, which are the rules that make explicit certain social expectations about what is appropriate behaviour for particular people in specific situations. The criminal codes as we have today are the result of a historical and cultural evolution over many centuries. Criminology studies these developments scientifically so that we may understand the approaches to crime and criminality over the years. This knowledge will guide us in our formulation of current laws and our management of crime and delinquency effectively.

Check Your Progress

1. Define Criminology.

The primary purpose of the criminal law is to enforce social control. By delegating enforcement to others, the law controls an individual's need to seek revenge or vengeance against those who violated his or her rights. It is applicable to all citizens without prejudice or favour. Thus, criminal law tries to support and maintain the social order in any given society. Criminologists, along with other professionals, help people to understand the existing laws, and to create new ones wherever and whenever they are needed through research, debate and publication. (Space for Hints)

1.1.2 The cause of law violation

An important goal of Criminology is to create valid and accurate theories of crime causation. Criminologists have sought to collect vital facts about crime and interpret them in a scientifically meaningful manner. By developing empirically verifiable statements or hypotheses, and organizing them into theories of crime causation, they hope to identify the causes of crime. The earliest theories generally attributed crime to a single underlying cause: body build, genetic abnormality, insanity, physical anomalies or poverty. Later theories attributed crime causation to multiple factors: poverty, peer influence, school problems and family dysfunction. Today, new theories based in sociology and political economy, portray crime as a function of the structure, process and conflicts of social living.

1.1.3 The methods used to control criminal behaviour

Criminology is most interested in controlling criminal behaviour not only through helping the enactment of just and effective laws, but also study how an offender could be corrected and rehabilitated. There are different models proposed by Criminologists: Crime control model, which asserts that the goals of justice are protection of the public and the incapacitation of known offenders; in contrast, the due process model emphasizes liberal principles such as legal rights and procedural fairness for the offender; the rehabilitation model views the justice system as a wise and caring parent; the non-interventionist model calls for minimal interference in offenders' lives; the justice model calls for fair and equal treatment for all offenders; and the restorative justice model attempts nonpunitive, humane solutions to the conflict inherent in crime and victimization. These models serve as the working

(Space for Hints) hypotheses for many of the criminal administrative and correctional practices in vogue today.

1.2 THE VARIOUS RELATED AREAS OF CRIMINOLOGY

Subarea	Primary Focus
Criminal Statistics,	Gathering valid crime data. Devising new research methods. Measuring crime patterns and trends.
Sociology of Law	Determining the origin of law Measuring the forces that can change laws and society
Theory	Predicting individual behaviour
Construction	Understanding the cause of crime rates and trends
Criminal Behaviour Systems	Determining the nature and cause of specific crime patterns Studying violence, theft, organized, white-collar, cyber and public order crimes
Penology	Studying the correction and control of criminal behaviour
Victimology	Studying the nature and cause of victimization - Aiding crime victims

1.2.1 Criminal Statistics

Criminal Statistics involves measuring the amount and trends of criminal activity. How much crime occurs annually? Who commits it? When and where does it occur? Which crimes are the most serious? How many people are victims of crime? What percentage reports crime to the police? These questions are crucial for criminal justice administration and correctional policies and practices. The study of criminal statistics, therefore, is a crucial aspect of criminology. Without valid and

reliable data, efforts to conduct research on crime and create criminological theories would be futile. **(Space for Hints)**

1.2.2 Sociology of Law

Sociology of law is concerned with the role of social forces play in shaping criminal law. Criminologists study the history of legal thought in order to better understand criminal activities. For example, a knowledge of the evolution of criminal law over the centuries will be a useful instrument in appreciating the influence of social forces at work in the formation, maintenance and change in criminal laws and eventually help the Criminologists to modify and update today's laws in keeping with the emerging modern needs.

In pre-literate societies, common custom and tradition were the accepted norms of conduct. Eventually, these unwritten rules and observances became written law. Some of the formal codes which have influenced human race were the Code of Hammurabi, the Mosaic Code, the Roman Laws, the Code of Manu which originated between thirteenth and ninth centuries B.C. and the Draconian Code in Athens, the Gortyn Code dating from the mid-fourth century B.C and the imperial codes of China. The ancient legal codes had been lost during the Middle Ages. Superstition and local customs controlled and guided social and personal lives. After the Norman Conquest of England in 1066, a common law evolved which helped standardize law and justice. The present English system of law came into existence during the reign of Henry II (1154-1189). In most instances, the common law retained traditional Anglo-Saxon concepts. Once the American colonies acquired independence, they adapted and changed English law to fit their needs.

1.2.3 Theory Construction

Criminologists have not understood the true causes of crime and criminality. They are still unsure why, given similar conditions, one person elects a criminal life course, and another conforms to accepted social rules of behaviour. Why do crime rates rise and fall? Why are there marked differences in crime rates of men and women? These and many more questions motivate criminologists to come with satisfactory and valid theories. That is why there are so many theories to explain

(Space for Hints) criminal behaviour, ranging from biological and rational to psychological and sociological, conflictual and developmental.

1.2.4 Criminal Behaviour Systems

This subarea of Criminology deals with research on specific crime and criminal types and patterns: white-collar and organized crimes, property crimes and crimes against persons, violent crime and victimless crime occasional criminals, hardened criminals, habitual criminals, professional criminals and psychotic criminals. Studies have been done specifically on patterns in criminal homicide. in rape, in cyber crime, juvenile delinquency etc.

1.2.5 Penology

The correction and control of offenders is the subject matter of penology. Some penologists view penology as involving punishment and correctional activities, while others view it as involving treatment and rehabilitation. They formulate policies and guidelines for the criminal justice system and help in implementing and evaluating them.

1.2.6 Victimology

This is an emerging science in the growing field of criminology. Victimology is the scientific study of victimization, including the relationship between victims and offenders, the interaction between victims and the criminal justice system, and the connection between, victims and other social groups and institutions, such as the media, business and social movement. In a special way, the victim's role in the criminal event is focused upon and victims' assistance programmes are formulated.

Check Your Progress

2. Explain the importance of study of Victimology.

Today the legal system favours the accused and not the victim.

1. No involvement of victim and his/her family in court proceedings, except when summoned as witnesses.
2. Accused can hire lawyer(s) of choice. The victim has to go along with the public prosecutor engaged by the state.

3. No accountability of public prosecutor. He/she gets time-bound promotions not linked to performance. (Space for Hints)
4. The victim or his/her family cannot file an appeal against an unfair verdict. That is the state's prerogative. The victim's side can only file a revision petition on grounds of procedural oversight.
5. Rights of the accused, including right to silence, is detailed in law. It is, however, silent about the victim's rights.
6. The accused has the right to know the evidence framed by the prosecution. The victim has no access to information from the defence side.
7. Delay in judgement gives the accused greater opportunity to win over witnesses.
8. If the accused is influential, he/she can tamper with evidence, compromise investigators, even judges.

Criminologists may specialize in a subarea in the same way that psychologists might specialize in a subfield of psychology, such as child development, perception, personality, psychopathology etc.

"A criminologist is one whose professional training, occupational role and pecuniary reward are primarily concentrated on a scientific approach to, and study and analysis of, the phenomenon of crime and criminal behaviour".

1.3 HISTORY OF CRIMINOLOGY

- The scientific study of crime and criminality is a relatively recent development. The ancient criminal codes were concerned with defining crime and setting punishments. The search for the motivation for crime, societal reaction to crime and criminals and the making of laws to control and contain crime is indeed a modern phenomenon. Consequently the various school of criminology developed over 200 years.

(Space for Hints)

- By the mid-eighteenth century, social philosophers began to rethink the prevailing concepts of law and justice. They argued for a more rational approach to punishment. Thus the classical Criminology emerged. Cesare Beccaria (1738-1794) and his followers were the chief exponents of this school of thought.

1.3.1 Cesare Lombroso - Father of Criminology

It was followed by nineteenth-century positivism. The scientific method was beginning to take hold in Europe. Careful observation and analysis of natural phenomena were being undertaken to understand the way the world worked. If the scientific method could be used to the study of nature, then why not use it to study human behaviour? August Comte (1798-1857), the founder of sociology, applied the scientific methods to the study of society. The Italian doctor Cesare Lombroso (1835-1909), known as the 'Father of Criminology', formulated his theory of biological determinism to understand the phenomenon of crime and criminals.

1.3.2 Sociological Criminology

Later, L.A.J. Adolphe Quetelet (1796 - 1874) and Emile Durkheim (1858-1917) were two pioneering sociologists who laid the foundation for Sociological Criminology. Durkheim introduced a concept called 'anomie' or norm and role confusion in modern society to explain deviance in society, especially suicide. The Chicago School sociologists and their contemporaries (1864 -1966) focused their attention on the functions of social institutions and how their breakdown influenced deviant and antisocial behaviour. During the 1930s and 1940s, another group of sociologists, strong believers in a socio-psychological link to criminological behaviour, emphasized the importance of social processes as the key to understanding human behaviour. Edwin Sutherland and Walter Reckless linked criminality to the failure of socialization, the interaction people have with the various individuals, organizations, institutions and processes of society that help them mature and develop.

1.3.3 Emergence of Conflict Criminology

Inspired by the writings of Karl Marx (1818-1883), a new radical approach in Criminology, called conflict Criminology emerged in the 1960s when the U.S.A. was

undergoing socio-political upheavals, triggered by the Vietnam War, the development of an anti-establishment counter culture movement, the civil rights movement and the women's movements. Though Marx did not attempt to develop a theory of crime and justice, young sociologists applied his principles of proletariat exploitation and class, conflict to evolve a theory of crime. They indicted the existing capitalist economic system as producing the conditions that support a high crime rate. The radical tradition has played a significant role in Criminology ever since. Today, all these schools of Criminology find themselves side by side, with occasional attempts to create an integrated theory. (Space for Hints)

1.4 CRIMINOLOGY AS A SCIENCE

Criminology is the scientific approach to the study of criminal behaviour and society's reaction to law violations and violators. Criminologists use a wide variety of research methods to gather information that will shed light on criminal behaviour.

1.4.1 Survey Research

A great deal of crime measurement is based on analysis of survey data, which is gathered using techniques such as self-report surveys and interviews with proper sampling methods. Statistical analysis of data gathered from carefully drawn samples enables researchers to generalize their findings from small groups to large populations.

1.4.2 Cohort Research

This involves observing a group of people who share a like characteristic over time. If the research is carefully conducted, it may be possible to determine which life experiences typically preceded the onset of crime and delinquency. This type of study is extremely difficult and time consuming.

1.4.3 Retrospective

Another approach for obtaining this kind of information is to take an intact cohort of known offenders and look back into their early life experiences. This format is known as a retrospective cohort study.

(Space for Hints) 1.4.4 Aggregate Data Research

Criminologists use aggregate data from Governmental agencies and Research foundations and institutes to identify the social forces that affect crime and to establish the effects of social trends and patterns of crime rate.

1.4.5 Experimental Research

This type of research has three elements: 1. random selection of subjects, 2. a control or comparison group, and 3. an experimental condition. This enables Criminologists to see the direct effect of one factor on another.

1.4.6 Observational and Interview Research

Focusing on relatively few subjects, interviewing them in depth or observing them as they go about their activities is another type of research. This often results in the kind of in-depth data absent in large-scale surveys.

Thus, Criminology relies on many of the basic research methods common to sociology and psychology. Therefore, it is a science just like these sciences.

1.5 CRIMINOLOGY AS A SOCIAL SCIENCE

The definition and description of Criminology, its nature and scope, its historical development, the methodology it adopts to study human behaviour, and its all pervasive nature in society amply illustrate the fact that it is not only a science but also a social Science.

1. As we observed earlier, Edwin Sutherland, one of the founding scholars of American Criminology described Criminology as "the body of knowledge regarding the social phenomenon".
2. Crime is all pervasive in society. It does not spare any section of the population - men and women, rich, middle class or poor, young or old, any culture, any religion, and any continent. It is a significant social problem.

3. Crime harms society in all its dimensions: physically, psychologically, economically, and socially. (Space for Hints)
4. Crime is also a symptom of social disorganization.
5. Any social science studies behaviour. Criminology deals with criminal behaviour.
6. Criminology follows the methodology of social sciences in its study of crime and criminality.
7. Criminal law and administration serve to bring order and justice in society.
8. Correctional services aim at reforming, reeducating and treating/punishing the offenders as well as bring harmony in society.
9. The other subareas that constitute the discipline of Criminology that we have mentioned above - criminal statistics, theory construction, victimology - are all ultimately aimed at social health and well-being for all.

For all these reasons, we can legitimately claim Criminology to be a social science.

1.6 CRIMINOLOGY AND OTHER SOCIAL SCIENCES

Criminology is essentially an interdisciplinary social science. It covers the biological, psychological, structural, processual, political, economical, cultural and environmental dimensions of persons and groups of people, as related to criminal behaviour.

1.6.1 Criminal Anthropology

This discipline seeks to understand the personality of the offenders in physical terms. It emphasizes that criminals are different physically from normal persons and possess inferior physical characteristics.

Check Your Progress

3. Explain the relationship between Criminology and Sociology.

(Space for Hints) 1.6.2 Criminal Sociology

Sociologists attempt to correlate the concept of crime with other sociological and environmental factors. Most of the theories that we have in Criminology today have been influenced and shaped by Sociology .

1.6.3 Criminal Psychology

It seeks to correlate criminality to aspects of emotion and intelligence of human beings.

1.6.4 Criminal Psycho-neuro-pathology

This branch of Criminology attributes criminality to functional deviations and mental conflicts in the personality of the offender.

1.6.5 Criminology and Law

The criminal justice system studies crime control practices, analyses philosophies which offers constructive social policies to the above agencies.

1.7 SUMMARY

Criminology is the scientific study of criminal behaviour. It has different dimensions viz., the nature and extent of crime, root causes of crime, victim and criminal justice system. Modern scientific Criminology has a history of 200 years. Many theories were attempted to explain crime and criminality- biological, psychological, sociological, socio-psychological developmental, Marxist and integrated. Criminology is a social science as it deals with society and its problems. It is also multidisciplinary in nature.

1.8 KEYWORDS

Chicago School	-	Group of urban sociologists-who studied the relationship between environmental conditions and crime
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Criminology	-	The scientific study of the nature, extent, cause and control of criminal behaviour.	(Space for Hints)
Positivism	-	The branch of social science that uses the scientific method of the natural sciences and suggests that human behaviour is a product of social, biological, psychological or economic forces.	
Socialization	-	Process of human development and enculturation. Socialization is influenced by key social processes and institutions.	
Terrorism	-	The illegal use of force against innocent people to achieve a political objective.	

1.9 ANSWER TO CHECK YOUR PROGRESS

1. Refer 1.1
2. Refer 1.2.6
3. Refer 1.6.2

1.10 MODEL QUESTIONS

Long Answer Questions

1. Define Criminology and explain its nature and scope.
2. Trace the growth of Criminology.
3. "Criminology is a social science" – Discuss.

Short Answer Questions

- (a) Cesare Lombroso
- (b) Cohort Research
- (c) Criminology and Law.

CLASSIFICATION OF CRIME

INTRODUCTION

Crime is, indeed, a political, social and economic function of modern life. All the same, Criminologists are not agreed on a single definition. In this unit, we shall consider the different views held by Criminologists and also the basic elements of the legal definition used by the criminal justice administration. Towards the end of the unit we shall distinguish intention from motive and sin from crime.

UNIT OBJECTIVES

- To arrive at a clear understanding of the concept "crime".
- To grasp the necessary ingredients that constitute the legal definition of crime.
- To understand the difference between intention and motive, sin and crime.

UNIT STRUCTURE

Introduction

Unit Objectives

- 2.1 Crime - Definition
- 2.2 Crime in India
- 2.3 Social Disorganization and Social Deviance
- 2.4 Current Scenario
- 2.5 What is Crime?

2.6 Legal Definition

(Space for Hints)

2.7 Crime Classification

2.8 Intention and Motive

2.9 Sin and Crime

2.10 Cost of Crime

2.11 Risks and Rewards of

2.12 Summary

2.13 Key words

2.14 Answer to check your progress

2.15 Model Questions

2.1 CRIME - DEFINITION

We live in the twenty-first century, marked by amazing developments in science and technology. People's lives have been made easier through the introduction of e-mail, e-commerce, e-governance, e-banking, e-medicine, etc. But unfortunately human life on our planet is most unsafe. Crime is on the increase. While the petty crimes of the ordinary people seem to be proportionately decreasing, the criminal activities of the rich and the powerful, the politicians and the bureaucrats, states and nations are galloping.

The print and electronic media feed us regularly with crime news from all over the world - murder, rape, burglary, caste, linguistic, religious and racial conflicts, corruption at all levels, political crimes, cyber crimes, white-collar and organized crimes, and terrorism including state terrorism. The picture they paint is dismal and dismaying. We are made to feel the impact of the criminality that is all around us, day in and day out. Sometimes, we get the impression that to be important and famous in society, we should break the law of the land. Crime has almost become a fashion.

Check Your Progress

1. Define Crime.

(Space for Hints)

But, crime is not an invention of the twenty-first century. It is as old as human society. "Crime is eternal - as eternal as society. It is best to face the fact that crime cannot be abolished except in a non-existent Utopia". Emile Durkheim, the sociologist called crime as "a normal phenomenon" and wrote, "A society composed of persons with angelic qualities would not be free from violations of norms of that society. In fact crime is a constant phenomenon changing with the social transformation". But, then, what exactly is crime?

2.2. CRIME IN INDIA

In this age of globalisation, India is going through a rapid social change. What the developed western countries achieved in over 100 years, we want to achieve in 30 years. 'India 2020' has become a vision offered to the country by our President to galvanise our energy and enthusiasm and harness our resources. As we move ahead with a clear determination and a firm resolve towards progress and development, we face many an obstacle, the first and most important of them being the socio-economic context in which we are living.

2.2.1 Socio-economic Disparities

The socio-cultural disparities prevailing in society between the minority rich and the majority poor, the 'high' and 'low' castes force the exploited and the marginalised to resort to acts that are considered illegal either to escape from their miseries or satisfy their basic needs. Property crimes and victimless crimes are in a special way to be found in the urban slums, dysfunctional homes, among sex workers, drug use and drug trafficking, gambling, production, sale and use of illicit liquor etc.

2.2.2 Criminality among the Upper Class

The privileged and influential groups in society such as the politicians, industrialists, lawyers, engineers, doctors, bankers, businessmen etc. often resort to white-collar crimes and other illegal methods for their personal gain, and as a rule, go unpunished or with symbolic punishment. Bribery, extortion, corruption, tax evasion etc. are common among persons of high social status. Unethical business and professional practices bring about colossal financial cost to society.

Check Your Progress

2. Explain the nature of Criminality among upper class?

Without the active assistance of notorious offenders and anti-social elements, politicians are not able to function e.g. stand for an election, get elected and continue their service to society. This connection is used to get rid of their rivals and gain favours for their friends. With a few exceptions, political leaders patronize the students to fight elections in educational institutions on party lines and supply the money and muscle power needed. They serve as negative role models to the young.

2.2.4 Gender Relationships

The impact of modernization, globalisation, western education and feminist orientations have facilitated women to work outside their homes and mingle with men easily. Quite often they become a prey to the lustful wishes of their bosses. Competition and conflict follow, sometimes leading to abduction and murder.

2.2.5 Crime Rate

A crime rate or crime per capita controls for population differences to compare different sized communities. It is calculated by dividing the number of crime occurrences by the population and multiplying by 1,000 or 1,00,000, depending upon the jurisdiction. For national crime rates, the multiplier is 1,00,000.

The per capita crime rate can be broken down into two components : prevalence and incidence. Prevalence refers to the proportion of a population that commits crime in a given time; it is measured by dividing the number of offenders by the size of the population. Incidence is the frequency with which offenders commit crime, or the average number of offences per offender; it is measured by dividing the number of offences by the number of offenders.

In India, the National Crime Records Bureau collects the crime data from different State Police Departments across the country and has a system to standardize the data it receives. It categorizes the reports mainly into offences against person and offences against property. These reports from police departments across the nation, state, city, district and town levels are collected every year in a standardized format. In addition to the categories mentioned above, statistics of crime volume, of crime rate, crimes cleared and rate of arrest etc. are also mentioned.

(Space for Hints) **I. Crime in India**

Under IPC and SLL (Special and Local Laws)

	Incidence		Rate	
	2010	2011	2010	2011
1. Indian Penal Code	22,24,831	23,25,575	187.6	192.2
2. Violent Crimes	2,41,986	2,56,329	20.4	21.2
3. Crimes against Women (IPC + SLL)	2,13,585	2,28,650	18.0	18.9
4. Crimes against Children	26,694	33,098	2.3	2.7
5. Crime against SC	32,712	33,719	2.8	2.8
6. Crimes against ST	5,885	5,756	0.5	0.5
7. Property Crimes	4,20,491	4,33,304	35.5	35.8
8. Cyber Crimes (IT Act + IPC Sections)	1322	2213	-	-

Source : NCRB Report 2010 and 2011

II. Crime Clock 2010

1. Violent Crime	1 every 3 minutes
Dacoity	every 99 minutes
Arson	every hour
Riots	every 9 minutes
Robbery	every 29 minutes
Preparation and	every 4 hours

	Assembly for Dacoity	every 23minutes
	Kidnapping & Abduction	every 19 minutes
	Murder	every 16 minutes
	Criminal Homicide Not amounting to Murder	every 2 hours
	Dowry Death	every 75 minutes
	Rape	every 29 minutes
II.	Economic Crime	every 8 minutes
	Counterfeiting	every 6 minutes
	Cheating	every 10 minutes
	Criminal Breach of trust	every 3 minutes
III.	Property Crime	every minute
	Burglary	every 6 minutes
	Theft	every 2 minutes
IV.	Crime against Women	every 3 minutes
	Molestation	every 15 minutes
	Sexual Harassment	every 53 minutes
	Cruelty by Husband and relatives	every 9 minutes
V.	Crime against Children	every 36 minutes
VI.	Crime against STs	every 95 minutes
	Crime against SCs	every 20 minutes

(Source : NCRB Report 2010)

(Space for Hints) 2.3 SOCIAL DISORGANIZATION AND SOCIAL DEVIANCE

Rapid social change inevitably brings in social disorganization. In a state of disorganization, people forget their roles and responsibilities, the law loses its meaning to people, norms and values that hitherto guided and governed human behaviour are conveniently brushed aside, social institutions like marriage, family and religion lose their grip on people. This state of anomie affects the entire social structure and social relationships, and leads to chaos and confusion. Might becomes right. The weak and the vulnerable in society, the children, women and the aged are marginalized and neglected. Thus, Indian society is currently going through a situation in which there is a breakdown of system in the mutual relationships of persons, their respective status and functions, social values, mores and institutions. Social consensus disappears and social conflict takes its place. Such a situation facilitates social deviance and eventually enables criminality to flourish.

2.4 CURRENT SCENARIO

The National Crime Record Bureau (NCRB) publishes annual report of “Crime in India” (Refer 2011 report). This document helps us to understand the nature and extent of crime in India.

1. Crimes have become common even in areas which were relatively crime free a few years ago.
2. New opportunities have been opened for criminal activities because of the increasing wealth and expansion of trade .
3. Crimes of black-marketing, hoarding, smuggling, adulteration, drug trafficking, bank robberies, frauds, corruption and embezzlement have recorded a steep rise.
4. The growing social tensions caused by the effects of developmental activities open new opportunities for crime.

5. Criminalisation of Indian politics and among politicians often leads to murder, assault and other related crimes. (Space for Hints)
6. Reformist measures such as land reforms, abolition of untouchability, prohibition of child and bonded labour, and many forms of people's liberation movements, including the women's movements have aggravated tensions.
7. Liberalization Privatization and Globalization (LPG) have created opportunities for a few to become rich and powerful and deprived the majority of the people of the fruit of such a process. The poor have become poorer. The rich flaunt their wealth. Our mega-cities have become ungovernable. Slums have mushroomed and have become the breeding ground for crime and delinquency. Crime is becoming acceptable as a legitimate economic activity.
8. 'Greed is good' - the new mantra of market economy has increased the urge to become rich quickly through unfair means and foul, creating unhealthy competition especially among the youth.
9. Feminine criminality is on the rise. New opportunities open to women for education and employment away from home could be the possible causes for this situation.
10. Communal caste and regional conflicts are on the increase. Naxalite and terrorist activities are absorbing the minds of the young and are channelising their energies into unproductive and unlawful activities.

2.5 WHAT IS CRIME?

How do Criminologists view crime? There is no uniform understanding of crime among the professional Criminologists. The three most common concepts that are used by them are given in the following diagram.

**Check Your
Progress**

3. What is
Crime?

(Space for Hints)

The Definition of Crime	
a. Consensus View	b. Conflict View
<ul style="list-style-type: none"> * The law defines crime. * Agreement exists on outlawed behaviour. * Laws apply to all citizens equally. 	<ul style="list-style-type: none"> * The law is a tool of the ruling class. * Crime is a politically defined concept. * Real Crimes are not outlawed. * The law is used to control the underclass.
<p>c. Interactionist View</p> <ul style="list-style-type: none"> * Moral entrepreneurs define crime. * Crimes are illegal because society defines them that way. * Criminal labels are life-transforming events. 	

a. The Consensus View

This view holds that there is a general agreement among a majority of citizens on what behaviours should be outlawed by the criminal law and henceforth viewed as crimes. Crimes are, therefore, behaviours believed to be repugnant to all elements of society, which are codified in the law of the land. Sutherland and Cressey summarise this view: "Criminal behaviour is behaviour in violation of the criminal law ... which is a body of specific rules regarding human conduct, promulgated by political authority, which apply uniformly to all members of the classes to which the rules refer, and which are enforced by punishment administered by the state".

The consensus view of crime links illegal behaviour to the concept of social harm. Only those behaviours that are harmful to society in general come under the purview of law and therefore, must be controlled. Many deviant or unusual or strange acts are not criminal even though they may be shocking or immoral.

b. The Conflict View

(Space for Hints)

This view depicts society as a collection of diverse groups who are in constant and continuing conflict. Groups able to assert their political power use the law and the criminal justice system to advance their economic and social position. Those who possess wealth, power and position control the definition of crime. Crime is shaped by the values of the ruling class and not by an objective moral consensus that reflects the consensus of all people. Crime, therefore, is a political concept designed to protect the power and position of the upper classes at the expense of the poor.

c. The Interactionist View

In this view, the definition of crime reflects the preferences and opinions of people who hold social power in a particular legal jurisdiction. These people use their influence to impose their definition of right and wrong on the rest of the population. Criminals are individuals whom society chooses to label as deviants because they have violated social rules. Therefore, crimes are outlawed behaviours because society defines them that way and not because they are inherently evil or immoral acts.

The consensus view dominated criminological thought until the late 1960s. Then the interactionist perspective gained prominence. At the same time, more radical scholars gravitated toward conflict explanations. We can evolve an integrated definition of crime combining all the three perspectives:

“Crime is a violation of societal rules of behaviour as interpreted and expressed by a criminal legal code created by people holding social and political power. Individuals who violate these rules are subject to sanctions by state authority, social stigma and loss of status.” (Siegel) Crime is, indeed, a political, social and economic function of modern life.

2.6 LEGAL DEFINITION

Crime is an intentional act of commission or omission in contravention to the law of the land and accordingly punishable when proved in judicial proceeding.

(Space for Hints) There are seven ingredients that constitute crime:

1. **External Consequences:** There must be some external consequence called harm.
2. **Prohibited act:** The act should be prohibited or forbidden under the existing penal law.
3. **Act:** There must be conduct or some act. Intention alone shall not constitute a crime unless it is followed by some external act.
4. **Mens Rea:** Criminal intent or Mens Rea must be present.
5. **Concurrence:** There must be a concurrence of mens rea and conduct.
6. **Causal Relationship:** There must be causal relationship between the outlawed harm and the voluntary misconduct.
7. **Punishment:** There must be legally prescribed punishment.

2.7 CRIME CLASSIFICATION

The best known and widely cited classification of crime is the Federal Bureau of Investigation's (USA) Uniform Crime Report. Its Index Crimes or Part I Crimes is a very useful tool to understand the meaning of many of the major crimes.

2.7.1 Part I Index Crime Offences

Crime	Description
Criminal Homicide	a. Murder and non-negligent manslaughter: the willful killing of one human being by another. Deaths caused by negligence, attempts to kill, assaults to kill, suicides, accidental deaths and justifiable homicides are excluded. Justifiable homicides are limited to (1) killing of a felon by a law enforcement officer in the line of duty and (2) the killing of a felon, during the commission of a felony, by a private citizen.

**Check Your
Progress**

4. State the Classification of Crime.

- b. Manslaughter by negligence: the killing of another person through gross negligence. Traffic fatalities are excluded. Although manslaughter by negligence is a Part I crime, it is not included in the Crime Index.

Forcible Rape

The carnal knowledge of a female forcibly and against her will. Included are rapes by force and attempts or assaults to rape. Statutory offences (no force used - victim under age of consent) are excluded.

Robbery

The taking or attempting to take anything of value from the care, custody or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

Aggravated Assault

An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. Simple assaults are excluded.

Burglary / breaking entering

The unlawful entry of a structure to commit a felony or a theft. Attempted forcible entry is included.

Larceny / theft

The unlawful taking, carrying, leading or riding away of property from the possession or constructive possession of another. Examples are thefts of bicycles or automobile accessories, shoplifting, pocket picking or the stealing of any property or article that is not taken by force and violence or by fraud. Attempted larcenies are included.

Embezzlement, forgery, and worthless checks are excluded.

(Space for Hints)

Motor Vehicle theft The theft or attempted theft of a motor vehicle. A motor vehicle is self-propelled and runs on the surface and not on rails. Specifically excluded from this category are motorboats, construction equipment, airplanes and farming equipment.

Arson Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another or the like.

2.7.2 In India : There are a variety of crimes enumerated in the various legislations, which could be characterized into three heads:

1. Offences falling under the Code of Criminal Procedure Code;
2. Offences under the Indian Penal Code; and
3. Offences under local or special laws or enactments.

Under the Indian Penal Code (1860), the offences are classified as follows:

1. Offences against property
2. Offences against persons
3. Offences relating to documents
4. Offences affecting mental order
5. Offences against public tranquility
6. Offences against the state and
7. Offences relating to public servants.

2.7.3 In General : The totality of crimes committed could also be conveniently grouped into four major types: conventional crimes, white-collar crimes, organized crimes and victimless crimes.

(Space for Hints)

1. Conventional and New Forms of Crime	Crimes of Violence	Crimes against women, Crimes against Children, Murder, Robbery, Assault, Communal and Caste Violence, Cyber crime
	Property Crimes	Burglary, Larceny, Fraud, Arson, Vandalism
2. White-Collar Crime	Crimes by Business	Crimes by Professionals
3. Organized Crime		Illegal Drugs, Gambling, Loan Sharking, Extortion, Money Laundering, Environmental Crimes, Terrorism
4. Victimless Crime	Drug use	Beggary, Vagrancy, Prostitution,

2.8 INTENTION AND MOTIVE

The motive behind a criminal act may be ideal but the intention itself might be to cause some harm forbidden under the criminal law. If a person steals food from a shop to feed his hungry children, his motive is good, but he is violating a law in the process.

2.9 SIN AND CRIME

Sin and crime radically differ in their content, scope and consequences.

	Sin	Crime
Source	Religion	Law of the land
Matter	Violation of the rules of religion	Violation of Law
Consequences	Punishment from God	Punishment by State

(Space for Hints)

Harm	No direct injury	Necessarily involves some kind of direct injury
Remedy	Penance	A term of sentence by the law court

2.10 COSTS OF CRIME

Crime is costly. There are six distinct kinds of costs of crime.

1. Direct Loss

Destruction of property and buildings through vandalism, which is so common in India during bands and marches. Sometimes arson adds to the cost burden.

2. Transfer of property

Through theft and robbery, the rightful owner is dispossessed of his/her property and it is transferred to the thief or robber. Though for the victim it is a loss, from a social perspective, the property is being made use of by someone by transfer from one person to another.

3. Costs related to criminal violence

When a victim is physically hurt, the expenses include medical treatment, loss of employment and its benefits, loss of productivity etc.; in case of death, funeral expenses.

4. Illegal expenditures

Through illegal drugs, gambling and prostitution money is diverted from the legitimate economy to a parallel economy.

5. Enforcements costs

Money spent by various criminal justice agencies is spiraling.

Check Your Progress

5. What are the various kinds of costs of Crime?

6. Prevention and protection cost

(Space for Hints)

Crime prevention and protection measures including the special protection to the VIPs cost enormously. In our high tech society, these costs are galloping day by day. But the cost-benefit analysis tells us that we should not regret this expenditure because we enjoy certain amount of security and protection as a result.

2.11 RISKS AND REWARDS OF CRIME

Many offenders feel that the rewards of crime justify their violation of the law. Some of them find it lucrative. Quite a few express excitement, adventure and a sense of accomplishment and a boost to their self-identity and self-image. The primary risk associated with crime is the threat of arrest, conviction and imprisonment. Some are disturbed at the shame that is associated with being a criminal.

Rewards and Risks of Crime

	Rewards	Risks
1.	Money	Anxiety before and after crime
2.	Property for personal use or to sell	Injury or death
3.	Self-determination of work hours imprisoned	Loss of freedom if arrested and
4.	Excitement, challenge, relief from boredom	Threatening social environment in prison
5.	Sense of accomplishment	Difficulty of sustaining a criminal career in middle age
6.	Social identity	Shame at being labeled as a criminal
7.	Peer respect	

(Space for Hints)

8.	Fellowship with other offenders	
9.	Expression of anger against the victim	
10.	Domination over the victim	

2.12 SUMMARY

From the above views and classification of crime, we may draw the following conclusions.

The modern complexities of human life have contributed to the rising incidence of crime. Crime and punishment depend largely on the social values, accepted norms and behavioural patterns of a particular society at a given time. The content of crimes varies with the changes in social structure. What is crime today may become a permissible conduct tomorrow and vice versa. Criminal law is an index of social progress of a given society. It is a myth to think of a crimeless society.

2.13 KEY WORDS

Deviant Behaviour - Behaviour that departs from the social norm.

Mens Rea - "Guilty mind". The mental element of a crime or the intent to commit a criminal act.

2.14 ANSWER TO CHECK YOUR PROGRESS

1. Refer 2.1
2. Refer 2.2.2
3. Refer 2.5
4. Refer 2.7
5. Refer 2.10

2.15 MODEL QUESTIONS

(Space for Hints)

Long Answer Questions

1. Explain the legal definition of crime.
2. "It is a myth to think of a crimeless society" - Justify.
3. Write a note on Crime in India.
4. Enumerate the rewards and risks of crime.

Short Answer Questions

Write a note on :

1. Sin and Crime
2. Interactionist view

CLASSICAL AND NEO-CLASSICAL SCHOOLS OF CRIMINOLOGY

INTRODUCTION

In the course of history, there have been different approaches to the study of crime. In this unit we shall present an overview of these schools of Criminology. Schools of criminology have developed during the two centuries. A school of criminology is a system of thought, together with supporters of that system of thought. The system of thought consists of a theory of crime causation integrated with policies of change implied in the theory. The principal schools of criminology are listed hereunder. In particular, we shall deal with the Classical and Neo-Classical Schools in detail.

UNIT OBJECTIVES

- To be acquainted with the different schools of Criminology.
- To understand and assess the Classical and Neo-Classical approaches to the study of crime.

UNIT STRUCTURE

Introduction

Unit Objectives

Unit Structure

- 3.1. Schools of Criminology: An Overview
- 3.2. Classical School
 - 3.2.1. Casare Beccaria
 - 3.2.2. Jeremy Bentham
- 3.3. Neo-Classical School
- 3.4. Summary

3.1. SCHOOLS OF CRIMINOLOGY

Crime is an event; criminality is a personal trait. The scientific study of crime and criminality is a relatively recent development. The major perspectives of Criminology focus on individual (biological, psychological and choice theories), social (structural and process theories), political and economic (conflict theory), and multiple (developmental theory) factors. The following Table presents an overview of criminological perspectives.

Classical/Choice Perspective	Situational forces: Crime is a function of free will and personal choice. Punishment is a deterrent to crime.
Biological / Psychological Perspective	Internal forces: Crime is a function of chemical, neurological, genetic, personality, intelligence or mental traits.
Structural Perspective	Ecological forces: Crime rates are a function of neighbourhood conditions, cultural forces and norm conflicts.
Process Perspective	Socialization forces: Crime is a function of upbringing, learning and control. Peers, parents and teachers influence behaviour.
Conflict Perspective	Economic and political forces: Crime is a function of competition for limited resources and power. Class conflict produces crime.
Developmental Perspective	Multiple forces: Biological, social-psychological, economic and political forces may combine to produce crime.

(Space for Hints) 3.2 THE CLASSICAL SCHOOL

Before studying the contribution made by the classical school of criminologists we shall study the position before that period. The period of seventeenth and eighteenth century was dominated by religious principles. The dominance of religion in state activities was the important element of the time. The king has the Supreme power. It was believed that a man commits crime due to the influence of other worldly spirit called "Demon or devil". If a person commits a crime it was thought that he committed the same acknowledged the omnipotence of spirit. It was believed that an individual was possessed of evil and remedy for which was testimony of the effectiveness of the spirit. The ordinary mode of trial were ordeals by water and fire, Trial by battle was also resorted to. The evolution of criminal law was at a rudimentary stage.

The classical school of criminology developed in Italy and England during the last half of the eighteenth century and spread to other European countries and to America. It was based on hedonistic psychology. According to this psychology, man governs his behaviour by considerations of pleasures and pains, the pleasures anticipated from a particular act may be balanced against the pains anticipated from the same act, or the algebraic sum of pleasures and pains from one act may be balanced against the algebraic sum of pleasures and pains from another act. The perpetrator was assumed to have a free will and to make his choice with reference to the hedonistic calculation alone. In 1764, Beccaria, the pioneer of modern criminology made the principal application of the hedonistic doctrine to penology. He rejected the omnipotence of the spirit. He laid much emphasis on the mental phenomenon of the individual. He attributed, crime to the free will of the individual. This doctrine implied the notion of causation of crime in terms of free choice to commit crime by rational seeking pleasure and avoiding pain. His object was to make punishment less arbitrary and severe than it had been. He contended all persons should be treated alike. Equal punishment must be imposed if two persons are found guilty of the same criminal act.

Equal punishment must be given irrespective of age, sanity, status or (Space for Hints) circumstance.

The main contribution of classical school of criminology are given below:

1. An act done by the individual alone must be taken into consideration. His intention does not form the basis for determining the criminality.
2. The exponents of this school concentrated on the prevention of crimes rather than imposing punishments for the same. Criminologists said that there must be a criminal code for each and every country. In response to the same, criminal code were introduced in France, Germany and Italy.
3. The exponents supported the right of the sovereign to punish offenders.
4. They pleaded for equal punishment for same offence.
5. They believed that the criminal law primarily rests on positive sanction. They were against the discretionary power given to judges.

From the contribution made by the classical school of criminologists we can conclude that they propounded certain important principles for administration of justice. But there were certain demerits also. The main defect was the classical school relied solely on the act without devoting much attention on the mind of the criminal. Another defect is that it prescribed equal punishment for same offence. It did not make any distinction between first offenders and habitual criminals. It suggested a criminal policy, which was easy to administer.

Influenced by the social philosophy of Utilitarianism of the mid-eighteenth century, thinkers argued for a more rational approach to crime and punishment. They

Check Your Progress

1. What are the contributions of classical school of Criminology?

(Space for Hints) stressed that the relationship between crimes and their punishment should be balanced and fair. Classical Criminology wanted to change the European system of law, courts and penalties that was marked by arbitrary, biased and capricious judicial decisions. The use of torture to get confessions, and cruel punishments like whipping, public hanging and mutilation were not uncommon. Many of the reforms proposed by the classical Criminologists were incorporated into the Constitution of the United States in its Bill of Rights Amendments. In 1791 following the French Revolution, the new legal Codes of France also incorporated a few of the suggestions of the Classical Criminologists.

3.2.1. Cesare Beccaria

The most famous Cesare Beccaria (1738-1794), whose writings form the core of what today is referred to as classical Criminology. Its basic tenets are :

1. In every society people have free will to choose criminal or lawful solutions to meet their needs or settle their problems.
2. Criminal solutions may be more attractive than lawful ones because they usually require less work for a greater payoff; if left unsanctioned, crime has greater utility than conformity.
3. A person's choice of criminal solutions may be controlled by his or her fear of punishment.
4. The more severe, certain and swift the punishment, the better able its to control criminal behaviour.

Beccaria's ideas inspired other social thinkers to believe that criminals choose to commit crime and that crime can be controlled by judicious punishment. His vision was widely accepted throughout Europe and the United States. His writings have been credited as the basis of elimination of torture and severe punishment in the nineteenth century. The practice of incarcerating criminals and structuring prison sentences to fit the severity of crime was a reflection of his classical Criminology.

Check Your Progress

2. What are the basic tenets of Classical Criminology?

3.2.2. Jeremy Bentham

(Space for Hints)

In Britain, philosopher Jeremy Bentham (1748-1833) helped to popularize Beccaria's views. Bentham believed that people choose actions on the basis of whether they produce pleasure and happiness and help them avoid pain or unhappiness. The purpose of law is to produce and support the total happiness of the community it serves. Because punishment is itself harmful, its existence is justified only if it promises to prevent greater evil than it creates. Punishment, therefore, has the following main objectives :

1. To prevent all criminal offences.
2. To ensure that a criminal uses no more force than is necessary.
3. To prevent crime as cheaply as possible.

By the end of the nineteenth century, the popularity of the classical approach began to decline.

3.3 NEO-CLASSICAL SCHOOL

The 'free will' theory of the classical school did not survive for long. The neo-classical thinkers asserted that certain categories of offenders such as minors, idiots, insane or incompetent had to be treated leniently irrespective of the similarity of their criminal act because these persons were incapable of appreciating the difference between right and wrong. Gabriel Tarde (1843-1894), one of the champions of this school proposed that extenuating circumstances must be taken into account assessing a crime and giving punishment. The main tenets of neo-classical school can be summarized as follows:

1. Punishment must be mitigated in cases of certain psychopathic offenders under certain situations, because these factors deprived a person of his normal capacity.
2. Neo-classicists were the first in point of time to bring out a distinction between the first offenders and the recidivists.

Check Your Progress

3. What are the objectives of Punishment?

(Space for Hints)

3. In general, they adopted a subjective approach to Criminology and concentrated their attention on conditions under which an individual commits crime.
4. They believed that all criminals, whether responsible or irresponsible, must be kept segregated from society.
5. The distinction between responsibility and irresponsibility of the criminal the way to subsequent changes in our approach to corrections e.g. establishing institutions such as parole, probation, reformatories, open prison etc.

Influenced by the classical school, the revised French Criminal Code of 1819 provided for somewhat more judicial discretion, allowing judges to consider the circumstances of the crime, not just the offender's intent. Age, mental capacity, and the circumstances of the crime were accepted as factors that could mitigate punishment, for those factors were thought to reduce personal responsibility. This led to the use of testimony by experts to help the courts decide on the extent to which defendants could be held responsible and punished for their actions.

The principles of classical Criminology regarding certainty, severity and swiftness of punishment, proportionality and specific and general deterrence are to be found at the heart of the modern deterrence theories. Modern criminal policies are very much influenced by the classical school the call for more severe sentences; increased penalties, additions to the police force, certainty of conviction and sentencing is indeed a reflection of the classical theory.

Check Your Progress

4. Explain the main tenets of neo-classical school.

Modern Rational Choice theory is based on the "expected utility" principle in economic theory. This principle states that people will make rational decisions based on the extent to which they expect the choice to maximize their profits or benefits and minimize the costs or losses. This is the same general assumption about human nature made in classical Criminology.

3.4 SUMMARY

(Space for Hints)

Classical Criminology refers primarily to the eighteenth-century writings of Cesare Beccaria in Italy and Jeremy Bentham in England. Both were utilitarian social philosophers who were concerned with legal and penal reform. They formulated a theory of crime that has proved to be relevant to Criminology till today.

Beginning in the mid 1970s, the classical approach began to enjoy a rising popularity. A rational choice approach to crime causation, a contemporary version of classical theory, evolved based on intelligent thought processes and criminal decision-making. According to this approach, criminal acts are not a matter of random chance but are cool, calculated actions designed to maximize profit and minimize loss. The decision to violate any law is made for a variety of reasons, including greed, revenge, need, anger, lust, jealousy, thrill-seeking or vanity. Regardless of the motive, criminal actions occur only after individuals carefully weigh the potential benefits and consequences of crime. In the final analysis, people choose crime because it is rewarding, satisfying, easy or fun. It is very clear, therefore, that the classical theory still influences the thinking of the Criminologists and policy makers.

3.5 KEY WORDS

Criminality - A personal trait of the individual as distinct from a 'crime'.

3.6 ANSWER TO CHECK YOUR PROGRESS

1. Refer 3.2
2. Refer 3.2.1
3. Refer 3.2.2
4. Refer 3.3

(Space for Hints) 3.7 MODEL QUESTIONS

Long Answer Questions

1. What are the basic elements of Classical Criminology? How does it influence our criminological thinking today?
2. Bring out the differences between the classical and the neo-classical schools of Criminology.

Short Answer Questions

1. Write a note on Modern Rational Choice Theory.

THEORETICAL APPROACHES – CARTOGRAPHIC AND BIOLOGICAL SCHOOLS

INTRODUCTION

In this unit, we continue the reflection on the theoretical approaches to crime. We present two schools of Criminology namely the Cartographic and the Biological. A brief explanation of the Cartographic approach is followed by a survey of the various approaches that offer biological explanations of criminal behaviour. The unit provides an overview of the biological basis of criminal behaviour.

UNIT OBJECTIVES

- To understand the nature and scope of the Cartographic school of Criminology.
- To appreciate the differing dimensions of the varied Biological schools of Criminology.
- To learn to assess the biological basis of criminal behaviour.

UNIT STRUCTURE

Introduction

Unit Objectives

Unit Structure

4.1 Cartographic or Geographic School

4.2 Biological Schools : Physiognomy and Phrenology, Biological Determinism (Lombroso), Sheldon's Somatotypes, Sociobiology

(Space for Hints) 4.3 Biosocial Theory : Biological Basis for Criminal Behaviour

4.4 Summary

4.5 Key words

4.6 Answer to check your progress

4.7 Model Questions

4.1 CARTOGRAPHIC OR GEOGRAPHIC SCHOOL

The leaders of this school were concerned primarily with the distribution of crimes in certain areas, both geographical and social. They were interested in crime as a necessary expression of the social conditions. L.A.J. Adolphe Quetelet (1796-1874) was a Belgian mathematician who began with a Frenchman Andre-Michel Guerry what is known as the cartographic school of Criminology. The school flourished from about 1830 to 1880.

This approach made use of social statistics that were being developed in Europe in the early nineteenth century. Statistical data provided important demographic information on the population, including density, gender, religious affiliation and wealth. Quetelet studied data gathered in France to investigate the influence of social factors on the propensity to commit crime. In addition to finding a strong influence of age and sex on crime, he also uncovered evidence that season, climate, population composition and poverty were related to criminality. More specifically, he found that crime rates were greatest in the summer, in southern areas, among heterogeneous populations, and among the poor and the uneducated. He also found crime rates to be influenced by drinking habits. Indeed, he identified many of the relationships between crime and social phenomena that still serve as a basis for Criminology today.

Check Your Progress

1. Explain
Cartographic
School.

Along with Emile Durkheim (1858-1917), he laid the foundations of sociological Criminology, which argued that criminal behaviour was not a function of personal traits or characteristics but rather a reaction to an environment that was inadequate for proper human relations and development.

This school used methods similar to those used in more recent years by ecologists and epidemiologists. The exponents were concerned primarily with the distribution of crimes in certain areas, both geographical and social. They saw crimes as a necessary expression of social conditions. Therefore offences against custom laws can be committed only in areas where there is a customs port or customs airports or borderland. Again the offence of hijacking can be committed only in airports or in aeroplanes. So also the offence of piracy can be committed only in sea and other related areas. (Space for Hints)

In addition to analyzing distribution of general crime rates and correlating them with distribution of other social conditions, adherents of this school made special studies of juvenile delinquency and of professional crime, which are comparable with those of the present century. The basic notion was that crime is caused by the conflicts of values arising when legal norms fail to take into consideration the behaviour norms that are specific to the lower socio-economic classes various age groups, religious groups, and interest groups living in certain geographic areas. After sometime the exponents of this school merged with the socialist school.

4.2 THE GEOGRAPHY OF CRIME

In modern times, the mapping of crime rates and residences of criminals was undertaken by the Chicago School sociologists. Robert Park (1928), along with his colleagues, identified several distinct zones that expanded out in a pattern of concentric circles from the centre of the city. It was observed that the further one moved away from the city centre, the lower the incidence of social problems, including crime.

Shaw and McKay, using police and court records, plotted on a series of maps:

1. the house where juvenile delinquents lived (spot maps);
2. the percentage of the total juvenile population in specific census areas who were involved with the criminal justice system (rate maps); and

3. the distribution of delinquency throughout the various parts of the city (zone maps).

They published their findings in a number of volumes from the 1920s through 1940s. As a follow-up, Shaw initiated the Chicago Area Project (CAP) in three high-delinquency neighbourhoods.

Today, researchers interested in the geography of crime utilize sophisticated techniques like computer graphics. Increasingly focus on aspects of the physical environment - how specific spatial designs encourage law-abiding versus criminal behaviour, and how certain spatial features affect inhabitants' perception or fear of crime - is gaining ground. This approach is known as Crime Prevention Through Environmental Design (CPTED). After Oscar Newman (1972) published his book "Defensible Space", the role that environmental design plays in precipitating criminal behaviour began to receive special attention in criminological and policy making circles.

The Chennai city police mapped criminal gangs by using Geographic Information Systems (GIS). They successfully mapped the concentration areas of mercenary gangs, theft gangs, dacoity gangs and illicit liquor and drug trafficking gangs. They concluded that using GIS to map criminal gangs was a much more compatible means of crime pattern analysis than current processes because of its geographic referencing capabilities.

4.3 THE SOCIALIST SCHOOL

The tenet of Socialist School was based on the ideas of Marx and Engels. It began about 1850. It emphasized on economic determinism.

Marx himself had little to say about crime and criminals. Others applied his ideas about the origin and maintenance of social inequality to the study of crime. His basic ideal was that inequality and poverty result from private ownership of the means of production, a system which exploits the working classes. To the persons who applied this idea, this came to mean that inequality and poverty cause people to turn to crime. The mechanism by

which poverty might 'work' to produce crime were not spelled out. But the research studies conducted by the early members of this school were scientific. They started by hypothesizing that crime rates are affected by economic conditions such, as fluctuations in the business cycle, and then tested the hypothesis with the statistical data in a manner enabled others to repeat the work and test the conclusions. (Space for Hints)

4.4 TYPOLOGICAL SCHOOLS

Three schools of criminology had developed. They were called typological school or bio-typological school. They were similar in their logic and methodology. They were based on the basic assumption that criminals differ from non-criminals in certain traits of personality. They were –

1. Lombrossion School on positive school.
2. The Intelligence testers
3. The psychiatric school

4.5 POSITIVE SCHOOL OF CRIMINOLOGY

With the change in the human thinking, certain French doctors were successful in determining that it was neither free will of the offender nor his mental depravity which motivated him to commit crime but the real cause of criminality lay in anthropological features of the criminal. Some phrenologists also conducted certain researches. They established a co-relationship between criminality and the structure and functioning of the brain. These researches led to the emergence of a new school of criminology. It was called as the positive school of criminology. Three Italian criminologists much to the emergence of this school. Therefore this school was called as Italian School of Criminology. The main exponents were Cesare Lombrosso, Enrico Ferri and Reffale Garofalo.

(Space for Hints) Advantages of Positive School of Criminology

Positive school emerged in order to overcome the demerits of the earlier two schools namely, classical and neoclassical schools. The exponents of positive school of criminology rejected the influence of other worldly power that influence of devil or demon on the commission of the crime. Positivists laid much emphasis on the anthropological, physical and social environment. An important contribution of the positive school of criminology was that the attention of the criminologists was drawn to the individual personality of the offender. We have to concentrate much on the individual rather the crime committed by him. Basing upon this, we have to concentrate much on the individual principles of individualization of the offender. This principle was much applied after words. Many researches were conducted on criminology rather than on penology.

The Psychiatric School

It is a continuation of the Lombrosian School. In the earlier years it emphasized psychosis, epilepsy and moral insanity as the causes of crime. It emphasized on emotional disturbance as the cause of crimes. These emotional disturbances were acquired in social interaction. Many variations were found within the school. But the major contribution of this school was the Freudian Theory. It placed much reliance on frustration and "the unconscious". The central thesis is that a certain organization of the personality, developed entirely apart from criminal culture, will result in criminal culture, will result in criminal behaviour regardless of situations.

Difference between Classical and Positive School of Criminology

1. While the classical school defined crime in legal terms, the positive school rejected the legal definition and developed the social definition.

2. The classical School placed reliance on free-will theory as an explanation of crime; while the positive school explained crime in terms of biological determinism. (Space for Hints)
3. The exponents of the classical school of criminology believed in different and definite punishment for each offence and equal punishment for all criminals committing the same offence. While the exponents of positive school of criminology advocated treatment methods for criminal instead of punishment and held that criminals be punished not according to the circumstances associated with it.
4. The exponents of classical school of criminology laid greater emphasis on crime. And the exponents of positive school stressed on personality of the offender rather than his criminal act.
5. The main exponents of the classical school were Beccaria and Bentham. While the exponents of the 'positive school were Lombroso, Ferri and Garafalo.

4.6 BIOLOGICAL SCHOOLS

4.6.1 Physiognomy and Phrenology

The earliest scientific studies examining human behaviour were biologically oriented. Physiognomists, such as J.K. Lavater (1741-1801), studied the facial features of criminals to determine whether the shape of ears, nose and eyes and the distance between them were associated with antisocial behaviour. Phrenologists, such as Franz Joseph Gall (1758-1828) and Johann K. Spurzheim (1776-1832), studied the shape of the skull and bumps on the head to determine whether these physical attributes were linked to criminal behaviour.

4.6.2 Biological Determinism

Cesare Lombroso (1835-1909), known as the 'Father of Criminology', was a physician who served in the Italian army. He studied the physical

(Space for Hints) characteristics of soldiers convicted and executed for criminal offences. Later, he studied inmates at institutes for the criminally insane at Pavia, Pesaro and Reggio Emilia.

His theory has been called biological determinism. It can be outlined as follows:

1. Serious offenders are 'born criminals' and they inherited physical problems that impelled them into a life of crime.
2. Born criminals are throwbacks to more primitive times when people were savages.
3. Direct heredity, i.e. being related to a family of criminals, is the primary cause of crime.

This theory is no longer taken seriously.

4.6.3 Sheldon's Somatotype Theory

William Sheldon held that criminals manifest distinct physiques that make them susceptible to particular types of delinquent behaviour. The body types are mesomorph, endomorph and ectomorph. Of the three, the mesomorphs who have well-developed muscles and an athletic appearance, are active, aggressive, sometimes violent and the most likely to become criminals.

4.6.4 Physique

1. Endomorph: Relatively great development of digestive viscera; tendency to put on fat; soft roundness through various regions of the body; short tapering limbs; small bones; soft, smooth, velvety skin.

Temperament : Viscerotonic : General relaxation of body; a comfortable person; loves soft luxury; a 'softie' but still essentially an extrovert.

2. Mesomorph : Relative predominance of muscles, bone and the motor organs of the body; large trunk; heavy chest; large wrists and hands; if 'lean' a hard rectangularity of outline; if 'not lean' they fill out heavily.

Check Your Progress

2. What is the view of socialist school?

Temperament : Somotonic Active, dynamic person; walks, talks, gestures assertively; behaves aggressively. (Space for Hints)

3. Ectomorph: Relative predominance of skin and its appendages, which includes the nervous system; lean, fragile, delicate body; small, delicate bones; droopy shoulders; small face, sharp nose, fine hair; relatively little body mass and relatively great surface area.

Temperament : Cerebrotonic. An introvert; full of functional complaints; allergies, skin troubles, chronic fatigue, insomnia, sensitive to noise and distractions; shrinks from crowds.

Each person possesses the characteristics of the three types to a greater or lesser degree. Sheldon therefore used three numbers, each between 1 and 7, to indicate the extent to which the characteristics of the three types were present in a given individual. For example, a person whose somatotype is 7-1-4 would possess many endomorphic characteristics, few mesomorphic characteristics and an average number of ectomorphic characteristics.

He came to these conclusions from a study of 200 young males residing in a rehabilitation home for boys from 1939-1949. He found that these youth were decidedly high in mesomorphy and low in ectomorphy.

Of the three, the mesomorphs who have well-developed muscles and an athletic appearance, are active, aggressive, sometimes violent and the most likely to become criminals.

4.6.5 Sociobiology

In the early 1970s' spurred by the publication of Sociobiology by biologist Edmund O. Wilson, the biological basis for crime emerged once again. Sociobiology stresses that biological and genetic conditions affect how social behaviours are learned and perceived. Sociobiologists view the gene as the ultimate unit of life that controls all human destiny. The study of sociobiology revived interest in finding a biological basis for crime and delinquency.

<p>Check Your Progress</p> <p>3. Explain Sociobiology.</p>

(Space for Hints) **4.7 BIOSOCIAL THEORY**

Those Criminologists who suggest that crime has some biological basis also believe that environmental conditions influence human behaviour. Such a theory is called biosocial theory. Biosocial theorists believe that physical, environmental and social conditions work in concert to produce human behaviour.

4.7.1. Biological Basis for Criminal Behaviour

Theory	Major Premise	Strengths
Biochemical	Crime, specially violence, is a function of diet, vitamin intake, hormonal imbalance or food allergies.	Explains irrational violence. Shows how the environment interacts with personal traits to influence behaviour
Neurological	Criminals and delinquents often suffer brain impairment, as measured by EEG. Attention deficit / hyperactivity disorder and minimal brain dysfunction are related to antisocial behaviour.	Explains irrational violence. Shows how the environment interacts with personal traits to influence behaviour.
Genetic	Criminal traits and predispositions are inherited. The criminality of parents can predict the delinquency of children.	Explains why only a small percentage of youth in a high-crime area become chronic offenders.
Evolutionary	As the human race evolved, traits and characteristics have become ingrained. Some of these traits make people aggressive and predisposed to crime.	Explains high violence rates and aggregate gender differences in the crime rate.

Bio-criminology is still in its infancy. We have a long way to go before we have empirical evidence for most of these theories. (Space for Hints)

4.7.2 The Sociological and Social Psychological School

They study of crime in a sociological manner began with the cartographic and socialist schools. Several European scholars interpreted crime as a function of social environment. Among these were Von Litz of Germany, Pins of Belgium, Van Aamel of Holland and Fointsky of Russia. Tarde, French social psychologist refuted the biological theory. He developed a theory of 'imitation'. His basic notion was that one behaves according to the customs of his society. If a man steals or murders, he is merely imitating someone else.

Much more development has taken place in United States. It was introduced as a subject in the department of sociology in several universities of United States.

The central thesis of the sociological school is that criminal behaviour results from the same processes as other social behaviour. First, sociologists have attempted to relate variations in crime rates to variations in social organization including the variations in larger institutional systems. Some of the important processes are the process of mobility, culture conflict, normative conflict, competition and stratification. Some of the social institutions are political, religious, economic, war, mass media, and family educational institutions.

Secondly Sociologists have attempted to identify the processes by which persons become criminals. These analysis are related to general theories of social learning. These analysis have used concepts such as imitation, attitude-value, compensation, frustrational aggression,. differential association and reinforcement.

4.7.3. Clinical School of Criminology

With the development of human psychology there is greater emphasis on the study of emotional aspect of human nature. Psychology has given impetus

Check Your Progress

4. Explain the scope of Biosocial Theory.

(Space for Hints) to know the mind to the criminals; Criminal is a Product of his biological inheritance conditioned 'in his development by experience of life to which he has been exposed from infancy up to the time of the commission of crime. Therefore the clinical school takes in to account a number of factors. It suggests that persons who do not respond favourably to the correctional method of treatment must be imprisoned. Those persons who are the victim of circumstances must be subjected to correctional methods of treatment. Punishment must depend upon the personality of the individual.

From the above discussion we can conclude that modern criminologists lay more emphasis on multiple causation theory. They consider crime as a social phenomenon.

4.8 SUMMARY

Classical Criminology relied on pure thought and reason. It served as a guide to crime, law and justice for almost 100 years. Then, the scientific method was beginning to take hold of in Europe. Careful observation and analysis of natural phenomena was being undertaken to understand the way the world worked. Human behaviour including criminal behaviour came under this scrutiny. The cartographic school and the biological schools owe their origin to this scientific temper and movement. Social ecology and biological positivism of the early twentieth century enriched our understanding of the dynamics of criminal behaviour and have influenced the social policies of governments in varying degrees.

4.9 KEY WORDS

Biological Determinism	-	belief that crimogenic traits can be acquired through indirect heredity from a degenerate family. Through direct heredity i.e. being related to a family of criminals.
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Biosocial Theories	- An approach to Criminology that focuses on the interaction between biological and social factors as they relate to crime.	(Space for Hints)
Ectomorph	- Sheldon's bodytype describing those who are tall and thin and less social and more intellectual than the other types.	
Endomorph	- Sheldon's bodytype describing those who have heavy builds and are slow-moving.	
Mesomorph	- Sheldon's bodytype describing those who have well-developed muscles and an athletic appearance.	
Phrenology	- A science which studied the shape of the skull and bumps on the head to determine whether these physical attributes were linked to criminal behaviour.	
Physiognomy	- Study of facial features of criminals to determine whether the shape of ears, nose and eyes and the distance between them were associated with antisocial behaviour.	
Social Ecology	- A theory that states that environmental forces that have a direct influence on human behaviour.	
Sociobiology	- A theory of human behaviour that stresses that biological and genetic conditions affect how social behaviours are learned and perceived.	

(Space for Hints)

Somatotype

- A system developed for categorizing people on the basis of their body build.

4.10 ANSWER TO CHECK YOUR PROGRESS

1. Refer 4.1
2. Refer 4.3
3. Refer 4.6.5
4. Refer 4.7

4.11 MODEL QUESTIONS

Long Answer Questions

1. Write a critical note on Lombroso's biological determinism.
2. What are the biological basis for criminal behaviour? Explain.

Short Answer Questions

- a. Sociobiology
- b. Biosocial Theory
- c. Cartographic School

STRUCTURE OF CRIMINAL JUSTICE SYSTEM IN INDIA

INTRODUCTION

Administration of justice is one of the important primary function of the state. The necessity for administration of justice arises because the interest of individuals will not be same. They will pull in different directions. So there should be an independent authority to decide the disputes and settle the matter. It is carried out by one organ of the State namely the judiciary. Administration of justice is broadly classified into two categories. They are civil administration of justice and criminal administration of justice. Civil administration of justice is carried out in accordance with the Civil Procedure Code in the civil side of the judiciary and criminal administration of justice is carried out in accordance with the Criminal Procedure Code in the criminal side of the judiciary. Here we are concerned with the structure of criminal justice system only.

UNIT OBJECTIVES

- ❖ to study the categories and structure of lower level criminal judiciary
- ❖ to know the powers and jurisdiction of each criminal court.
- ❖ to learn more about higher judiciary in the criminal side.
- ❖ to analyse the role of other wings like, Legislature, Police and Prison system in administration of criminal justice.

UNIT STRUCTURE

Introduction

Unit Objectives

Unit Structure

- (Space for Hints)**
- 5.1 Structure of Criminal Judiciary**
 - 5.2 Executive Magistrates**
 - 5.3 Special Executive Magistrates**
 - 5.4 Public Prosecutors**
 - 5.5 Assistant Public Prosecutors**
 - 5.6 Power of Courts**
 - 5.7 Jurisdiction in case of Juveniles**
 - 5.8 Sentences which may be passed by the Court**
 - 5.9 Sentence in cases of conviction of several offences at one trial**
 - 5.10 Higher Judiciary**
 - 5.11 Supreme Court**
 - 5.12 Roles of Legislature, Police and Prison System in administration of Criminal Justice**
 - 5.13 Role of Legislature**
 - 5.14 Role of Police**
 - 5.15 Non-Registration of Complaints**
 - 5.16 Role of Judiciary**
 - 5.17 Role of the Prison in the administration of Criminal Justice**
 - 5.18 Summary**
 - 5.19 Key words**
 - 5.20 Answer to check your progress**
 - 5.21 Model Questions**

5.1 STRUCTURE OF CRIMINAL JUDICIARY

(Space for Hints)

Criminal judicial system can broadly be classified in to two categories. They are lower criminal judiciary and higher judiciary.

5.1.1 Lower Criminal Judiciary

Lower criminal judiciary is mainly concerned with the questions of fact only and they are not expected to deal with the questions of law. Constitution of the criminal courts are dealt with in chapter II and powers of these courts and dealt with in chapter III of the Criminal Procedure Code.

S.6 of the criminal procedure code says, besides the High Courts and the courts constituted under any law, other than this code, there shall be in every state, the following classes of criminal courts namely:

- i) Court of Sessions,
- ii) Judicial Magistrate of the First Class and in any metropolitan area, Metropolitan Magistrate,
- iii) Judicial Magistrate of the Second Class and
- iv) Executive Magistrates

Territorial division of the court is dealt with in, section 7 of the code. According to section 7 every state shall be a session division or shall consist of sessions divisions and every sessions division shall for the purposes of this code, be a district or consist of districts. Provided that every metropolitan area shall for the said purposes be a separate sessions division and district.

Section 8 of the code authorises the state government to declare any city or town whose population exceeds one million as metropolitan area for the purpose of the code. So also the presidency towns of Bombay, Calcutta and Madras and the city of Ahmedabad shall be deemed declared a metropolitan area. The state government may expand, reduce or alter the limits of metropolitan area without reducing the population below one million. Clauses 4 and 5 of section 8 state trial or appeal which

Check Your Progress

1. What are the various Classes of Criminal Courts?

(Space for Hints) is pending shall continue that even if the population in the metropolitan city falls below the stipulated one million, an enquiry to be tried by the same court.

5.1.2 Court of Sessions

The state government shall establish a court of session for every sessions division. Every court of session shall be presided over by a judge, to be appointed by the High Court. The High Court may also appoint Additional Sessions Judges to exercise jurisdiction in a court of session. The Sessions Judge of one sessions division may be appointed by the High Court to be also an Additional Sessions Judge of another division and in much case he may sit for the disposal of cases at such place or places in the other division as the High Court may direct.

Cl.(5) of Section 9 authorises the High Court to make alternative provision during the vacancy of a Sessions Judge. According to cl.(6) the court of session shall ordinarily hold its sitting at such place or places as the High Court may by notification specify.

S.10 of the Code makes provision for subordination of Assistant Sessions Judges. All Assistant Sessions Judges shall be subordinate to the Sessions Judge in whose court they exercise jurisdiction. The Session Judge may from time to time make rules consistent with this code, as to the distribution of business among such Assistant Sessions Judges. The Sessions Judge may also make provision for the disposal of any urgent application, in the event of his absence or inability to act by an Additional or Assistant Sessions Judge, by the Chief Judicial Magistrate and every such judge or magistrate shall be deemed to have jurisdiction to deal with any such application.

5.1.3 Courts of Judicial Magistrate

Section 11 of the Code provides for the creation of courts of Judicial Magistrate. In every district (not being a metropolitan area), there shall be established as many courts of judicial magistrates of the First Class and of the Second Class and at much places, as the State Government may, after consultation

with the High Court by notification, specify. Provided that the State Government may after consultation with the High Court establish, for any local area, one or more special courts of judicial magistrates of the First Class or of the Second Class to try any particular case or particular classes of cases and where any such Special Court is established, no other court of the magistrate in the local area shall have jurisdiction to try any case or class of cases for the trial of which such special court of Judicial Magistrate has been established.. The presiding officers of such courts shall be appointed by the High Courts. The High Court may whenever it appears to it to be expedient or necessary confer the powers of a judicial magistrate of the First Class or of the Second Class on any member of the judicial service of the state functioning as a Judge in Civil Court. To this provision some amendments have been carried out by States like Haryana, Bihar, Punjab and others. (Space for Hints)

5.1.4 Chief Judicial Magistrate and Additional Chief Judicial Magistrate

S. 12 of the Code provides for the creation of Chief Judicial Magistrate and Additional chief Judicial Magistrate. In every district (not being a metropolitan area) the High Court shall appoint a Judicial Magistrate of the First Class to be the Chief . Judicial Magistrate. The High Court may appoint any Judicial Magistrate of the First Class to be an Additional Chief Judicial Magistrate and such magistrate shall have all or any of the powers of Chief Judicial Magistrate under this Code or under another law for the time being in force as the High Court may direct.

The High Court may designate any Judicial Magistrate of the First Class in any sub division as the Sub Divisional Judicial Magistrate and relieve him of the responsibilities specified in this section as occasion requires.

Subject to the general control of Chief Judicial Magistrate every Sub Divisional Judicial Magistrate shall also have and exercise such powers of supervision and control over the work of the Judicial Magistrates (other than additional Chief Judicial Magistrates) in the sub divisions as the High Courts may, by general or special order, specify in this behalf.

(Space for Hints) 5.1.5 Special Judicial Magistrates

According to section 13, the High Court may, if requested by the Central or State government, so to do, confer upon any person who holds or has held any post under the government all or any of the powers conferred or conferrable by or under this code on a Judicial magistrate of the First Class or of the Second Class, in respect to particular cases or to a particular classes of cases in any local area not being a metropolitan area.

Provided that no such power shall be conferred on a person unless he possesses such qualification or experience in relation to legal affairs as the High Court may by rules specify.

Such Magistrates shall be called special Judicial Magistrates and shall be appointed for such term not exceeding one year at a time as the High Court may by general order direct. The high Court may empower a Special Judicial Magistrate to exercise the powers of a Metropolitan Magistrate in relation to any metropolitan area outside his local jurisdiction.

S.14 of the Code deals with local jurisdiction of judicial magistrates. Subject to the control of the High Court the Chief Judicial Magistrate may from time to time define the local limits of the areas within which the magistrates appointed under Section 11 or under section 13 may exercise all or any of the powers with which they may respectively be invested under this code.

Provided that the Court of Special Judicial Magistrate may hold its sitting at any place within the local area for which it is established.

Except as otherwise provided by such definition the jurisdiction and powers of every Magistrate shall extend throughout the district.

Where the local jurisdiction of a Magistrate appointed under S.11 or Section 13 or Section 18, extends to any area beyond the district, or the metropolitan area, as the case may be, in which he ordinarily holds courts, any reference in this code to the court of session, Chief Judicial Magistrate or the Chief

Metropolitan Magistrate shall, in relation to such magistrate through out the area within his local jurisdiction be construed, unless the context otherwise requires, as a reference to the Court of sessions, Chief Judicial Magistrate or Chief Metropolitan Magistrate as the case may be, exercising jurisdiction in relation to the said district or metropolitan area. (Space for Hints)

S.15 of the Code deals with subordination of Judicial Magistrate. It provides that every Chief Judicial Magistrate shall be subordinate to the Sessions Judge; and every other Judicial Magistrate shall subject to the general control of the Sessions Judge be subordinate to the Chief Judicial Magistrate. The Chief Judicial Magistrate may from time to time, make rules or give special orders consistent with this code, as to the distribution of business among the Judicial Magistrates subordinate to him.

5.1.6 Court of Metropolitan Magistrates

Section 16 provides that in every metropolitan area, there shall be established as many courts of Metropolitan Magistrate and at such places, as the State Government may after consultation with the High Court by notification specify. The presiding officers of such courts shall be appointed by the High Court. The jurisdiction and powers of every Metropolitan Magistrate shall extend throughout the metropolitan area.

5.1.7 Chief Metropolitan Magistrate and Additional Chief Metropolitan Magistrate

As per the provisions of Section 17, the High Court shall in relation to every metropolitan area within its local jurisdiction appoint a Metropolitan Magistrate to be the Chief Metropolitan Magistrate for such Metropolitan area. The High Court may appoint any Metropolitan Magistrate to be an Additional Chief Metropolitan Magistrate, and such Magistrate shall have all or any of the powers of a Chief Metropolitan Magistrate under this Code or under any other law for the time being in force as the High Court may direct.

(Space for Hints) 5.1.8 Special Metropolitan Magistrate

According to Section 18, the High Court may, if requested by the Central or State Government so to do, confer upon any person who holds or has held any post under the Government, all or any of the powers conferred or conferrable by or under this Code on a Metropolitan Magistrate, in respect to particular cases or to particular classes of cases in any metropolitan area within its local jurisdiction. Provided that no such power shall be conferred on a person unless he possesses such qualification or experience in relation to legal affairs as the High Court may by rules specify.

Such Magistrates shall be called Special Metropolitan Magistrate and shall be appointed for such term not exceeding one year at a time as the High Court may by general or special order direct.

The High Court or State Government, as the case may be, may empower any Special Metropolitan Magistrate to exercise, in any local area outside the metropolitan area, the powers of Judicial Magistrate of the First Class.

Section 19 of the Code deals with subordination of Metropolitan Magistrate. The Chief Magistrate and every Additional Chief Metropolitan Magistrate shall be subordinate to the Sessions judge and every other Metropolitan Magistrate shall, subject to the general control of the Sessions Judge, be subordinate to the Chief Metropolitan Magistrate.

The High Court may, for the purposes of this Code, define the extent of the subordination, if any of the Additional Chief Metropolitan Magistrates to the Chief Metropolitan Magistrate. The Chief Metropolitan Magistrate may from time to time make rules or give special orders, consistent with this Code, as to the distribution of business among the Metropolitan Magistrates and as to the allocation of business to an Additional Chief Metropolitan Magistrate.

5.2 EXECUTIVE MAGISTRATES

As per the provisions of Section 20 of the code, in every district and in every metropolitan area, the State Government may appoint as many persons as it thinks fit

to be Executive Magistrates and shall appoint one of them to be the District Magistrate. The State Government may appoint any Executive Magistrate to be an Additional District Magistrate under this Code or under any other law for the time being in force. Whenever in consequence of the office of a District Magistrate becoming vacant, any, officer who succeeds shall, pending the orders of the State Government, exercise, all the powers and perform all the duties respectively by conferred and imposed by this Code on the District Magistrate. The State Government may place an Executive Magistrate in charge of a sub division and may relieve him of the charge as occasion requires, and the Magistrate so placed in charge of a sub divisions shall be called the Sub Divisional Magistrate. Section 20 further provides that the above provisions shall not preclude the State Government from conferring under any law for the time being in force, on a Commissioner of Police, all or any of the powers of the Executive Magistrate in relation to a metropolitan area. (Space for Hints)

5.3 SPECIAL EXECUTIVE MAGISTRATES

By virtue of powers conferred by section 21 of the Code, the State Government may appoint, for such term as it may think fit Executive Magistrate to be known as Special Executive Magistrate for particular areas or for the performance of particular function and confer on such Special Executive Magistrates such of the powers as are conferrable under this Code on Executive Magistrates as it may deem fit.

Sec. 22 of the Code deals with local jurisdiction of Executive Magistrates. Subject to the control of State Government, the District Magistrate may from time to time define the local limits of the areas within which the Executive Magistrate may exercise all or any of the powers with which they may be invested.

Section 23 deals with subordination of Executive Magistrates. All Executive Magistrates, other than the Additional District Magistrate shall be subordinate to the District Magistrate and every Executive Magistrate other than the Sub-Divisional Magistrate exercising powers in a sub division shall also be subordinate to the Sub-Divisional Magistrate, subject however to the general control of the District

(Space for Hints) Magistrate. The District Magistrate may from time to time, make rules or give special orders, consistent with this Code, as to the distribution of business among the Executive Magistrates subordinate to him and as to the allocation of business to an Additional District Magistrate.

So far as TamilNadu is concerned, criminal judiciary is classified into the following category. They are Sessions Judge, Assistant Sessions Judge, Chief Judicial Magistrate and Judicial Magistrate. Sessions Judges have the power to award death sentence or life imprisonment and also unlimited fine. Assistant Sessions Judge can award imprisonment upto 10 years and unlimited fine. Power of Chief Judicial Magistrate to award imprisonment is restricted to 7 years. But he can award unlimited penalty. Judicial Magistrate can award a sentence of imprisonment upto 3 years and fine upto Rs. 5,000/-

5.4 PUBLIC PROSECUTORS

For every High Court, the Central Government or the State Government shall, after consultation with the High Court, appoint a Public Prosecutor and may also appoint one or more Additional Public Prosecutors for conducting in such Court, any prosecution, appeal or other proceedings on behalf of the Central Government or State Government as the case may be.

The Central Government may appoint one or more Public Prosecutors, for the purpose of conducting any case or class of cases in any district or local area. For every district the State Government shall appoint a Public Prosecutor and may also appoint one or more Additional Public Prosecutors for the District. Provided that the Public Prosecutor or Additional Public Prosecutor appointed for one District may be appointed also to be a Public Prosecutor as the case may be for another district.

Check Your Progress
2. How a Public Prosecutor and Assistant Public Prosecutor is appointed?

The District Magistrate shall in consultation with the Sessions Judge prepare a panel of names of persons, who are in his opinion, fit to be appointed as Public Prosecutors or Additional Public Prosecutors for the district. No person shall be appointed by the State Government as the Public Prosecutor or Additional Public Prosecutor unless his name appears in the panel of names prepared by the District

Magistrate. Where in State there regular cadre of a prosecuting officers, the State Government shall appoint a Public Prosecutor or an Additional Public Prosecutor only from among the persons consisting such cadre. A person shall not be eligible to be appointed as a Public Prosecutor or an Additional Public Prosecutor, only if he has been in practice as an advocate for not less than seven years. Central Government or State Government may appoint a person as a Special Public Prosecutor if the person has been in practice as an advocate for not less than ten years. The period during which a person has been in practice as a pleader or has rendered service as a Public Prosecutor or as an Additional Public Prosecutor or Assistant Public Prosecutor or other prosecuting officer, shall be deemed to be the period during which such person has been in practice as an advocate. (Space for Hints)

5.5 ASSISTANT PUBLIC PROSECUTORS

According to Section 25 the State Government shall appoint in every district one or more Assistant Public Prosecutors for conducting prosecutions in the courts of magistrates. The Central Government may appoint one or more Assistant Public Prosecutors for the purpose of conducting any case or class of cases in the courts of magistrates. No Police officer shall be eligible to be appointed as an Assistant Public Prosecutor. Where no Assistant Public Prosecutor is available for the purposes of any particular case, the District Magistrate may appoint any other person to be the Assistant Public Prosecutor in charge of a case. Provided that a Police officer shall not be so appointed if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted or if he is below the rank of an Inspector.

By the amendment in the year 2005 a new provision is incorporated providing for the creation of Directorate of Prosecutions.

5.6 POWER OF COURTS

Chapter III of the Code deals with powers of Courts. S. 26 provides that any offence under the Indian Penal Code may be tried by the High Court or the Court of Sessions or any other court by which such offence is shown in the first schedule of

(Space for Hints) the Criminal Procedure Code to be triable. Any offence under any other law shall, when any court is mentioned in this behalf in such law, be tried by such courts and when no court is so mentioned may be tried by the High Court or any other court by which such offence is shown in the first schedule of the Cr. P.C. to be triable.

5.7 JURISDICTION IN CASE OF JUVENILES

According to Section 27, any offence not punishable with death or imprisonment for life committed by any person who at the date when he appears or is brought before the court is under the age of eighteen years, may be tried by the Court of a Chief Judicial Magistrate or by any court specially empowered under the Children Act, 1960 or any other law for the time being in force providing for the treatment, training or rehabilitation of youthful offenders. (Refer also Juvenile Justice Act, 2000 – Sec. 2(k) Juvenile or child means a person who has not completed eighteen years of age).

5.8 SENTENCES WHICH MAY BE PASSED BY THE COURT

According to Section 28, a High Court may pass any sentence authorized by law. A sessions Judge or Additional Sessions Judge may pass any sentence authorized by law; but any sentence of death passed by any such Judge shall be subject to conformation by the High Court. An Assistant Sessions Judge may pass any sentence authorized by law except a sentence of death or of imprisonment for life or of imprisonment for a term exceeding ten years. According to section 29, the court of a Chief Judicial Magistrate may pass any sentence authorized by law except a sentence of death or of imprisonment for life or imprisonment for a term exceeding seven years. The court of Magistrate of the first class may pass a sentence of imprisonment for a term not exceeding three years, or of fine not exceeding five thousand rupees or of both. The Court of a Magistrate of the Second Class may pass a sentence of imprisonment for a term not exceeding one year, or of fine not exceeding one thousand rupees or of both. The Court of a Chief Metropolitan Magistrate shall have the powers of the court of Chief Judicial Magistrate and that of a Metropolitan Magistrate, the powers of the Court of a Magistrate of the First Class.

According to Section 30, the Court of a Magistrate may award such term of imprisonment in default of payment of fine as is authorized by law. (Space for Hints)

Provided that the term is not in excess of the powers of the Magistrate under Sec. 29, shall not, where imprisonment has been awarded as part of the substantive sentence, exceed one fourth of the term of imprisonment which the Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine. The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the Magistrate under Sec. 29.

5.9 SENTENCE IN CASES OF CONVICTION OF SEVERAL OFFENCES AT ONE TRIAL

According to S.31, if a person is tried for two or more offences at one trial, the court may sentence him for such offences to the several punishments prescribed there for which such court is competent to inflict, such punishments when consisting of imprisonment to commence the one after the expiration of the other in such order as the court may direct, unless the court directs that such punishments shall run concurrently.

5.9.1 2005 Amendments as it relates to lower judiciary

1. Amendment of Section 20 - In Section 20 of the Code of Criminal Procedure 19 thereafter referred to as the Principal Act after sub-section (4), the following sub-section shall be inserted, namely:

(4A) The State Government may, by general or special order and subject to sub control and directions as it may deem fit to impose, delegate its powers under sub-section (4) to the District Magistrate.

2. Amendment of Section 24 - In Section 24 of the Principal Act, in sub-section after the proviso, the following Explanation shall be inserted and shall be deemed to have been inserted with effect from the 18th day of December, 1978, namely:

(a) "regular Cadre of Prosecuting Officers" means a Cadre of Prosecuting Officer which includes therein in post of a Public Prosecutor, by whatever name called, and which provides for promotion of Assistant Public Prosecutors, by whatever name called, to the post:

(b) "Prosecuting Officer" means a person, by whatever name called, appointed to form the functions of a Public Prosecutor, an Additional Public Prosecutor or an Assistant Public Prosecutor under this Code,

3. Insertion of new section 25A - In Chapter II of the Principal Act, after section the following section shall be inserted, namely:

"25A. Directorate of Prosecution - (1) The State Government may establish a Directorate of Prosecution consisting of a Director of Prosecution and as many Deputy Directors Prosecution as it thinks fit.

(2) A person shall be eligible to be appointed as a Director of Prosecution or a Deputy Director of Prosecution, only if he has been in practice as an advocate for not less then ten years and such appointment shall be made with the concurrence of the Chief Justice of the High Court.

(3) The Head of the Directorate of Prosecution shall be the Director of Prosecution shall function under the administrative control of the Head of the Home Department of the State.

(4) Every Deputy Director of Prosecution shall be subordinate to the Director of Prosecution.

(5) Every Public Prosecutor, Additional Public Prosecutor and Special Public Prosecutor appointed by the State Government under sub-section (1), or as the case may be, sub section (8), of section 24 to conduct cases in the High Court shall be subordinate to Director of Prosecution.

(6) Every Public Prosecutor, Additional Public Prosecutor and Special Public Prosecutor appointed by State Government under sub-section (3), or as the case may be sub section (8), of Section 24 to conduct cases in District Courts and every Assistant Public Prosecutor appointed under sub-section (1) of Section 25 shall be subordinate to the Deputy Director of Prosecution. (Space for Hints)

..... The powers and functions of the Director of Prosecution and the Deputy Directors of Prosecution and the areas for which each of the Deputy Directors of Prosecution have appointed shall be such as the State Government may, by notification specify.

..... The provisions of this section shall not apply to the Advocate General for the State ---performing the functions of a Public Prosecutor".

4) Amendment of Section 29 - In section 29 of the principle Act - in sub-section (2), for the words "five thousand rupees", the words "ten thousand rupees" shall be substituted;

..... in sub-section (3), for the words "one thousand rupees". the words "five thousand rupees" shall be substituted.

5.10 HIGHER JUDICIARY

Higher judiciary includes the High Courts and the Supreme Court. Both are Courts of record created by the constitution itself. So the constitution and Jurisdiction of these courts are contained in the constitution.

5.10.1 Constitution and Jurisdiction of High Court with regard to criminal matters

According to Art. 216, every High Court shall consist of a Chief Justice and such other judges as the President may from time to time deem it necessary to appoint. (For example the sanctioned strength of Judges for the Madras High Court is 60). Appointment and conditions of the office of a Judge of a High Court are dealt with in Art. 217. Jurisdiction of the existing High Courts are mentioned in Art. 225 and that shall be the same as it was immediately before the commencement of the Constitution.

5.11.1 Establishment and Constitution of Supreme Court

As per the provision, of Art. 124, there shall be a Supreme Court of India consisting of Chief Justice of India and until Parliament by law prescribes a larger number of not more than seven other judges. Now there are 25 judges.

Every judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal after consultations with such of the Judges of the Supreme Court and of the High Court in the States as the President may deem necessary for the purpose and shall hold office until he attains the age of sixty five years.

Appellate jurisdiction of Supreme Court is dealt with in Art 132. Accordingly an appeal shall lie to the Supreme Court from any judgement, decree or final order of a High Court in the territory of India, whether in a civil, criminal or other proceeding, if the High Court certifies under Art. 134-A. that the case involves a substantial questions of law as to the interpretation of this constitution Where such a certificate is given any party in the case may appeal to the Supreme Court on the ground that any such question as aforesaid has been wrongly decided.

Appellate jurisdiction of Supreme Court in regard to criminal matters is contained in Art. 134. As per the provisions of Art. 134, an appeal shall lie to the Supreme Court from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India if the High Court (a) has on appeal reversed an order of acquittal of an accused person and sentenced him to death; or (b) has withdrawn for trial before itself any case from any court subordinate to its authority and has in such trial convicted the accused person and sentenced him to death or (c) certifies under Art. 134 (A) that the case is a fit one for appeal to the Supreme Court. Provided that an appeal under sub-clause (c) shall lie subject to such provisions as may be made in that behalf under clause (1) of Art. 145 and to such conditions as the High Court may establish or require. Sub clause (1) of Art. 145 authorises the Supreme Court, with the approval of the President, to make rules regulating practice

and procedure. According to Sub clause 2 of Art. 134, Parliament may by law confer (Space for Hints) on the Supreme Court any further powers to entertain and hear appeals from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India subject to such conditions and limitations as may be special in such law.

By virtue of provisions contained in Art. 134 A, Every final order or sentence referred to in clause (1) of Art. 132 or clause (1) of Art. 133, or clause (1) of Art. 134 (a) may, if it deems fit so to do, on its own motion and (b) shall if an oral application is made by or on behalf of the party aggrieved, immediately after the passing or making of such judgment, decree, final order or sentence, determine as soon as may be after such passing or making, the questions whether a certificate of the nature referred to in clause (1) of Art. 132, or clause (1) of Art. 133 or as the case may be sub clause (c) of clause (1) of Art. 134, may be given in respect of that case.

Art. 136 deals with special leave to appeal by the Supreme Court. Accordingly Supreme Court may in its discretion grant special leave to appeal from any Judgment decree determination, sentence order in any cause or matter passed or made by any court or tribunal in the territory of India. But this provision will not apply to decisions or determinations made by any authority under any law relating to the armed forces.

5.12 ROLES OF LEGISLATURE, POLICE AND PRISON SYSTEM IN ADMINISTRATION OF CRIMINAL JUSTICE

Legislature, Police, Judiciary and Prison system are important organs involved in the administration of criminal justice. Efficient functioning of the criminal justice system depends upon the proper functioning of these organs. Any lacuna in one organ will have its reflection in the whole system. Legislature, being the law making organ is bound to frame laws which may be helpful for the proper administration of criminal justice. Police Department which is expected to maintain law and order has always to deal with the law breakers. It is the duty of the police to see that their actions do not hurt the feeling of the society as a whole Judiciary which is there to decide the legality of actions of the accused persons, has to consider the

(Space for Hints) position of the victims, the accused persons and the prosecution within the legal limits. It is the responsibility of the prison authorities to see that the inmates are properly treated and are given the human minimum rights.

5.13 ROLE OF LEGISLATURE

Parliament as well as the State legislatures are competent to frame laws regulating criminal matters. They get the power and competency by virtue of Art. 245, 246 and entry 1 to 4 of list III of the Seventh Schedule. Legislature can modify the society through the instrumentality of law. In accordance with the social requirements and prevailing social order, the laws can be so modified that the society moves forward in the expected direction. Even if other instrumentalities in the society are not favourable, the laws can change the society. Our legislature has succeeded, in achieving the objectives also. Apart from basic criminal laws namely IPC, Cr. P.C., Police Act, our Legislature was forced to enact laws like MISA, POTA, TADA and other preventive detention laws also.

5.14 ROLE OF POLICE

Police is one of the main instrumentally involved in the criminal justice system. Investigation of crimes lies exclusively within the domain of police department. A citizen's interaction with the police generally starts when he commits a crime. As such the reaction from the police may not be upto the expectation of the public or in other words the relation may not be cordial that is one of the reasons for the police to lose its credibility.

Section 23 of the Police Act enumerates the important functions of police department. It shall be the duty of every police officer, to promptly obey and execute all orders and warrants lawfully issued to him by any competent authority; to collect and communicate intelligence affecting the public peace; to prevent the commission of offences and police public nuisance, to detect and bring offenders to justice and to apprehend all persons whom he is legally authorized to apprehend and for whose apprehension sufficient ground exists. Apart from the above they perform certain

**Check Your
Progress**

3. Explain the role of Police.

functions relating to investigation of cognizable offences under special laws and also (Space for Hints) under the provisions of criminal procedure code.

While performing these multi faceted activities police has to face so many problems also. Apart from dealing with law and order, crime control and traffic regulation, they have to deal with disaster management, V.I.P. duties, guard duties, escort duties, serving summons and warrants etc. These give terrible strain on manpower and other resources. Some times police personnel are not well prepared to meet the situation. Diversion from main duties some time give adverse remarks also. Again change from traditional crimes like thefts, decoities and injuries, we get modern crimes like cyber crimes, economic crimes organised crimes etc. police department is lacking expertise and facilities to deal with such situations.

Sometimes police practices itself cause injustice to the poor and serve as hindrance in getting justice. Those instances are :-

5.15 NON REGISTRATION OF COMPLAINTS

U.P. Police Commission of 2000-01 reported the following malpractices of the police in sending complaints (F.I.R)

- ◆ Non-recording of First Information Report i.e. concealment
- ◆ Distorting facts with a view to lessening the gravity of the offence i.e. minimization
- ◆ Introducing new facts and distortion of facts in order to create evidence against the accused or for implicating innocent persons, and
- ◆ Demand of money or consideration for recording or prompt recording of report.

Corrupt practices: It is another problem for the poor. Police corruption effects the whole society but the actual sufferers are poor people.

Torture or brutal practice: Though torture is outlawed everywhere it continues to be practical in almost all parts of the world. The media as well as the

(Space for Hints) human right activists repeatedly laments over much incidence. But merciless ill treatment during interrogation continues.

Biased Practices with minorities : Some times police behave in a biased manner when they are dealing with minorities. When ethnic conflict or communal violence occurs between different religious group or linguistic groups, police instead of protecting the minority group obstruct the victims of violence from getting justice.

Inspite of all these problems and shortcomings the police serve as an effective agent in the criminal justice system.

5.16 ROLE OF JUDICIARY

We have already seen the structure of criminal judicial system. The role of the magistrate or the Judge is a decisive one. Whether the accused person has to go to the jail or to pay the fine or go free depends upon the Judicial reasoning. It is the basic tenet of criminal justice system that even if thousands of accused persons escape not even a single innocent person should be punished. Again the judicial officer should be satisfied that the charges against the accused person are proved beyond reasonable doubt. In other words the benefit of doubt should be given to the accused person.

Police being a State machinery may sometimes take the law into their own hands and put the accused persons into untold miseries. It is the duty of the judicial officer to control and retain the police officer within their own limitation. Because of such excesses only our Supreme Court gave certain directives to the police department as well as to other authorities which are instrumental in restricting the fundamental human right.

In **Hoskat V. State of Maharashtra**, the petitioner was sentenced to 3 years imprisonment. He could file an application to the Supreme Court only after undergoing the sentence of imprisonment because the judgment had not been supplied in time. Though the free copy of the judgment was sent to the jail superintendent, it was not supplied to the petitioner. While disposing the case the Supreme Court laid down the following principles:-

1. The court shall forthwith furnish a true copy of the judgment while sentencing a person to prison terms. (Space for Hints)
2. The jail authorities should handover the judgment and obtain a receipt from the prison.
3. When the person accused is poor, the court should assign competent counsel for his defence.
4. An equitable remuneration should be paid to such counsel by the States.
5. These requirements should be observed by the courts where life or personal liberty is in peril.

Further protection of personal liberty especially with regard to females can be seen from the principles given by the Supreme Court in **Sheela Barse Vs. Union of India**.

1. Female suspects are to be provided lock-up room separated from that of male suspects.
2. These lockups and prisons for women should be situated in good localities and they should be guarded by female constables.
3. Interrogation of females should be done in the presence of female police officer.
4. Female prisoners should be informed of the grounds of arrest and the right of bail.
5. The nearest legal aid committee is to be informed of their arrest.
6. There should be provision for surprise visit to lockup and prisons by city Sessions Judge, preferably female Judge.
7. The relations or friends of the person arrested should be informed of the arrest so as to give assistance.

Check Your Progress

4. What are the Principles laid down in Sheela Barse Vs. Union India?

(Space for Hints)

8. It is the duty of Magistrate to enquire the arrested person of mal treatment in police custody and inform her of the right to medical examination.

Supreme Court further directed that a copy of rules containing these provisions should be affixed in a place and the detenues and prisoners should have access to them.

Torture and inhuman treatment given to the detenues by the police were considered by the Supreme Court in several cases. Custodial death which happened in **D.K. Basu V. State of West Bengal** provoked the Supreme Court further and the Supreme Court laid down certain principles to be followed in arrest and detention.

1. The police personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designations. The particulars of all such police personnel who handles interrogation of the arrestee must be recorded in a register.

2. That the police officer carrying out the arrest of the arrestee shall prepare a memo of arrest at the time of arrest and such memo shall be attested by at least one witness, who may be either a member of the family of the arrested or a respectable person of the locality from where the arrest is made. It shall also be countersigned by the arrested and shall contain the time and place of arrest.

3. A person who has been arrested or detained and is being held in custody in a police station or interrogation centre or other lockup, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself such a friend or a relative of the arrestee.

Check Your Progress

5. While arresting and detaining what are the rules to be followed by Police as laid down in D.K. Basu vs. State of West Bengal.

4. The time, place of arrest and venue of custody of arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through the Legal Aid Organisation in the District and the police station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest. (Space for Hints)

5. The person arrested must be made aware of this right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained.

6. An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the police officials in whose custody the arrestee is.

7. The arrested should, where he so requests, be also examined at the time of his arrest any major injuries, if any on his/her body must be recorded at that time. The "Inspection Memo" must be signed both by the arrestee and the police officer effecting the arrest and this copy provided to the arrestee.

8. The arrested should be subjected to medical examination by a trained doctor every 48 hours during his detention in custody by a doctor on the panel of approved doctors appointed by Director, Health Service of the concerned State or Union Territory. The Director of Health Service should prepare such a panel for all Tehsils and District as well.

9. Copies of all the documents including the memo of arrest referred to above should be sent to the Magistrate for his record.

10. The arrestee may be permitted to meet his lawyer during interrogation though not through out the interrogation.

11. A police central room should be provided at all district and State Head Quarters, where information regarding the arrest and the place of custody of

(Space for Hints) the arrested shall be communicated by the officer causing the arrest within 12 hours of effecting the arrest and at the police central room.

Right to get bail and speedy trial of cases are insisted upon by the Supreme Court in **A.R. Antulay, R.S. Naik and Rahubir Singh V. State of Bihar**. Handcuffing should be resorted to only when there is clear and present danger of escape or breaking out of police control and for this there must be clear material evidence and not merely presumption.

Supreme Court also gave guidelines to be followed by the police department and jail department whenever the valuable rights of human being are likely to be jeopardized.

5.17 ROLE OF PRISON IN THE ADMINISTRATION OF CRIMINAL JUSTICE

Prison traditionally denotes a place in which persons are kept in custody pending trial, or in which they are conjured as punishment after conviction. The primary objective of prison itself is to protect the society against criminal aggression by anti social elements. If the antisocial elements are kept within the society, the society itself may lose its moral values and credibility.

First United Nations Congress on the Prevention of Crime and the treatment of offenders held at Geneva in 1955 adopted a set of rules intended to protect the rights of all those deprived of their liberty by a judicial decision. The Economic and Social Council in 1957 approved the standard Minimum rules for the treatment of prisoners and invited Government to give favourable consideration to their adoption and application. In this respect the Universal Declaration of Human Rights 1948, containing inter alia, several fundamental human rights in criminal justice has undoubtedly deserved as the spring board for concrete initiatives.

Under its Technical Assistance Programme, the U.N. is helping the member nations by suggesting progressive programmes for, the scientific care and treatment

Check Your Progress

6. Discuss the role of Prison in the Administration of Criminal Justice.

of offenders. The U.N. Standard Minimum Rules for the treatment of prisoners (Space for Hints) provide rationale to the user of imprisonment as an important component of the criminal justice process.

Even after having all these initiatives and recommendations, the prevailing condition in the jail especially with regard to accommodation and hygienic condition is miserable. That is why the All India Committee on Jail Reform 1980-83 made the following observation.

"Over crowded prisons tend to be unmanageable on correctional lines. In some of the States, prison barracks were so much overcrowded that inmates had to sleep in shifts. Under such conditions custody of inmates became the primary and probably the only concern of the staff and even the care and welfare of inmates was neglected.

Another commission chaired by Justice Ranganath Misra also pointed out the precarious position prevailing in the Jail. The commission said: Callousness prevailed, prisoners were seen in shackles, mentally disturbed inmates - regardless whether they were criminals or otherwise were incarcerated with others with no real effort being made to rise above the very minimum required for the meanest survival".

National Human Rights Commission headed by Justice M.N. Venkatachaliah also lamented over the situation prevailing in prisons and the problems created by unnecessary arrest and detentions.

"In the 21st century also India, has not made any attempt towards the rationalization of prison reformation internally and externally".

Central technical advisory board set up by the Government of India called Central Bureau of Correctional Services in 1961 has also played its role in the development of prison administration. Its main functions are, to coordinate and develop uniform policy, to standardize the collection of statistics on a national basis, to exchange information with foreign government and the U.N. agencies and to promote research training and studies and surveys in the field of prevention of crime

(Space for Hints) and treatment of offences. It was reconstituted in 1975 as the National Institute of Social Defence. Its functions were enlarged to include preventive correctional and rehabilitative aspect of social defence. The Institute continues to play a very useful role in its enlarged field of social defence.

In 1972 the Government of India, Ministry of Home Affairs appointed a Working Group on prisons. It emphasized the need for National Policy on Prison and Correctional Administration. Important recommendations include the following:

1. A suitable system should be established for coordination among the three organs of the criminal justice system i.e. the police, judiciary and the prison and correctional administrations for the effective preventions of crime and treatment of offenders.
2. The supreme aim of punishment was to be the protection of society through the rehabilitation of offender. The principal goals of the criminal justice system was the reassimilation of the offender in society and the prevention of crime. Accordingly the aim of the prison administration was to be the employment of all resources, human and maternal, to provide scientific treatment to every offender according to his peculiar needs and circumstances.
3. The deprivation of liberty and degradation from society was to be limited. mostly to the habitual, the incorrigible and the dangerous criminals and the government should make fullest possible use of various alternatives to imprisonment as a measure of sentencing policy. No institutional and semi institutional forms of treatment should be resorted to as far as possible.
4. There was to be close coordination between the prison and the probation and other correctional services.
5. Free legal aid to all indigent prisoners.

6. Under trial prisoners were to be kept in separate institutions as far as possible. Facilities were to be provided to them for (Space for Hints)
on a voluntary basis.
7. The Union and State Governments declare that there was to be no bar or restriction on the employment of ex-convicts of specified categories in the public services.
8. The prison administration should systematically involve enlightened individual citizens, associations, societies and other community agencies on the treatment, after care and rehabilitation of offenders.

Because of the adverse criticism about the prisons especially through the media and short comings pointed out by the Supreme Court, the Government of India appointed a committee, namely the All India Committee on Jail Reforms headed by Justice A.N. Mulla (1980) for making a comprehensive review of prison administration in the country and for suggesting suitable measures for its improvement. Important suggestions made by the committee are:

- a) Directive Principle of National Policy on Prisons had to be formulated and embodied in part IV of the Indian Constitution.
- b) The subject of prison and allied institutions were to be included in the concurrent list of seventh schedule of the Constitution of India.
- c) Provision of an uniform framework for correctional administration by a consolidated, new and uniform comprehensive legislation to be enacted by the Parliament for the entire country.
- d) Revision of Jail Manuals should be given top priority.
- e) Suitable amendments should be made in the Indian Penal Code.

All these reports and suggestions are not actually serving the purpose. It made M.B. Mahaworker to make the following observation.

(Space for Hints)

"It is necessary to have such conditions in the prisons as have non discriminatory treatment, proper medical facilities and a medium of human dignity reflected through the behaviour of those who look after the inmates. A multi disciplinary approach of this kind is needed to tackle the various problems. The Ministry of Law, the Institute of Criminology and Forensic Science and voluntary organizations committed to the protection of human rights can play a meaningful role in this regard.

A visible prison policy should focus primarily on the seductionist Method adopted by several countries, including Japan, England, America and Holy Land by which they are to reduce the prison population and the infrastructure as well. In order to do this, a multi pronged strategy was formulated. The judiciary was asked to exercise restraint as regards incarceration for minor offenders. Under trials were let out on parole probation and bail. Also in the late seventies, Holland, England and Japan introduced heavy fines and confiscation of property as viable alternative to imprisonment. In India this concept is yet to be implemented seriously".

The National Human Rights Commission also recommended systematic reforms of police and prisons and far reaching measures for protection of civil liberties.

Prisons should not be a mere place for detaining the accused persons and convicted persons, but should serve as a place for reforming the criminal and making him a good citizen. Prison should also serve as an institution providing for creative job which will give some pecuniary benefits to the inmates. Steps should be taken to reduce the number of inmates in the prisons. The inmates should be given proper training both mental and physical. Moral values should be inculcated. Depending on the ability different kinds of jobs should be given to the inmates. Active involvement in some kind of work will reduce the criminal instinct also.

5.18 SUMMARY

(Space for Hints)

In this unit, first you have learnt the structure of Criminal Judiciary, starting from the level of lower criminal judiciary. How the Criminal Procedure code established such court and its composition and powers of each court have been neatly explained in this unit. Further the mode of appointment of Public Prosecutors and Assistant Public Prosecutors and their functions were enumerated in this unit. After reading this unit now you would have understood, the role of Higher judiciary, namely the High Courts in India and the Supreme Court in the structure of Criminal judiciary. The roles of Legislature, Police and prison system in the administration of Criminal justice were analysed with all relevant provisions by referring to various Acts and also Recommendations of various committee.

5.19 KEY WORDS

Rehabilitation	-	Restore to normal life
Jurisdiction	-	Territory to which the administration of Justice extends
Interrogation	-	Ask questions and suggesting enquiry
Callousness	-	hardened attitude
Incarcerated	-	Put in prison
Shackles	-	Connected or bolted by chain

5.20 ANSWER TO CHECK YOUR PROGRESS

1. Refer 5.1.1
2. Refer 5.4 and 5.5
3. Refer 5.14
4. Refer 5.16

(Space for Hints)

5. Refer 5.16

6. Refer 5.17

5.21 MODEL QUESTIONS

Long Answer Questions

1. Give a brief outline of the lower criminal judiciary in India.
2. Critically evaluate the role of police in the criminal justice system.
3. Do you think that prisons are serving as institutions for reforming the criminal? Substantiate your view.

Short Answer Questions

1. Special Executive Magistrates.
2. Court of Sessions.

UNIT - 6

PRISON SYSTEM IN INDIA

INTRODUCTION

When a criminal is punished by the court, he is sent to Jail to undergo imprisonment. The criminals are eliminated from the society by prisonization. The lonely life inside the prison make the offender to repent and prevent him from committing any offence in future. Prison also serves as a place for reformation of criminals. Depending upon the nature of offence he has committed, the quantum of punishment and the condition inside the prison will also vary. The modern approach is to treat the offender as a person suffering from some form of disease.

In this unit we are going to study more about the prison system in India and changes introduced based on various Jail committees recommendations.

UNIT OBJECTIVES

- ❖ to learn prison system during British period
- ❖ to know more about prison discipline and the reasons for criminality in prisons.
- ❖ to understand the nature of prison conditions
- ❖ to know how prison labour and education helps prisoners reformation.

UNIT STRUCTURE

Introduction

Unit Objectives

Unit Structure

- (Space for Hints)
- 6.1 Early Period
 - 6.2 British Period
 - 6.3 Prison Disciplinary
 - 6.4 Criminality in Prison
 - 6.5 Number of Prisons and Classifications
 - 6.6 Prison Statistics
 - 6.7 Administration of Prisons
 - 6.8 Remissions
 - 6.9 Education
 - 6.10 Amenities and Privileges
 - 6.11 Reforms in India Criminal Justice System
 - 6.12 Classification of Prisoners
 - 6.13 Prison Labour
 - 6.14 Prison Education
 - 6.15 Summary
 - 6.16 Key words
 - 6.17 Answer to check your progress
 - 6.18 Model Questions

6.1 EARLY PERIOD

In India, we had a well organized prison system. Brihaspathi made much emphasis on confining prisoners whereas Manu was against this system. In Arthashastra, Kautilya had stated that rulers in India used fortresses for confining

prisoners. He advocated for the construction of prisons on the road side. By this, the monotony of the prison would be reduced. It was a common practice to confine prisoners in solitary cells. It could bring penance or remonstrance. (Space for Hints)

During Moghul period and prior to that the object of punishment was deterrence. Hanging, mutilation, whipping, branding, death penalty were the forms of punishment. Prisoners were kept under strict vigil control, supervision and surveillance. The prisoners met with inhuman treatment.

6.2 BRITISH PERIOD

Many changes were introduced by the British Rulers. Changes were introduced in the conditions of prisons. A prison is a place in which people are physically confined and usually, deprived on a range of personal freedoms. **Imprisonment** or **incarceration** is a legal penalty that may be imposed by the state for the commission of a crime. Other terms used are penitentiary, penalty school, correctional facility, remand centre, detention centre, and jail or goal. In some legal systems some of these terms have distinct meanings. In the United States the difference between jails or detention facilities and prisons is primarily short-term and long term. Jails and detention facilities, under city or country jurisdiction, typically hold offender awaiting trial or are serving short sentences. Correctional facilities and prisons are more often run by the state federal governments and house offenders serving long-term sentences.

In 1836, Prison Enquiry committee was appointed. It gave a report on the conditions in jail and suggested suitable measures for administration of prisons. The Committee ruled out the introduction of any reformatory ideals in the prison policy. The committee recommended for the execution of "All reforming influences such as moral and religious teaching education on any system of rewards for good conduct and suggested the building of central prisons where the convicts might be engaged not in manufacturer which it condemned, but in some dull, monotonous, wearisome and 'uninteresting work' in which there shall be wanting even the enjoyment of knowing that a quicker release can be got by working harder for a time". Since then, the problem of

Check Your Progress

1. What is a Prison?

(Space for Hints) prison was given more consideration. Many committees were constituted and on the basis of their recommendations, various Acts were passed.

Another Jail Committee was appointed in the year 1864. This second committee recommended for better clothing, food and regular medical check-up inside the prison.

In the year 1877 the third jail committee was appointed. It did not make any major recommendation. Similar Committees were appointed in 1887 and 1892. The Prison Act, 1894 was passed in accordance with the recommendation of the above committees. The Act did not suggest for any reformatory measure. The English principle of deterrence was incorporated in the various sections of the Act.

The above Committee did not support the practice of prisoners working on roads, and efforts were made to minimize corruption among the prison staff. An Inspector General of Prison was appointed in 1895. He was the Chief Administrator of Prison in India. His main function was to maintain discipline among the prisoners and prison authorities. Medical facilities were also provided to the prisoners.

During the period 1907 to 1920, effective steps were taken for the rehabilitation of the young and juvenile offenders from 1907 to 1920. The juvenile offenders were separated from the adult criminals. Separate institution was established for the juvenile and young offenders. A number of juvenile institutions were established on the model of reformatory and Borstals.

The Jail Committee, 1920 observed "The Indian Prison Administration has lagged behind on the reformatory side of prison work. It has failed so far to regard the prison as an individual and has concerned of him rather as a unit in the jail administrative machinery. It has a little lost sight effect in which humanizing and civilizing influences might have on the mind of the individual in prisons".

The Jail Committee also discouraged the use of corporal punishment in prisons. Prison labour must be productive. Its object must be for the reformation of the offender. The Jail Committee also made valuable suggestions for after care

programme and the welfare of the discharged prisoners: During 1950, psychological and psychiatric treatment of the prisoners gained momentum. Vold in his work 'Theoretical, Criminology' observed, "The rehabilitative activities of the modern prison are generally of two kinds, namely, psychological or psychiatric treatment and educational or vocational training programmes". (Space for Hints)

After independence several changes were made in the system of prisoners in our country. In the Constitution, administration of prison was made as a state subject. In the Indian prisons an ideal classification of prisoners was followed. The prisoners availed facilities such as ticket on leave, educational and vocational training and medical facilities. Several open air institutions (open air jails) were established.

It is said that the main object of the prison nowadays must be reformation of the offender. Retributive aim must be avoided to the maximum extent. The prison authorities must take sufficient efforts to reform them. There are many criminals might commit crimes because of sudden impulsiveness or the compulsion of circumstances. Some offenders might have to undergo the prison term because of miscarriage of justice. They would find it very difficult to adjust with other inmates and the prison officers. The main aim of the prison must be to transform the criminals into normal citizens. But in practice the prison authorities enforce discipline and bring out reformation by compulsion or force. Consequently the reformation of the offenders is momentary. When he is released from the prison, he tends to do criminal acts. Therefore greater emphasis must be made on the reformation of the criminal and his psychiatric conditions.

Male and female prisoners are typically kept in separate locations or separate prisons altogether. Prison accommodation, especially modern prisons in the developed world, are often divided into wings. A building holding more than one wing is known as a "hall". Many prisons are divided into two sections, one containing prisoners before trial and the other containing convicted prisoners.

(Space for Hints)

Prisons are normally surrounded by fencing, walls, earthworks, geographical features, or other barriers to prevent escape. Multiple barriers, concertina wire, electrified fencing, secured and defensible main gates, armed guard towers, lighting, motion sensors, dogs and roving patrols may all also be present depending on the level of security. Remotely controlled doors, CCTV monitoring, alarms, cages, restraints, nonlethal and lethal weapons, riot-control gear and physical segregation of units and prisoners may all also be present within a prison to monitor and control the movement and activity of prisoners within the facility.

Modern prison designs have sought to increasingly restrict and control the movement of prisoners throughout the facility while permitting a maximal degree of direct monitoring by prison staff.

Prison Institutions

Prison Institutions are one of the three main constituents of the Criminal Justice System. In recent times there has been considerable change in social perception towards the prisoners. The prisons are no longer regarded as places for punishment only. They are now being considered as reformatories and greater attention is being given to ameliorate the conditions in jails so that they have a healthy impact on the prisoners in developing a positive attitude towards life and society. The ultimate purpose is to integrate the prisoners in the society after their release from the prison. A comprehensive database has been developed at the National level on all aspects of these institutions which has been found to be of immense use to the prison authorities in planning various activities connected with the prison administration. The input forms have been reviewed and made more comprehensive in 2000 to collect data on every aspect of prison activities. This report for the year 2010 is the sixteenth issued in the series.

Prison and its administration is a State subject as it is covered by item 4 under List II in Schedule VII of the Constitution of India. Prison establishments in different States/UTs comprise of several tiers of Jails.

The most common and standard Jail Institutions which are in existence (Space for Hints) in the States/UTs are better known as Central Jails, District Jails and Sub Jails. The other types of jail establishments are Women Jails, Borstal Schools, Open Jails and Special Jails.

6.3 PRISON DISCIPLINARY

Prison disciplinary system reflects the criminal justice processes used in the society that maintains the prison arrest, adjudication, sentencing and punishment. But in prison one sees these processes in their extremes. Prison discipline means the regulation or attempt on regulation of the details of prisoners lives by means of punishment for infraction of rules.

The main aim of prisonization is to generate a feeling of dislike for prison life among the members of society. The object is to dissuade people from doing acts which may put them into prison. Taft observes, that prisons are so planned as to provide unpleasant compulsory isolation from general society. A prison characterizes rigid discipline, provision of bare necessities, strict security arrangements and monotonous prison life. The prison personnel are usually untrained without any specialized training in their field. If the prisoners are not kept under proper control they may become restive. Prison life implies restriction on the liberty of an individual against his will. This compulsive force often leads to confrontation and scuffle between the prison inmates and the officials. The atmosphere inside the prison must satisfy the safety and security of the prisoners. It must also cause minimum amount of confrontation with the prison officials. Another problem which the authorities have to face is the prison riot, because there was no chance to meet and put a joint action against the prison officials. Nowadays the difference between the prison life and life outside the prison is reduced. Prisoners are aware of their rights and the duties of the prison officials. They can mix with the other members. It offers them opportunity to join and put rider against the prison authorities. The main reasons for the prison riot are differential treatment by the prison staff and step motherly treatment of the wardens and guards with certain

(Space for Hints) inmates, crude disciplinary incidents and monotonous daily routine life etc., A study conducted in the U.S.A. revealed four stages of prison riots. They are (1) a line of period of expressive behaviour and destruction; (2) small bands of inmates leaders emerged from the turmoil (3) grievances were presented against the administration and appeal were made for public sympathy and support (4) power gradually reverted to the prison authorities.

In India, the system of Self Government in prison hardly been successful. It is because of the lack of general moral discipline, lack of education and the circumstances. In India a partial self Government system is adopted. The prisoners who have behaved well are selected. They have to work with the guardians and ward. They act as a conduit pipe between the Prison authorities and the inmates. They are given facilities. They are allowed to move out of the institution on certain occasions. These concessions have certain merit. They create a sense of trust, loyalty among these prisoners. They also create a psychological feeling among the inmates that if they behave well they can enjoy the facilities.

6.4 CRIMINALITY IN PRISONS

The main reason for criminality are the long absence from the outside society and the detachment from the family members from a long time. The absence for a long time causes the sexual urges in them which is one of the biological necessity. As there is no other way to channalise the energy, the inmates may resort to the commission of unnatural offences with the other prisoner. The result will be the commission of unnatural offences, homosexuality and sodomy etc., inside the prison. In order to avoid this most of the countries are allowing periodical private meetings with the spouses of the inmates. The system of parole may also serve this purpose. In India, this facility is restricted to limited number of corrigible inmates. Majority of them are not given an opportunity to meet the spouses of the inmates. The result is the commission of sexual offences inside the prisons.

Check Your Progress

2. Explain the nature of Criminality in Prisons.

Another reason of criminality among the prisoners is their quarrelling with each other. In order to get leadership every inmates tries to establish his superiority over his fellow prisoners. (Space for Hints)

They often discuss the manner in which they had committed the crime. This leads to hot discussion resulting in use of force and violence. The same may be used at the time of distribution of food and other commodities. Petty thefts committed inside the prison may also lead to the use of force. The antagonistic attitude, the rough and rough method of the prison officials may lead to disobedience by the inmates This may cause resentment and a cold war may start.

6.5 NUMBER OF PRISONS AND TYPE

At the end of 2010 there were, 1393 prisons in India. These included 123 Central Prisons, 322 District Prisons and 836 sub jails. In a typical State, there are five categories of prisons. For example in Tamil Nadu there are 8 central prisons, which are used for convicts serving one month or more, 3 special prisons for women, which are used for female convicts serving more than 1 month; 97 sub-jails, which are used for convicts serving less than 1 month or awaiting trial; 1 Borstal School used for adolescent convicts from 18 to 21 years old; (under the Tamil Nadu Borstal Schools Act, 1925, any adolescent male between the age of 18 and 21 accused or convicted of any crime must be sent to a Borstal school and not a regular prison) and two Open Air Prisons. In addition, some States have a District Prison which accommodates convicts serving a term of I year or less.

6.6 PRISON STATISTICS (2010)

At the end of 2010 the total prison capacity of India was 3,20,450. Women account for less than 5% of the total Indian prison population.

Total Number of Jails	:	1,393
Central Jails	:	123
District Jails	:	322

(Space for Hints)

Sub Jails	:	836
Women Jails	:	18
Borstal Schools	:	21
Open' Jails	:	44
Special Jails	:	26
Other Jails	:	3
Total Capacity of Jails	:	3,20,450
Central Jails	:	1,66,740
District Jails	:	76,440 (33.2%)
Sub Jails	:	49,534
Women Jails	:	1,985 (1.0%)
Other Jails	:	12,922 (5.6%)
Total Number of Inmates	:	3,68,998
Male	:	3,02,541 (96.5%)
Female	:	11,094 (3.5%)
Convicts	:	75,663 (24.1 % of total inmates)
Under trials	:	2,20,817 (70.5% of total inmates)
Male	:	97.1 % of total convicts
Female	:	2.9% of total convicts
Male	:	96.7% of total undertrial
Female	:	3.3 % of total undertrials

The highest number of inmates 53,295 (51,966 male : 1330 female) (Space for Hints) were reported from Uttar Pradesh (17%) followed by Bihar 35,907 (35,036 male and 871 female) at the end of the year 2001. Uttar Pradesh has the highest number of district jails in the country – 50.

Murder alone accounted for 53.4% of the total Convicts. The highest number of 7,802 murder convicts were reported from Madhya Pradesh (19.3% of total convicts) followed by Maharashtra (19% of total convicts) at the end of the year 2001.

42,142 Convicts were undergoing sentences for life imprisonment accounting for 55.7% of total convicts in the country at the end of the year 2001. 1264 Undertrials (0.6% of total under trials) were detained in jails for more than 5 years. 9,264 inmates were habitual offenders which accounted for 3.1 % of total inmates (2001).

The highest earning by inmates trained in various vocational programmes was reported from Maharashtra (Rs. 1269.70 lakhs) followed by Tamil Nadu (Rs. 547.50 lakhs) during the year 2009.

The highest earning per inmates was reported from Gujarat (Rs. 5779.40) followed by Maharashtra (Rs. 5636.30) as against All-India average of Rs. 1290.60 during the year 2009.

Out of the total 44,682 staff manning jails in the country, 2311 (ie. 5.1 %) were women at the end of the year 2001 The highest expenditure per inmates was reported from Nagaland (Rs. 27,067.70) as against All-India average of Rs. 8598.20 during the year 2008-09.

Open prisons have minimal security and only those prisoners with good behaviour who satisfy certain norms prescribed in the prison rules are admitted into these jails. There are 44 such jails in the country located in 13 states.

(Space for Hints) 6.7 ADMINISTRATION OF PRISONS

The administration of Prisons in India is the sole responsibility of the States. All prisons are managed by State Governments or by the Union Territory administration. The Central Government is largely concerned with policy formulation and planning services. In each State, the head of prison administration is an Inspector-General who is usually a police officer. He has a few Deputy Inspectors-General to look after the jails in each of the various geographical ranges into which the State is divided. Prisoners are classified on the basis of age, sex, mental health, nature of offense and the frequency of the commission of crime. Generally prisoners are categorized into A and B classes. The criteria for A class are social status, education, style of living, character and antecedents. Those convicted for offense involving gross depravity of character or for offenses against society are not eligible for A class.

The Central Prisons and the jails have both custodial and treatment staff who include medical-doctors, psychologists, welfare officers, social workers, teachers and vocational instructors. The hierarchy of custodial staff in the prison system takes the following form: superintendent, jailer, deputy jailer, assistant jailer, head warders, warders.

Prison guards are known as warders, who are supervised by head warders. While no national data is available, as of 1993, the state of Tamil Nadu had 2,108 warders, 347 head warders, and 33 chief head warders, of which 76 were female.

6.7.1 Training and qualification

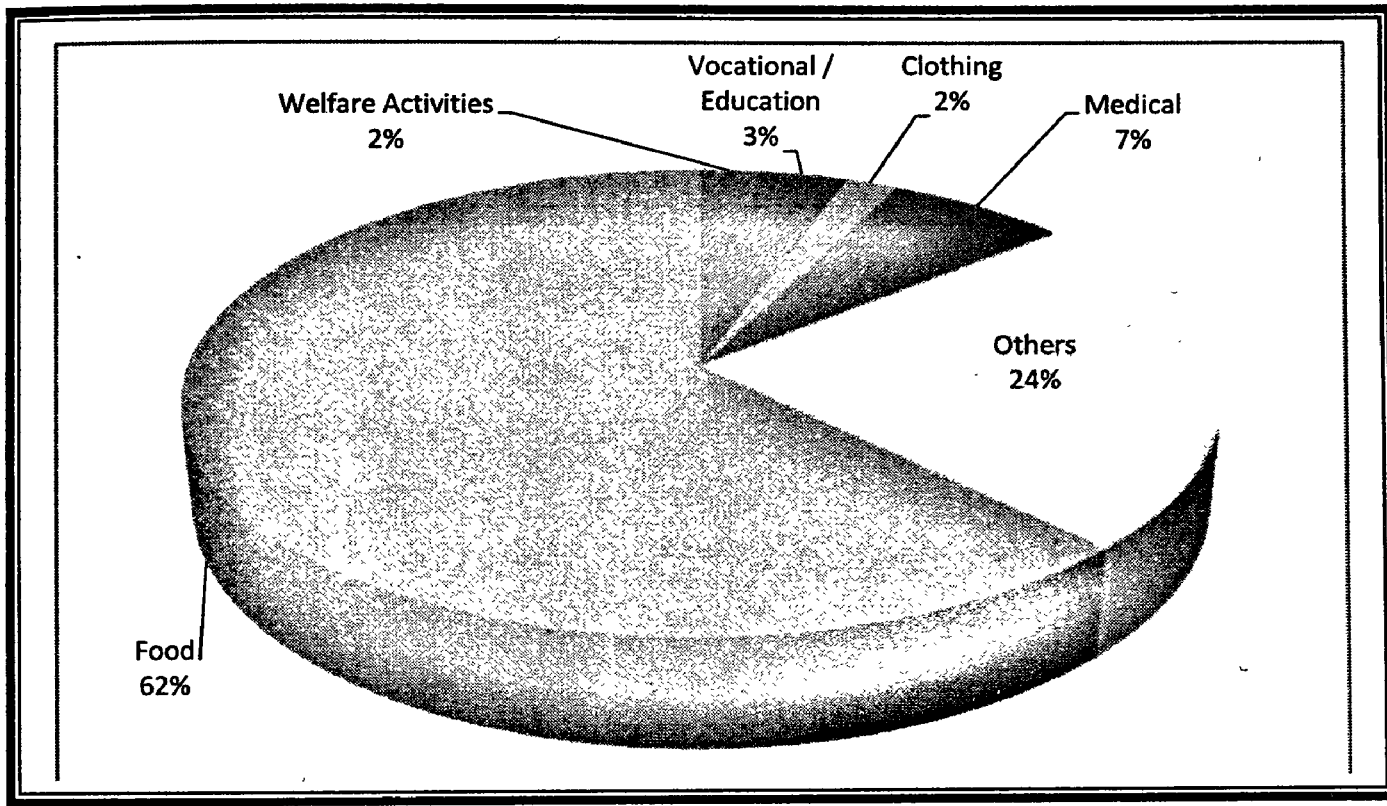
While no national data is available, the basic qualification for recruitment of warders in the state of Tamil Nadu is a High School diploma. They are put through a six month training programme in discipline, the principles of prison administration, and the practice of correctional procedure.

6.7.2 Expenditure on Prison system

Most of the states have reported an increase in the budget allocation for the year 2010-11 in comparison to 2009-10. A drastic increase of 73.4% to U.P. was

made in 2010-2011 ie. 97,018.2 lakhs. During the fiscal year 2010-2011, the Tamil Nadu Prison Department had a budget of Rupees 13583.7 lakhs. (Space for Hints)

**Percentage Distribution of Expenditure on various items on
Prison Inmates during 2010-2011**



Source : NCRB

6.8 REMISSIONS

Different scales of remission exist. For instance, 2 days per month for good conduct or work done while in prison can be given. Convicts employed in prison services such as cooking and sweeping and who must work on Sundays and other holidays get 3 days of remission every quarter. There is also a Special remission of 30 days a year for maintaining prison discipline. Parole is allowed in the form- of emergency leave (15 days early) and ordinary leave (30 days yearly) for participating in family ceremonies, such as marriage or funerals and for attending to domestic problems like enrolment of children into school and repairs to one's home.

Prisoners sentenced to rigorous imprisonment are assigned the appropriate class of hard, medium, or light labour under recommendation of the medical officer. Purposeless and non-productive forms of labour are avoided. Prisoners are often taught trades such as carpentry, tailoring, weaving, and book binding.

Every central prison has an elementary school with qualified teachers. Adult education is available for all prisoners. Attendance is optional. Prisoners can also enroll in distance education programme such as university correspondence course. There are many instance of prisoners receiving under-graduate and graduate degrees.

6.10 AMENITIES AND PRIVILEGES

Vegetarian and non-vegetarian food is provided at fixed costs, which are slightly higher for A class prisoners. A special diet is available to women and their babies, and to sick prisoners on medical advice. Each central prison has a hospital with a part time medical officer. Writing and receiving letters and interviews with relatives are permitted. Recreation in the form of games, yoga, television watching and meditation classes are also available.

6.11 REFORMS IN INDIAN CRIMINAL JUSTICE SYSTEM

The Committee on Reforms of the Criminal Justice System was constituted by the Ministry of Home Affairs, Government of India, on 24 November 2000. The terms of reference were as follows.

Check Your Progress

3. What are the reforms in the Indian Criminal Justice System?

- i. To examine the fundamental principles of criminal jurisprudence.
- ii. To examine in the light of findings on fundamental principles and aspects of criminal jurisprudence as to whether there is a need to re-write, the Code of Criminal Procedure, The Indian Penal Code and the Indian Evidence Act to bring them in tune with the demand of the times and in harmony with the aspirations of the people of India;

- iii. To make specific recommendations on simplifying judicial procedures and practices and making the delivery of justice to the common man closer, faster, uncomplicated and inexpensive. (Space for Hints)
- iv. To suggest ways and means of developing such synergy among the Judiciary, the Prosecution and the Police as it restores the confidence of the common man in the Criminal Justice System by protecting the innocent and the victim and by punishing unsparingly the guilty and the criminal;
- v. To suggest sound system of managing on professional lines, the tendency of cases at investigation and trial stages and making the Police, the Prosecution and the Judiciary accountable for delays in their respective domains.
- vi. To examine the feasibility of introducing the concept of "Federal Crime" which can be put on List I of the Seventh Schedule of the Constitution.

The Committee, headed by former Chief Justice of Kerala and Karnataka, and former member of the National Human Rights Commission (NHRC), Justice V.S. Malimath, submitted its report including 158 recommendations - to the Ministry of Home Affairs, on 21 April 2003 Based on the recommendations, Government of India has introduced various amendments to the Code of Criminal Procedure.

6.12 CLASSIFICATION OF PRISONERS

It is often said that responsibility as the basis of punishment individualization as the method of its application such is the formula-adopted by modern criminal. Lawyer Individualisation of treatment of offenders means that the personality of each offender is to be assessed and prison programmes is more designed to meet the individual requirement as far as possible. It is for this purpose, offenders are classified. Firstly at the time of determining which particular type of prison the offender is to be sent, secondly within, a given prison the offenders are to be classified through various medical, psychiatric and psychological examinations through various methods such as educational and vocational studies and through case work interviewing.

(Space for Hints)

The prison may be classified as prisons, with maximum security and minimum security. Prisons with maximum security may be used for dangerous and escape prone convicts whereas the prisons with minimum security may be used for selected prisoners who are suitable for reformation.

In the U.S.A. there are two-kinds of prisons namely close study and medium custody prisons. Apart from that they have specialized institutions like those for women, first offenders and insane. In order to classify the prisoners the details of their background are necessary for diagnosis. After this, treatment is given. For this purpose the help of the experts of various discipline are necessary (e.g.) specialists from social work. Medicine, psychology and psychiatry. In certain states of U.S.A. and some other countries the first two steps namely diagnosis and treatment are made by a group of experts.

In England for diagnosis and treatment various particulars are taken into consideration. They are the convicts family history, his antecedent and mental state etc.,

The Indian classification is entirely different. The prisoners are now classified on the basis of age, sex, mental health, nature of offence and whether a habitual or a casual prisoner. A casual prisoner is who is the first offender and who lapses, into crime not because he has a criminal mentality, but on account of his surroundings, physical disability or mental deficiency, Casual prisoners are sub classified into (i) star and (ii) general. Star criminals are those whose previous character was good, antecedents not criminal and whose crime does not indicate grave cruelty and moral turpitude at depravity of mind. General prisoners are prisoners who do not belong to the above category.

**Check Your
Progress**

4. Examine the nature of Prison Labour.

Habitual criminals are classified into professional and non-professional. Non-professionals are those prisoners who lapse into crime because of their surroundings or circumstances or physical defect or mental defect, and who are not first offenders. Professional habituals are those persons with an object sound in mind and mostly sound in body, often highly skilled who deliberately and with their eyes open prefer

a life of crime. In India the work of classification of prisoner's is not performed by committee of experts. It is done by the trial courts. They do not apply their mind. They do it as a routine work . (Space for Hints)

6.13 PRISON LABOUR

Prison administrators over the years have used three principal ways of keeping inmates busy work school and group discussions. The above three methods are rehabilitative in nature. They have been also used as control measures. They are, the methods used even today.

The notion that work should be provided for prisoners is almost as old as the prison system itself. When institutions became places of punishment, rather than places of detention for persons awaiting trial, systems for occupying the time of prisoners also arose. This tendency was offset to some extent by the theory on which the early Pennsylvania prisons were based namely, that labour interfered with the meditation considered essential for penitence. Idleness as a prison regime is no longer defended on any ground, and on the contrary, the value of prison labour to inmates and to society is stressed. Despite this emphasis, idleness in prisons has become increasingly prevalent during the last fifty years, When labour was introduced into prison, it was regarded primarily as a means of punishment, although the possibilities for profits were not overlooked. Some prisoners were sentenced to the pain of incarceration. They were forced to perform hard tasks such as carrying a cannon ball back and forth along a corridor, turning cranks etc.,

Even though the idea that labour should be provided primarily for punishment was soon superseded by concern for utilization of labour in the production of wealth. the punitive element in labour is still retained in many institutions. The present trend is to offer some training inside the prison so that trade would be of much use in the free life.

(Space for Hints)

Generally in prison labour, it is possible for the prisoners to learn a trade if rehabilitation is earnestly applied. The prisoner is in a position to contribute something for his maintenance in jail. But there are certain difficulties. In organizing prisons. The main reason is the hostile reaction from the organized free labour and some business.

Prison labour in India was viewed in the beginning as a tool of punishment in order to cause deterrent effect on the mind of the offenders. According to Macaulay, the experiment of prison labour in terms of the acquisition of gainful skills by the prisoner was to prove either successful or otherwise and in either case it was an undesirable consequence. He was of the view that prison labour ought not to be viewed as a productive asset to meet the finances of prison administration. The S.C. that convicted person go to prison as punishment and not for punishment. – (Charles Shobraj vs. Superintendent, Tihar Jail AIR 1978, SC 1514). The Supreme Court laid emphasis on the reformation of the offenders through training. The Court observed in **Dharambir Vs. State of Uttar Pradesh** 1979 (3) SCC 645.

"We are told that the two prisoners are agriculturists by profession. It is better, therefore. that they put to as agriculturists whether within or without the prison campus. Being young they should also be trained in any other useful craft, if they have aptitude therefore, 'so that when eventually they emerge from the prison walls, they may become sensitive citizens and that when prisoners are made to work. as there ought to be under our directions, a small amount by way of wages could be paid so that the healing effect on their minds is fully felt. Moreover, proper utilization of services of prisoners in some meaningful employment, whether as cultivations or craft man or even in creative labour, will be good from the society's angle as it reduces the burden on the public exchequer and the tension within.

The XII International Penal and Penitentiary Conference held at Hague in 1950 suggested 'work' as the best alternative for channelising the energies of prisoners for a useful purpose. The prisoners must be kept in work. It would create

confidence in the mind of the prisoners. The wages can be utilized for supporting their family and dependents. The conditions in the family would not be much disrupted. The work given inside the prison would be remunerative to the state. It is also beneficial to the inmate. The working condition inside the jail must be equalized with that of the free society. (Space for Hints)

6.14 PRISON EDUCATION

When the Elmira Reformatory was started in the year 1876, education was also imparted to the inmates. Education and revalidation are closely interrelated in the sense better education leads to better earning capacity and the school is recorded as the cure for all evils.

Education means the process or product of formal training in schools or classrooms in a broader sense, education includes all the life experience that shape a person's attitudes and behaviour. Education in prison has been viewed in both ways.

The objective of prison education in its broadest sense should be the socialization of the inmates through varied impressionable and expressional activities, with emphasis on individual inmate need. The objective of this programme shall be the return of these inmates to society with a more wholesome attitude toward living, with a desire to conduct themselves as good citizens and with the skill and knowledge which will give them a reasonable chance to maintain themselves and their dependents through honest labour. To this end, each prisoner shall be given a programme of education which, on the basis of available data, seems most likely to further the process of socialization and rehabilitation. The time duly devoted to such education shall be such as required for meeting the above objective.

According to Mac Cormick the prison education should have the following components.

3. Fundamental academic education: Designed to provide the intellectual tools needs in study and training and in his every day life.

Vocational education, designed to give training for an occupation.

(Space for Hints)

5. Health education, designed to teach the fundamentals of personal and community health.
6. Cultural education, embracing the non-utilisation fields which are entered for intellectual or others satisfaction alone.
7. Social education, to which all other types of education and all the activities of the institution should contribute. In India, the above view was expressed by the All India Jail Manual Committee. The big handicap in our country is the inadequate number of staff or teachers inside the prison. Sometimes the services of the educated convicts are used. In many cases, they do not possess the qualification for teaching. They do not possess the aptitude for teaching. In certain states, full time teachers are appointed. If it is not possible to appoint full time teachers, it is better to appoint part time teachers.

In India, as far as possible, vocational education must be imparted to the convicts after taking into consideration the circumstances to which they would be subjected soon after their release. Since India is an agricultural country it is better to offer agricultural oriented vocational education.

Prisons occupy the primary place for imprisoning an offender. By the passage of time there is a lot of improvement in the conditions of prison and prison life. Part-time imprisonment is introduced in Belgium. In this system, the convicts continue to work or study in the community, their evenings and week ends being spent in prison. In India, Open Air Camps or Institution was introduced. Under this system, the inmates were allowed to work on their own or in local factories and paid wages. Now more than half of the states have open prisons. So also model prisons have been established. It is meant for well behaved casual offenders. Farming is made as an important work in the model prison at Lucknow. But it does not mean there is the absence of brutality inside the prisons. The judicial enquiry conducted by Mr. Justice Ismail in Tamil Nadu Prison revealed the brutality and the harsh treatment given to the prisoners.

6.15 SUMMARY

(Space for Hints)

In this unit we traced the history of prison system prevalent during early period and subsequently British Period. The prisoner during the period of punishment, often expected to maintain prison discipline. We have also analysed the various reasons for criminality in prisons. Classification of prisoners and how prison labour help the inmates of a prison to learn vocational training and acquire skills. Further, prison education helps a prisoner to return to society as good citizen developed with skill and knowledge, so that after release he can lead a honest life.

6.16 KEY WORDS

Fortresses	-	Strongly fortified town
Corporal	-	Relating to the human body
Retributive	-	Vengeance
Antagonistic	-	An opponent
Depravity	-	Wickedness

6.17 ANSWER TO CHECK YOUR PROGRESS

1. Refer 6.2
2. Refer 6.4
3. Refer 6.11
4. Refer 6.13
5. Refer 6.14

(Space for Hints) 6.18 MODEL QUESTIONS

Long Answer Questions

1. Explain the recommendation made by various Jail Committees in Prison reforms.
2. Examine the scope of Prison Labour System in India.
3. What are the objectives of Prison Education?

Short Answer Questions

1. Write a note on Criminality in Prisons.
2. What are the classification of Prisoners?

CONVENTIONAL CRIMES, WHITE COLLAR CRIMES AND CYBER CRIMES

INTRODUCTION

Criminologists often seek to group individual criminal behaviours into certain categories called typologies so that they will be easily studied and understood. Following their efforts, we classify criminal patterns into four categories: conventional crimes, white-collar crimes, cyber crimes, organized crimes and victimless crimes. In this unit, we shall deal with the first two categories.

UNIT OBJECTIVES

- To understand the basis on which crimes have been classified.
- To assess the extent of crimes against women and children are pervasive in our society.
- To understand the nature of violent crimes and property crimes.
- To get an insight into the dynamics of white-collar and cyber crimes.

UNIT STRUCTURE

Introduction

Unit Objectives

Unit Structure

7.1 Crime Classification - Conventional Crimes

7.2 Types of Crimes against Women

7.3 Violent Crimes

- (Space for Hints) 7.4 Property Crimes
- 7.5 White – Collar Crimes
- 7.6 Cyber Crime
- 7.7 Summary
- 7.8 Key words
- 7.9 Answer to check your progress
- 7.10 Model Questions

7.1 CRIME CLASSIFICATION

7.1.1. Conventional Crimes

Crimes Against Children

It is often stated that children are India's most valuable resources and assets, but their rights are largely ignored often resulting in tragic outcomes. This is because of the vulnerability of children. From infancy through childhood they are dependent on adults for safety and ongoing nurturing, and this puts them at risk of maltreatment in many forms: child prostitution, rag picking and begging, child labour, domestic work etc. (Total Crime against children (NCRB. 2011) – 33098).

Children are human beings. As such they have human rights. These rights are entitlements. They imply obligations and goals. The rights approach is primarily concerned with issues of social justice, non-discrimination, equity and empowerment. Such a perspective is embodied in the United Nations Convention on The Rights of the Child 1989. India ratified the Convention on the Rights of the Child in 1992.

7.1.2. The Rights of the Child

The civil, political, social, economic and cultural rights of every child can be grouped into the following four classes:

Check Your Progress

1. What are the rights of the children?

1. **The Right to survival:** This includes the right to life, the highest attainable standard of health and nutrition and adequate standard of living.
2. **The Right to Protection:** This includes freedom from all forms of exploitation, abuse, inhuman or degrading treatment and neglect.
3. **The Right to Development:** This includes the right to education, support for early childhood development and care, social security and the right to leisure, recreation and cultural activities.
4. **The Right to Participation:** This includes respect for the views of the child, freedom of expression, access to appropriate information and freedom of thought, conscience and religion.

7.1.3. Vulnerable Children

1. Delinquent : Children in conflict with law

2. Non-delinquent :

a. Destitute Children : Orphans and Abandoned

b. Neglected Children

- Parents lack economic means
- Parents have physical, mental or terminal illness
- Children with single parent, deserted mother or father
- Children of refugees, migrant and construction workers

c. Victimized Children

- Child beggars and abused children
- Children of prostitutes
- Rape victims

(Space for Hints)

- Child sex workers
- HIV or AIDS affected children
- Children engaged in substance and drug abuse
- Child labourers

It is estimated that there are more than 250 Central and State statutes under which the child is covered in India. In addition to specific laws, provisions relating to children have also been developed in the areas of criminal law, family law, employment law and other aspects of child health and welfare. The government, the law enforcement agencies and the NGOs and citizens' groups have to concentrate in a special way on the following crimes against children which call for our collective urgent attention and action:

Child Neglect and deprivation, Child abuse, Battered child syndrome, Emotional abuse sexual abuse, Child labour, Child rape, Child trafficking and prostitution and Crimes against children in the internet.

7.2 CRIMES AGAINST WOMEN

Even after almost 65 years of Independence and despite the elaborate legal safeguards provided for women, the inferior status of women continues to haunt us at every level and in every field viz., educational, social, cultural, economic, religious and political. Atrocities against women, especially from the poor, S.C. and S.T. sections of the population are alarmingly high. These atrocities may take place at home, in the office, in the agricultural field, in the industry or in a public place.

7.2.1. Domestic Violence

Domestic violence is a combination of verbal, physical, sexual and psychological abuse of the woman. It is an abuse of power and betrayal of love. It manifests itself in various forms like:

➤ Abuse - verbal and emotional

(Space for Hints)

➤ Threats

➤ Physical Battering

➤ Sexual Assault

➤ Financial control

➤ Property Destruction

➤ Isolation

7.2.2. Rape

On an average 40,000 rape cases are recorded every year in India. Some of the cases reported are below the age of five years. The victims of rape are the highest in the age group of 7-16 years. The long term reaction to rape has all the characteristics of a post traumatic stress disorder (PTSD), with the following four symptoms:

1. re-experiencing the traumatic event by intrusive thoughts dreams or flashback;
2. an avoidance of the place or circumstances in which the rape occurred;
3. an avoidance of previously pleasurable activities; and
4. an increased state of psychomotor arousal leading to difficulties with sleep and memory.

7.2.3. Women Trafficking and Prostitution

The increasing demand for younger women and younger children for prostitution is supplied through trafficking. It is slavery and violence and against all forms of human rights and human decency. Trafficking is facilitated by various factors. Among them are poverty, organized crime rackets, debt burden of the family, lack of vigilance in disaster-affected areas after a national calamity,

(Space for Hints) migration, growth of trans-national crime, socialization of violence against women.

7.2.4. Dowry Deaths

Murdered by the in-laws and sometimes driven by suicide, young brides suffer the loss of their precious life violently. Most of the time, victims of dowry harassment suffer silently as there is no way out. Her parents too are helpless and timid. The police investigations and reports are not strong enough to convict the offender. Though there is the Anti-dowry Act, people have devised many ingenious ways to get around the provisions of the Act.

7.2.5. Sexual Harassment in Work Places

The Supreme Court initiated a discussion on this subject in August 1997 (**Vishakha vs The State of Rajasthan**). For the first time behaviour that can be considered sexual harassment has been explicitly legally defined : "..... sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as:

- a. physical contact
- b. a demand or request for sexual favours
- c. sexually coloured remarks
- d. showing pornography
- e. any other unwelcome physical, verbal or non-verbal conduct of a sexual nature.

In sexual harassment, it is the impact of behaviour on the recipient rather than the intent of the perpetrator which is significant.

7.2.6. Eve Teasing

Eve Teasing is another form of sexual harassment, resorted to by young men. Teen-age girls who are the prime targets, suffer disastrous consequences and, in

worst cases, this invariably leads to suicide. This problem is occasionally highlighted in the media. Tamil Nadu government was the first one to enact a law against eve teasing. (Space for Hints)

"Eve teasing menace is continuing in the city, since many refrain from lodging a complaint with the police unless it goes beyond a tolerable level. The target places are bus stops near women's hostels and those along routes leading to girls' colleges. Interestingly, the suspects are not youth alone ... The city police have registered 40 cases of eve teasing in 2004 and 29 in the following year 2005. "In many cases, the victims may either withdraw the complaint or not turn up to give evidence because they think going to police stations/courts is a stigma. Such a tendency only encourages habitual offenders to become more vigorous," says a senior police official. (The Hindu. 21.01.06)

Crime Against Women (IPC + SLL) (2011)

1	Kidnapping & Abduction of Women & Girls	35565
2.	Molestation	42968
3.	Sexual Harassment	8570
4.	Cruelty by Husband and Relatives	99135
5.	Importation of Girls	80
	Total Crime Against Women (IPC & SLL)	228650

Source : NCRB

7.3 VIOLENT CRIMES

Major types of violent crimes are murder, robbery, assault, caste and communal violence and terrorism.

Check Your Progress

2. Write a note on Eve Teasing and the steps taken by the Government to control it.

(Space for Hints) 7.3.1. Murder is the willful killing of a human being. It often occurs between an offender and a victim who were previously acquainted. Murder occurs in a variety of circumstances: murders that start as arguments, fights or brawls; murders that began as robberies; murders that followed rape; murders that developed from burglaries etc.

7.3.2. Robbery, the use of force or threat of force to steal property, typically involves strangers. It involves both commercial and financial establishments like banks, stores, gas stations, and taxis and non-commercial targets like people on the street and in houses. Physical injuries during robberies are very common, especially when the victim resists the offender. Robberies sometimes lead to murders, and such offenders are classified under murder. Generally robbers and their victims do not know each other because the primary motive to rob is to possess money. Acquaintance robbery is motivated by grievances against the victim, inside information about money or property that can be stolen and the convenience of stealing from someone close to the offender.

7.3.3. An assault is an unlawful attack by one person on another. Where no weapon is used is called simple assault; where the purpose of attack is to inflict severe bodily injury and where a weapon is used is called aggravated assault.

Assaults between people who are intimately associated are seldom reported to the police.

7.3.4. Passion Crimes

Manthiryala : A love struck youth fatally stabs a teacher right in front of her students as she refuses to reciprocate his love. An irate mob of villagers stone him to death to avenge the death of their beloved teacher.

Vijayawada : A young student is knifed to death by her collegemate right in the middle of a class room during exams.

Check Your Progress

3. What are the causes for Communal Violence?

7.3.5. Communal Violence

(Space for Hints)

Communal tensions and riots frequently take place in our country for various reasons :

1. Geographical causes : There is likely to be great and continuous tension wherever people belonging to different religions live in separate sections or ghettos because the modes of life and conduct of the different groups. exhibit wide differences, sometimes, apparently irreconcilable ones. Lack of contact with each other and ignorance about each other's culture and way of life alienate and estrange them.

2. Historical causes : The nation has gone through so many periods of conquests in the past and has left behind a lot of anger and hatred, at least in some parts of the country. After the partition, the relationship between Hindus and Muslims was tense and even explosive. Moreover, political parties on both sides exploited this situation for political ends.

3. Psychological causes : Superiority and inferiority, we and they, insider and outsider - these concepts and beliefs create mental blocks and emotional tensions. When there is even a small spark of a confrontation, a conflagration follows.

4. Social causes : Cultural and ideological positions on the confronting sides make a smooth and friendly social relationship impossible. Prejudices are built up and strengthened on every occasion, and the others are portrayed as the common enemy, to be destroyed at all costs.

7.3.6. Caste Violence

In India, caste is a strong basis of differentiation and social stratification characterized by hierarchy, heredity, endogamy, purity and pollution and social and religious privileges and disabilities. In such a rigid normative system, conflict is bound to arise between the dominant and subaltern groups. When such conflicts become socially disorganizing and destroy unity and dignity among human beings,

(Space for Hints)

The enforcement system gets into action with a suitable strategy and try to restore social order.

There are three dimensions of caste conflict:

1. Social-psychological dimension
2. Economic dimension
3. Political dimension

The protests that took place in May 2006 against the reservation policy of the government of India for the OBCs in the professional colleges are a strong proof that casteism is still very much alive and active among us. The reasons given in defence of the protests were seemingly based on meritocracy and social justice. But, if we delve deeper, we will discover the roots in the socio-psychological, economic and political undercurrents of caste superiority and hegemony.

Indeed casteism has deeper roots than communal violence. It is based on age-old prejudices and rooted in religion. Ideologies based on the notions of purity and pollution dominance and subjection do not go away because we have become a social secular democratic republic. The oppressive castes do not want to give up their hegemony over the exploited castes. But the awakened masses who so far submissively followed the caste dharma obediently, now dare to assert their human rights and resist and rebel against their masters. Naturally, this explosive situation gives rise to frequent and fatal caste riots in different parts of the country.

Violent Crimes (2011) Cases Reported

1	Murder	34305
2	Attempt to Commit Murder	31385
3	Culpable Homicide Not Amounting Murder	3707
4	Rape	24206
5	Kidnapping & Abduction	44664

6	Dacoity	4285
7	Preparation & Assembly for Dacoity	2895
8	Robbery	24700
9	Riots	68500
10	Arson	9064
11	Dowry Deaths	8618
	Total Violent Crimes	256329

Source : NCRB

7.4 PROPERTY CRIMES

Property Crimes involve either the theft or the destruction of property. Theft can take the form of burglary larceny or fraud. (Total Property Crimes 433304 as on 2011).

7.4.1. Burglary is unlawful entry of a building to commit a serious crime, usually the theft of property. Burglary might turn into a robbery if the burglar confronts the occupant of the building and uses force to steal. (Total Crimes - 92504).

7.4.2. Larceny or theft is the unlawful taking and carrying away of property from the possession of another. Larceny differs from robbery in that it does not involve force or the threat of force, and it differs from burglary in that it does not involve entry of a building. Some larcenies like shoplifting is carefully planned in advance. (Total Crimes - 340800).

7.4.3. Fraud : Fraud is the crime of obtaining money or property by false pretenses. Facts are misrepresented and deception is employed to mislead victims by promising goods, services, or financial benefits that do not exist or are never intended to be provided, e.g. false or deceptive advertising.

(Space for Hints)

7.4.5. Arson : Arson is the willful burning of the building, motor vehicle, aircraft or personal property of another person.

7.4.6. Vandalism : Vandalism is the willful destruction, injury, disfigurement or defacement of property without the consent of the owner e.g. breaking the windows in a building.

7.5 WHITE-COLLAR CRIMES

7.5.1. In the late 1930s, Edwin Sutherland first used the phrase "white-collar crime" to describe the criminal activities of the rich and the powerful. He defined white-collar crime as "a crime committed by a person of respectability and high social status in the course of his occupation." E.g. conspiracies by members of the wealthy classes to use their position in commerce and industry for personal gain without regard to the law. He believed that the cost of the white-collar crimes far exceeded that of all the other crimes.

To him white collar crime is more dangerous than the ordinary crime. He contended this on two counts. He said the financial losses were higher. Secondly the damage inflicted on public morale is more. He observed :

"The average loss per burglary is less than one hundred dollars, a burglary which yields as much as fifty thousand dollars is exceedingly rare, and a million dollar burglary is practically unknown. On the other hand, there may be several million dollars embezzlements reported in one year".

Sutherland further contended that the commission of certain white-collar crime creates distrust, lowers morale and produces disorganization in a large scale.

Moreover, in contrast to street crimes, white-collar crimes infused distrust in economic and social institutions, lowered public morale and undermined faith in business and government. Sutherland's definition was criticized by certain criminologists. "White collar crime is based on the concept of *mens rea* or guilty mind in criminal law. It is enumerated in the maxim "*Actus non facit reum nisi*

**Check Your
Progress**

4. What are the various Property Crimes?

Mens sit rea". Which means, An act does not make a person legally liable (Space for Hints) unless the mind is also legally blame worthy or guilty. There must be fusion between physical act and mental element. No crime can be committed without Mens rea. But many white collar crimes do not require Mens rea. Therefore certain writers like Jerome Hall do not recognize them as real crimes but "only as regulatory offences". But it is clear now that the doctrine of Mens rea based on the common law has no applicability in the case of statutory crimes".

7.5.2. Persons employed in various occupations taking advantage of their status in society commit white-collar crime, and they abuse the specialized knowledge gained by their experience in the particular professions to earn huge profits at the cost of others. It includes crimes by businessmen, politicians. doctors and lawyers.

Bribing officials to secure desirable contracts, misrepresentation through fraudulent advertisements, concealment of defect in the commodity for sale, misuse of trust funds, publication of falsified balance sheet of business are a few examples for white-collar crimes.

Growth of white collar crime

With the progress in the economic and industrial arena in white collar criminality rate is also increasing. Many types of white collar are directly or indirectly connected with the production and distribution of wealth. These two processes always go together. As regards the increase in white collar criminality Friedman in his work "Law in a changing society (1951, P. 1806) observed :

"The industrial Revolution had initiated great social changes of an far-increasing consequences. The changes in the economic and social structure of property, compromising the transformation of an increasing proportion of wealth from property intangible, visible and mainly immovable goods in the ownership to in intangible and invisible powers and rights such as shares, trademarks, patents and copyrights, coincided with the growth of large-sized corporations replacing individuals entrepreneurs. This development, inter alias, led to concentration of

(Space for Hints) economic and consequent political power in a few hands, absentee ownership and impersonal monopoly, emphasis on money and credit and decline in the sense of social responsibility on the part of owners of large property”.

The law commission in its 29th report has enumerated the following factors for the increase in white collar crime.

“The advance of technological and scientific development is contributing to the emergence of “mass society”, with a large rank and file and a small controlling elite, encouraging the growth of monopolies, the rise of a managerial class and intricate institutional mechanisms. Strict adherence to a high standard of ethical behaviour is necessary for the even and honest functioning of the new social, political and economic process. The inability of all sections of society to appreciate in full this need results in the emergence and growth of white collar and economic crimes.

The first and second world wars also contributed much for the increase in white collar criminality. The end of the Second World War coincided with the independence of India and the emergence of a welfare state. Distribution of goods and its production controlled by the state in the interests of the community. The governmental control provided a fertile ground for the commission of white collar crime like black marketing hoarding and corruption.

Some of the regulatory legislations to control white collar criminality are –

1. Foreign Exchange regulation Act, 1947
2. Imports and Exports (control) Act, 1947
3. Essential Commodities Act, 1955
4. Companies Act, 1956
5. Income Tax Act, 1961
6. Customs Act, 1962

Some of the instances of white Collar Crimes reported by Newspapers.

"Madurai : A post-graduate student of the Madurai Medical College is believed to be the prime suspect in the alleged question paper leak of MD/MS and PG Diploma courses entrance examination conducted by the All India Institute of Medical Sciences (AIIMS)." (The Hindu 31.03.06) **(Space for Hints)**

Madurai : The Collector has placed under suspension M. Palanivelrajan, deliveryman at the Agricultural Producers' Cooperative Marketing Society at Vadipatti in connection with smuggling of 7000 kg of rice to open market. (The Hindu 28.03.06)

"London : ... Healthy people are being turned into patients by drug firms which publicise mental and sexual problems and promote little-known conditions only then to reveal the medicines they say will treat them. Studies published in a respected medical journal. accuse the pharmaceutical industry of disease-mongering' - a practice in which the market for a drug is inflated by convincing people they are sick and in need of medical treatment. (The Hindu, 12.04.06).

"Singapore : Interpol has, for the first time considered widening its agenda to cover corruption as a 'priority crime area'. Delegates at Interpol's 19th Asian regional conference that concluded in Jakarta in April 2006, proposed inter-state 'cooperation' to combat corruption."

"Thiruvananthapuram : Kerala Home Minister has said that the Police Department is under the influence of powerful mafia groups that profit from a range of illegal activities, including money lending, sand mining and sex racketeering."

7.5.3. White-Collar Crime - Typology

White-collar crime today represents a range of behaviours involving individuals acting alone and within the context of a business structure. The victims of such a crime can be the general public the organization that employs the offender or a competing organization.

Types of white collar crimes

The main heads of white collar crimes are :

(Space for Hints)

1. Frauds in business in relation to sale of bonds and investments.
2. Adulteration of foods and drugs and misleading advertisements.
3. Malpractices in the medical profession, such as illegal sale of alcohol and narcotics, abortion, illegal services to underworld criminals, fraudulent reports and testimony in accident cases; fake specialists, fee-splitting making unnecessary treatment, and restriction or competition.
4. Crimes relating to legal profession such as guiding the criminal or quasi-criminal activities of corporations, fake claims in accident cases.
5. Forming trusts, cartels, combines and syndicates to combat competition, or to raise prices.
6. Bribery and graft by public officers.

Mark Moore has suggested a typology of white-collar crimes as follows:

1. Stings and Swindles : The first category involves stealing through deception by individuals who use their institutional or business position to cheat people out of their money.

Offences in this category range from fraud involving the door-to-door sale of faulty merchandise to passing millions of Rupees in counterfeit stock certificates to an established brokerage firm. If caught, white-collar swindlers are usually charged with common-law crimes such as embezzlement or fraud.

2. Chiseling : This involves regularly cheating an organization, its consumers or both. Chiselers may be individuals looking to make quick profit in their own businesses or employees of large organizations who decide to cheat on obligations to their own company or its clients by doing something contrary to either the law or company policy.

3. Individual Exploitation of Institutional Position : This involves individuals' exploiting their power or position in organizations to take advantage of other individuals who have an interest in how that power is used. This type of

offence occurs when the victim has a clear right to expect a service and the offender threatens to withhold the service unless an additional payment or bribe is forthcoming. (Space for Hints)

4. Influencing Peddling and Bribery : Sometimes individuals holding important institutional positions sell power, influence and information to outsiders who have an interest in influencing or predicting the activities of the institution.

5. Embezzlement and Employee Fraud : This involves individuals' use of their positions to embezzle company funds or appropriate company property for themselves. Here the company or the organization that employs the criminal, rather than an outsider, is the victim of the white-collar crime.

Corruption in Government

Corruption has penetrated into every part and branch of government. It is prevalent in the political activity also. Corruption is present in almost all the parts of the world. It is present in India as well. But the degree of corruption afflicting, our society varies.

If we consider corruption in government we can say various factors are responsible. The two world wars and the independence of India gave much power to the government servants. They have been given the power to issue licenses, quotas and permits. They have thus opportunities to make black money.

Political Corruptions

Corruption in politics is more dangerous than corruption in government machinery. The amount involved in the case of politicians, ministers and other “patrons” are higher in quantum than the, public servants. When there is an opportunity not only the politicians in power but also their relatives, kith and kin make a good harvest of the situation. The Santham committee said there were lot of code of conduct for public servants and government employees, but there were none for the minister, politicians, legislators and political parties.

(Space for Hints)

The offences often committed are violations under the election laws; offences relating to election (Indian Penal Code) violations under the representation of people Act, grafts, abuse of official machinery for personal gains.

White-Collar Crime in the Professions

Certain professions offer opportunity to commit white-collar crimes. Such professions are medicine, law, engineering etc.,

Medical Profession

The majority of the persons registered under the Medical Council Act may not commit criminal acts in the course of their profession. But there are certain unethical elements who violate the norms and conduct. The violations often committed illegal abortion issuance of false medical certificates fee-splitting, secret service to underworld criminals, giving false testimony in accident cases, selling sample drugs, unnecessary prolonged treatment etc. Another form of violation practiced by the physicians are prescribing medicines, which have no consistency with the system they practice.

Legal Profession

White collar crimes are often committed, by advocates often in utter disobedience to the conduct of advocates enumerated under the Advocates Act 1961. The main reason is the competition among the persons practicing the same profession. The offences usually committed are aiding criminals, preferring false claims, fabricating false evidence, delaying litigation and engaging touts or broker. In this regard Barnes and Teeters observed, (New Horizons in criminology):

“A lawyer must do his duty in defending a person accused of crime. This applies equally to those known criminals elements. There is a distinction between a criminal lawyer and a lawyer criminal. So long as he handles his defence, in a legal and ethical manner he is only discharging his duty as an attorney. It is when he carries his defense beyond the law and the ethical standards of his profession that he may be labeled a lawyer criminal.”

In this profession underhand dealing with contractors, giving permission to sub-standard works, maintenance of bogus records of labourers and daily rated workers are possible. Obtaining illegal gratifications from the contractors is often committed.

The white collar criminality is also prevalent, among person's professing accountancy, advertising property valuing consulting engineers and contractors etc.,

White collar Crime in Educational Institution

White collar crimes are often committed by the management and staff of the privately run government aided institutions. The governing bodies and management receive grant from the Government. They show in the record fictitious names. The teacher may have to sign in the pay roll for a large sum. He would get a sum less than that for which he has signed in the roll. They may reside at far off place. But false certificate of attendance and eligibility certificate would be often forwarded to the university. These practices have damaged the standard of education in India.

6. Client Fraud : This is theft by an economic client from an organization that advances credit to its clients or reimburses them for services rendered. E.g. insurance fraud, tax evasion, check forgery.

7. Corporate Crime : This involves situations in which powerful institutions or their representatives willfully violate the laws that restrain these institutions from doing social harm or require them to do social good. These are socially injurious acts committed by people who control companies to further their business interests. The target of these crimes can be the general public, the environment or even their company's workers. What makes these crimes unique is that the perpetrator is a legal fiction. - a corporation - and not an individual. E.g. intentional violation of environmental statutes, false advertising.

(Space for Hints)

High tech crimes are a new breed of white-collar offences that can involve the theft of information, resources or funds. Computer crimes belong to this category.

Corruption as Human Rights Violation

On May 9-10, the National Human Rights Commission organized a conference on "Effects of Corruption on Good Governance and Human Rights" in New Delhi. The gravity of human rights violations resulting from corrupt practices is no less than that of custodial violence or any other form of violation of civil, political, economic, social and cultural rights. The most fundamental question the conference posed that needs to be addressed by all is: how can the NHRC operationalise the right to corruption free governance with a view to protecting and promoting human rights in general? (The Hindu 30.05.06)

7.5.4. Characteristics of White-collar criminals

1. A person of respectability.
2. A person having high social status.
3. An economically privileged position.
4. A person having responsible occupation.
5. A person who enjoys the confidence of society.
6. A person well versed in his profession acquiring specialized intelligence in the course of his duties.
7. A person who is highly intelligent and stable.
8. A person who does not think that he is committing a crime, which is only a business to him.
9. People who can even control the press.

7.5.5. Causes of White-collar crime

(Space for Hints)

1. Corporate Culture Theory : Some business organizations promote white-collar criminality in the same way that lower-class culture encourages the development of juvenile gangs and street crime. They cause crime by placing excessive demands on employees while at the same time maintaining a business climate tolerant of employee deviance. New employees learn the attitudes and techniques needed to commit white-collar crime from their business peers.

2. Self-Control Theory : Hirschi and Gottfredson apply their general theory of crime to white-collar crime and maintain that the motivation and pressure to commit white-collar crime is the same as for any other form of crime i.e. criminals lack self-control. White-collar criminals have low self-control and are inclined to follow momentary impulses without considering the long-term costs or such behaviour.

3. Rationalizing Greed : This is a common trait of white-collar criminals. Many offenders feel free to engage in business crime because they can easily rationalize its effects. Some convince themselves that their actions are not really crimes because the acts involved do not resemble street crimes. Some business people feel justified in committing white-collar crimes because they believe government regulators do not really understand the business world or the problems of competing in the free market system. Some others believe that everyone violates business laws, so it is not so bad if they do so themselves.

7.5.6. Dealing with White-Collar Crime

Legal Measures There are sufficient legal provisions to deal with white-collar crimes. Foreign Exchange Regulation Act 1975, Dangerous Drugs Act 1930, Drugs (control) Act 1950, Prevention of Food and Adulteration Act 1947, Prevention of Corruption Act, Wealth Tax Act 1961, Cr.P.C. Section 10 and many others. The existing machinery is not adequately trained and equipped to deal with the problem. Since most of the white-collar criminals are highly intelligent and capable of

Check Your Progress

5. What are the causes of White Collar Crimes?

(Space for Hints) winning over by their resources, the Police machinery should be equally if not better equipped with knowledge and abilities.

Social Measures Finally it is the people who are affected, i.e. the general public who should be empowered to assist the police force to identify, apprehend and isolate the criminals. Educating people in social responsibilities and social values will go a long way to combat white-collar criminals.

White-collar crime has major social and enormous financial costs. Secondary effects of white-collar crime include:

1. diminished faith of the people in our economic system and in business leaders,
2. loss of confidence in political institutions, processes and leaders, and
3. erosion of public morality

Judicial attitude towards white collar crime

The courts differently treat the white collar offenders. The courts are often lenient towards the white collar offenders. As far as the trial courts in India are concerned they fail to realize the enormity and gravity of the white collar crime. They often award light punishment.

In **M.H. Hoskot Vs. State of Maharashtra (1978) 3 SCC 544**, The Supreme Court considered the judicial attitude of the lower courts towards white collar crimes. Hoskot was a reader in Sourashtra University. He was found guilty of an attempt to concoct the certificate of degrees of the Karnataka University. The session's court convicted and sentenced him a single day's imprisonment. The court considered the background of the offender; he is not having any criminal tendencies and unlikelihood of his indulging in criminal activities in future. The State went on appeal to the High Court. The High Court enhanced the period of sentence to three years against which an appeal was preferred by the accused to the Supreme Court. The Supreme Court upheld the sentence and termed the sentence awarded by the session court as "incredibly indiscreet". The Supreme Court passed censure against the sessions court.

In State of **Maharashtra v. Mohd. Yaqub** (1980) 3 sec 57 the Supreme Court (Space for Hints) observed that penal provisions calculated to suppress smuggling activities must be construed liberally.

The courts in India have adopted strict interpretation to the social economic statutes which do not require any Mensrea either in the form of intention or knowledge for committing any offence.

7.5.7. Former Enron Chiefs Convicted

Houston: Former Enron Corporation chiefs Kenneth Lay and Jeffrey Skilling were convicted on Thursday of conspiracy to commit securities and wire fraud in one of biggest business scandals in U.S. history. The verdict put the blame for the 2001 demise of the high-profile energy trader, once the nation's seventh-largest company, squarely on its top two executives. It came in the sixth day of deliberations following a federal criminal trial that lasted nearly four months. Mr. Lay was also convicted of bank fraud and making false statements to banks in a separate, non-jury trial before U.S. District's Judge Sim Lake related to Mr. Lay's personal banking.

The conviction was a major win for the Government, serving almost as a bookend to an era that has seen prosecutors win convictions against executives from World Com Inc. to Adelphia Communications Corp. and homemaking maven Martha Stewart. The public outrage over the string of corporate scandals led Congress to pass the Sarbanes-Oxley Act, designed to make company executives more accountable.

Enron's demise alone took with it more than \$60 billion in market value, \$2.1 billion in pension plans and 5600 jobs. Mr. Lay, the Enron founder was convicted on all six counts against him in corporate trial. Former chief executive Skilling was convicted on 19 of the 28 counts, including one count of insider trading, and acquitted on the remaining nine ...

Jurors found through their verdict that both men had repeatedly lied to cover a vast web of unsustainable accounting tricks and failing ventures at Enron. The panel rejected Mr.Skilling's insistence that no fraud occurred at Enron other than

(Space for Hints) committed by a few executives skimming millions in secret side deals, and that bad press and poor market confidence combined to sink the company. - AP

7.5.8. Ten Year Jail Term for Daewoo Founder

"Seoul: Daewoo Group founder Kim Woo-choong was sentenced to 10 years in prison on Tuesday (May 30) for fraud and embezzlement relating to the collapse of the firm under \$ 82 billion of debt in one of the world's largest corporate failures court officials said. Kim was convicted of fraudulent accounting, embezzling company funds and illegal transmission of funds abroad but the court acquitted him of bribing government officials. 'He deserves heavy punishment as his illegal activities caused losses to lenders and the collapse of Daewoo group,' the court said in its verdict." (The Hindu 31.05.2006).

7.6 CYBER CRIME

7.6.1. We are living in a computer age. Human life has been enhanced to a remarkable degree by information technology and electronic media. At the same time, these new developments have given rise to a new variety of computer-related white-collar crimes, which are called cyber crimes. They are fast spreading all over the globe. Law-enforcement agencies and national governments are greatly concerned about this phenomenal growth.

7.6.2. Nature

Information technology is the most influential technology that is emerging in the society today. We are in fact moving from the world, as we know it to the world of digits. Our economy is becoming the digital economy. It has been said that the computer was perhaps the most important invention after the printing press in the 15th century. The computer has revolutionised the way business and economic activities are conducted. In fact the computer has reduced a lot of drudgery in many of the manual operations and has also brought a high degree of improvement in the quality of services, access to information and so on. In fact its influence goes beyond changing the pace of manual operations and the way business is conducted. Totally new businesses are also springing up

especially with the Internet. A whole era of electronic commerce (e-commerce) is before us. (Space for Hints)

For all the upside of legitimate and positive contribution of the computers, there is also a downside of computer crimes and frauds. The Interpol has identified the following as offences or crimes which can be classified as computer related crimes:

- ❖ Unauthorised access or interception and theft of data (hacking and theft or data, interception of data, time theft and others)
- ❖ Alteration of computer data (logic bomb frozen horse, virus, worms and others)
- ❖ Computer related fraud (automatic teller machines and cash dispenser, credit cards, computer forgery, gaming machines, input/output programme manipulations. means of payment - point of sale, telephone phreaking and others)
- ❖ Unauthorised reproduction (computer games, other software, semi conductor topography etc)
- ❖ Computer sabotage (hardware. software etc.)
- ❖ Counterfeiting using computers
- ❖ Computer pornography
- ❖ Other computer related crime (bulletin board systems, theft of trade secrets, indictable material etc.)

The connectivity of computing and communications has provided new opportunities of crimes. It has been listed as follows :

- ❖ Theft or information services
- ❖ Communications and furtherance of criminal conspiracies
- ❖ Information piracy, forgery and counterfeiting

(Space for Hints)

- ❖ Dissemination of offensive materials
- ❖ Electronic money laundering
- ❖ Electronic vandalism and terrorism
- ❖ Illegal interception of information
- ❖ Electronic fund transfer

How do we deal with the new generation of computer crimes? Prof. Grabosky has the following suggestions to make.

- ❖ Emphasise prevention
- ❖ Self defence should be the first line of defence
- ❖ Non governmental resources should be harnessed wherever possible
- ❖ Enhancing the capacity for law enforcement
- ❖ Increasing international cooperation

Computers with their wide influence have added a new dimension to crime. Crimes can be committed in the real world of three-dimensional space with which we are familiar. Computers have added a new dimension by way of a new space namely the cyber space or virtual world in which also crimes are possible.

Computer crimes or cyber crimes can be dealt with at two levels. One, is the normal conventional approach of legal methods. The other is technology based. Of course technology can be a better method of tackling. To control Computer crimes by legislation and crime laws, it is necessary that the law enforcement authorities, the police as well as judiciary, are familiar with technology. For instance India is now being projected as a potential IT super power. At least in the area of software the competence and importance of India are being recognised. At the same time, one of the crimes that relates to software is software piracy. The association of software companies called NASSCOM has already initiated anti piracy measures by starting anti piracy hotline and so on.

The effort of NASSCOM was that we had to educate both the police as (Space for Hints) well as the judiciary about this new technology related crimes. Traditionally the judiciary has depended on experts and their advice is taken when they decide technical issues related to crime. For example, in medico-legal, cases, the expert's opinion is an important factor. The question is, can the judiciary afford to be not generally familiar with the information technology and the new mode of committing crimes if they have to do full justice?

Today, the Supreme Courts and the High Courts are using information technology, but what we need is a general awareness about the technology at the level of the judiciary.

Even more important is the awareness of the police force about technology. The National Crime Records Bureau (NCRB) has taken an initiative and there are other police forces both at the centre and in the states, which are getting increasingly interested in information technology. If we want to tackle the computer crimes effectively, it is first necessary that we increase the competence, awareness and skills of the police as well as the judiciary so far as the technology aspect is concerned.

The computer crime laws are divided into two categories. This depends upon the type of crime committed by the use of computers. It is quite possible to use computers to commit crimes which are already recognised in the world we live in like for example, cheating, forgery, black mail or even selling pornography. We already have the laws to deal with this type of crimes. Where computers have been used for committing crimes which are already recognised under the statute book, all that may be needed is to amend the relevant clauses in these Acts to cover the type of computer aided crimes. The computer is used like a weapon for committing the criminal act.

In the second category of computer related crimes. It can be done only in the cyber space. Even if we take an issue like forgery after all between handwriting forgery and forgery in computers are different so far as defining the crime is concerned. Computer operates on digital technology. This calls for an identification

(Space for Hints) and first definition about what is a computer signature and how the authentication of genuine documents can be ensured in the virtual world. Technology inputs are needed in this context.

Another important dimension of computer related crime is that whereas in the real world the crime can be committed in a place where the person resides, in the era of information technology where the world has become a global village it is possible to commit cyber crimes from places far away from where the criminal lives. This adds a new dimension to crime, which has to be tackled. This is a challenge to the law enforcing authorities.

Computer crime can be defined as a violation of the law in which a computer is the target or the means. It can be committed anonymously and far away from the victim. Computer criminals can use computer technology to inflict damage without the risk of being caught. They are usually knowledgeable, intelligent, resourceful, likely to be an "insider" who is familiar with the computer technique and have easy access to computers.

The term 'cyber space' denotes the space, which is inside a network or in a computer. It is possible to carry out certain regular activities in the cyber space just as in the outside world. Activities such as business, education, entertainment, governance etc. can be undertaken in this space. Today cyber space is also beset with crimes, which are on the increase. By its very nature, cyber space is not controllable or governable, because of the absence of geographical and time boundaries and of international treatise between countries. Very few countries have enacted cyber laws to combat cyber crimes. India is one of the few countries that has passed such a law.

7.6.3. Information Technology Act 2000

India enacted the Information Technology Act 2000 on 9th June 2000. Tampering with computer documents, hacking of computer systems, publication of obscene information in electronic form, breach of confidentiality and privacy, use of digital signature certificates for a fraudulent purpose etc. have been declared to be offences under this Act.

7.6.4. Several aspects of computer technology are conducive to crime:

(Space for Hints)

- It is relatively easy for a knowledgeable programmer to hide a programme or a modification within a larger programme ('trojan horses', 'worms', 'viruses') or to destroy records and leave no trail of the Crime.
- Computer software programmes are copied relatively easily.
- The chips used in computer hardware are small but expensive and have been a target of thieves, who sells the chips to companies that cannot purchase enough in the legitimate market.
- Computers emit radio waves that can be encoded with the proper equipment.

7.6.5. Computer crimes include the following:

- Introduction of unauthorized data into a system
- Manipulation of authorized data
- Creation of unauthorized files
- Unauthorized use of passwords or accounting (hacking)
- Theft of software, hardware or computer time
- Use of the computer to support criminal enterprises

7.6.6. Categories of Computer Crime

Internal Computer Crimes	Viruses	Worms	Trojan horses
Telecommunications Crimes	Phone Breaking	Hacking	
Computer Manipulation Crimes	Embezzlements	Frauds	

Check Your Progress
6. What are the categories of Computer Crime?

(Space for Hints)

Support of Criminal Enterprises	Data bases to support drug distributions	Data bases to keep records of client transactions	Money laundering
Hardware/Software Thefts	Software piracy	Thefts of computers and microprocessor chips	Thefts of trade secrets

- **Breaking** is a way to circumvent the billing mechanism of telephones allowing anyone to call anywhere in the world literally without any cost.
- **Hacker** refers to individuals who gain unauthorized access to computer systems for the purpose of stealing and corrupting data. Computer hackers may affect the commercial web-sites or e-mail systems thus paralyzing the entire system.
- **Internet frauds:** Cyber space now provides a wide variety of investment opportunities opening new areas for deceit or fraud. Electronic fund transfer systems have begun to proliferate, hence there is risk of transactions being intercepted or diverted. Valid credit card numbers can be intercepted electronically and the digital information stored on a card can be counterfeited.
- **Money laundering:** is a kind of cyber crime in which money is illegally downloaded in transit. It is a process whereby the origin of funds generated by illegal means is concealed (drug trafficking, gun smuggling etc.). The objective of the operation consists in making the capital and the assets that are illegally gained seem as though they are derived from a legitimate source and inserting them into economic circulation.
- **Stalking:** happens when persistent messages are sent to unwilling recipients thus causing annoyance, worry and mental torture.

- Virus is a computer programme that is able to replicate. It is executable code that, when run by someone, infects or attaches itself to other executable code in a computer in an effort to reproduce itself.
- "New Delhi: The Government-owned Indian Computer Emergency Response Team (CERT-In) has warned of a computer virus, which is activated every third day of a month The Virus, Nyxem attacks Microsoft Windows systems and is propagated in the form of an e-mail attachment. It also spreads through network shares. Upon activation, it replaces the content of user's files and reduces the size of all user data files to IKB" (2006).
- Worm is just a self – propagating virus.
- A Trojan Horse is a programme that performs some undesired yet intended action, while, or in addition to, pretending to do something else.
- Pornography is a general term which can be defined as sexually oriented material intended primarily to arouse the reader, viewer or listener. There are four categories of pornography adult obscenity or hard-core pornography, child pornography, material harmful to minors and indecency. Today internet is turning out to be a nightmare for women and parents of vulnerable children and adolescents. Due to the anonymity offered by the Internet. pornography is thriving. According to researchers, it is the single largest crime in the internet.

Incidence of cases registered under cyber crimes in India during 2010 accounts for 966 and during 2011 it increased to 1791. (Source - NCRB-2011).

Access to e-mail and other internet resources is a necessity for conducting business and accessing information in our daily life. Therefore, we have to learn to protect our systems with effective and available security measures.

(Space for Hints) **7.7 SUMMARY**

Violence in all its forms is all around us. As citizens and criminologists, we must understand the extent and the dynamics of crime, and learn the methods of containing and controlling it. Therefore, we have grouped the various categories of crime into conventional, white-collar, organized and victimless crimes. The nature and dynamics of each category was discussed and an attempt has been made to grasp the crime problem rationally and analytically. It was not the purpose of the lesson to go into the legal aspects of the crimes and familiarize ourselves with the preventive strategies. It will be done elsewhere in this course.

7.8 KEY WORDS

- | | |
|-----------------|--|
| Aggravated rape | - Rape involving multiple offenders, weapons and victim injuries. |
| Arson | - The intentional or negligent burning of a home, structure, or vehicle for criminal purposes. |
| Arson fraud | - A business owner burns his or her property, or hires someone to do it, to escape financial problems. |
| Assault | - An attack that may not involve physical contact. |
| Battery | - A physical attack that includes hitting, punching, slapping or other offensive touching of a victim. |
| Burglary | - Breaking into and entering a home for the purposes of committing a serious crime. |
| Computer crime | - Any violation of law in which a computer is the target or the means. |

Corporate crime	- White-collar crime involving a legal violation by a corporate entity, such as price fixing, restraint of trade or hazardous waste dumping.	(Space for Hints)
Economic crime	- An act in violation of the criminal law that is designed to bring financial gain to the offender.	
Elite deviance	- White-collar and economic crimes	
Embezzlement	- Divert fund fraudulently to ones own use	
Larceny	- Theft of personal property	
Posttraumatic Stress Disorder - (PTSD)	Psychological reaction to a highly stressful event; symptoms may include depression, anxiety, flashbacks and recurring nightmares.	
Shoplifting	- The taking of good from retail stores.	
Stalking	- Repeated physical or visual proximity, unwanted communications and/or threats sufficient to cause fear in a reasonable person.	
Vagrancy	- The crime of being a vagrant or homeless person.	
Victimless crimes	- Crimes that violate the moral order but in which there is no actual victim or target. For example in drug abuse and sex offences, it is society as a whole and not an individual who is considered the victim.	

(Space for Hints) 7.9 ANSWER TO CHECK YOUR PROGRESS

1. Refer 7.1.2
2. Refer 7.2.6
3. Refer 7.3.5
4. Refer 7.4
5. Refer 7.5.5
6. Refer 7.6.6

7.10 MODEL QUESTIONS

Long Answer Questions

1. Explain the nature and types of crimes against women?
2. Write a critical note on either child abuse or child labour.
3. "White-collar crime is more destructive than street crime" - Justify.
4. What are the reasons for communal violence in India?
5. "Caste conflicts cannot be eradicated at all" - do you agree? Give reasons.

Short Answer Questions

1. What is meant by classification of crimes?
2. Write a critical assessment of the Enron case.
3. How far is the media responsible for 'passion' crimes?

Write Short Notes on :

1. Crime typology 2. Cyber crime 3. Vulnerable children

ORGANIZED CRIMES**INTRODUCTION**

We are in the process of completing the crime typologies. In the last lesson, we considered various types of conventional crimes, white-collar crimes, and cyber crimes. In this unit, we shall elaborate what is an organized crime, the nature of victimless crimes and terrorism.

UNIT OBJECTIVES

- ❖ To understand the nature and dynamics of organized crimes.
- ❖ To assess the extent of victimless crimes and status offences.
- ❖ To understand the various types of terrorism and its causes.

UNIT STRUCTURE

Introduction

Unit Objectives

Unit Structure

- 8.1 Organised Crimes
- 8.2 Victimless Crimes
- 8.3 Status Offences
- 8.4 Terrorism
- 8.5 Genocide
- 8.6 Summary
- 8.7 Key words

(Space for Hints) 8.8 Answer to check your progress

8.9 Model Questions

8.1 ORGANIZED CRIMES

We live in an organized society. As good and honest citizens, we expect our needs to be met by the people around us, the organizations, institutions and the State. These bodies may not be able to provide us with all the goods and services that we may need or desire. Under these circumstances, there emerge other parallel groups to provide those goods and services in an illegal way. Both the needy citizens and the organized groups profit by this arrangement. An alternative economy and a parallel organization spring up and flourish.

8.1.1. Organized crime is criminal activity by an enduring structure or organization developed and devoted primarily to the pursuit of profits through illegal means. It has the characteristics of a formal organization:

- ❖ a division of labour,
- ❖ coordination of activities through rules and codes and
- ❖ an allocation of tasks in order to achieve certain goals

Organized crime is an act, which is committed by two or more criminals as a joint venture in an organized manner. It is an illegal act, which the members of an unlawful association commit with consummate skill and mutual cooperation.

8.1.2. Characteristics of Organized Crime

Check Your Progress

1. What are the characteristics of organised crime?

1. It is a conspiratorial activity, well-coordinated, well-planned and well-executed. It is involved in illegal acts or in the pursuit of a legitimate objective by unlawful means.
2. It involves continuous commitment by primary members. Experts could be co-opted as and when needed.

3. It is usually structured along hierarchical line - a boss supported by close advisers, lower subordinates etc. (Space for Hints)
4. The primary goal of organized crime is economic goal. Power and status are the motivational factors. Economic gain is achieved through maintenance of a monopoly on illegal goods and services, including drugs, gambling, pornography and prostitution.
5. Organized crime includes laundering illegal money through legitimate businesses, land fraud and computer crimes.
6. The methods used to achieve their objectives are: intimidation, violence and corruption. It appeals to greed to accomplish its objectives and preserve its gains.
7. Any deviation from anyone of its members will not be tolerated and dealt with speed and efficiency. Depending on the nature of the infringement, it may range from a reduction in rank and responsibility to a death sentence.

8.1.3. Activities of Organized Crime

Some examples of organized criminal activities are:

- ❖ Contract killing
- ❖ Smuggling of gold, silver, drugs or arms
- ❖ Trafficking in illegal immigration and bonded labour
- ❖ Trafficking in women and children and domestic labour
- ❖ Drug trafficking
- ❖ Kidnapping for ransom
- ❖ Extortion
- ❖ Pornography, robbery, dacoity, begging
- ❖ Illicit distillation of liquor, food adulteration and black marketing

- ❖ Video piracy, money laundering
- ❖ Environmental crimes

The list is endless and covers the whole gamut of unmet human needs and wants.

8.1.4. Types of Organized Crimes

1. Organized Predatory Crime

Crimes, which do not involve any service to the affected persons, are called predatory crimes. The, peculiar characteristic of a predatory crime is that the victim is a total loser without any material gain or advantage from the offender. Some of the predatory crimes are theft, extortion, kidnapping and pick- pocketing. Terrorism has, of late been added to this list as an organized form of predatory crime.

2. Crime Syndicate

The term syndicate refers to a gang of criminals engaged in the business of providing some forbidden or illegal service to the customers who are desirous of having it and are willing to pay handsomely for that service. Gambling, bootlegging, commercialized prostitution, supply of narcotic drugs and other intoxicants are mostly carried on by the syndicates of criminals. These syndicates are master-minded by highly skilled and professional gang leaders. They remain for the most part of their career immune from prosecution and punishment.

3. Criminal Racket

Racketeering is the practice of systematic extortion under some kind of threat usually of personal injury or damage to property. It is a crime in which the criminal elements perform a service to such members of society who normally engage in some legitimate business activity. It differs from an organised predatory crime because some kind of service is essentially involved in it and therefore, it is not completely exploitative. It also differs from a criminal syndicate because the service involved in a racket is rendered to those who are normally engaged in legitimate activities while in case of syndicate the service is altogether illegal and prohibited.

Politicians generally seek the services of powerful criminal gangs and use their services to achieve their political ends. This practice is commonly known as 'political graft'. Increasing nexus between the politicians and the organized underworld has unfortunately, become a bane of our political process.

8.1.5. Controlling Organized Crime

Since organized crime employs ruthless monopolistic tactics to maximize its profits and discipline its members and is secretive, protective of its operations and defensive against any outside intrusion, it is difficult to control its activities. The well known nexus between politicians and organized crime makes it almost impossible to curb or stop their activities effectively. Moreover, it is immune from prosecution because of public sympathy and co-operation. Organized crime is lucrative and profit-making. As long as such huge profits can be made through this business, illegal enterprises will continue to flourish.

The Supreme Court in its recent judgement while rejecting bail to accused in organised Crime who was arrested under the Maharashtra control of organised Crime Act, observed, "Organised crime has for quite some years now come up as a very serious threat to our society. It knows no national boundaries and is fuelled by illegal wealth generated by contract killings, extortion, smuggling in contrabands, illegal trade, in narcotics, kidnappings for ransom, collection of protection money and money laundering. The illegal wealth and black money generated by the organised crime being very huge, it has had a serious adverse effect on our economy". Further the Bench (Justices P. Sathasivam and Ranjan Gogoi) added, "It was seen that the organised criminal syndicates made a common cause with terrorist gangs and foster terrorism which extend beyond the national boundaries. There was reason to believe that organised criminal gangs in the state (Maharashtra) and, thus, there was immediate need to curb their activities". (The Hindu dated 25.10.2012).

8.2 VICTIMLESS CRIMES

A victimless crime is an offence that is consensual and lacks a complaining participant. Edwin Schur first used the term 'crimes without victims' in 1960 to refer to drug addiction, homosexuality and abortion. They are also known as 'Public Order Crimes'. Public Order Crimes involve acts that interfere with the operations of society and the ability of people to function efficiently. Acts that are believed to be extremely harmful to the general public are usually outlawed; those that may only harm the actor are more likely to be tolerated.

Criminologists have catalogued the victimless crimes as abortion, homosexuality, drug addiction, gambling, smoking, using narcotics, fornication, loitering, public drunkenness, and pornography. Status offences are also considered victimless crimes.

8.2.1. Homosexuality

Homosexuality refers to erotic interest in members of one's own sex. Engaging in homosexual behaviour does not necessarily mean one is a homosexual. People may engage in homosexuality because heterosexual partners are unavailable. Some may have sex forced upon them by aggressive homosexuals, a condition common in prison. Some adolescents may experiment with partners of the same sex although their sexual affiliation is heterosexual. Finally, it is possible to be homosexual but not to engage in sexual conduct with members of the same sex. A homosexual is one "who is motivated in adult life by a definite preferential erotic attraction to members of the same sex and who usually (but not necessarily) engages in overt sexual relations with them".

8.2.2. Prostitution

Prostitution has been known for thousands of years. Modern commercial sexual transaction has three aspects:

1. An activity that has sexual significance for the customer.
2. Economic transaction.

Check Your Progress

2. What meant by Victimless Crime?

3. Emotional indifference: the interaction has nothing to do with affection for each other. (Space for Hints)

Prostitution today is considered by many as a service occupation not different from other service occupations. Prostitutes are now called as sex workers.

8.2.3. Pornography

Many book stores and video parlours display and sell books, films and tapes depicting every imaginable explicit sex act. The internet too offers such a possibility. The purpose of these materials is to provide sexual titillation and excitement for paying customers. Especially school and college-going youth easily fall a prey to these temptations.

8.2.4. Substance Abuse

Drug abuse is a major problem among the youth, especially in the cities. They seem to believe that the use of chemical substances provides relief and stimulation at least for some time, and eventually helps them face the harsh realities of life. Because of the destructive effects of drug and alcohol addiction, some sociologists strongly feel that substance abuse should be removed from the categorization of a victimless public order crime.

Drug and alcohol abuse have been linked to criminality. Many research findings show that many drug users have had a history of criminal activity before the onset-of their substance abuse. On the contrary, it is true that substance abuse also has led to a life of crime. So far, there is no conclusive proof of causality for drug crime connection.

8.3. STATUS OFFENCES

They are violations of accepted customs or standards of society. Status offences have become an inseparable adjunct and a normal phenomenon of modern society. They include beggary and vagrancy, prostitution, lottery, bootlegging, rag pickers, hawkers, pavement shopkeepers.

(Space for Hints) 8.3.1. Beggary and Vagrancy

Begging means soliciting alms in public places. The beggars can be classified as :

- Child beggars and vagrants
- Disabled and diseased beggars
- Professional beggars
- Insane and mentally retarded beggars
- Casual beggars

8.3.2. Bootlegging

This is most prevalent among the lower economic sections of society. For many of them illicit liquor is the main source of livelihood. Besides poverty and lack of other gainful employment, the connivance of the law enforcing authority with the illicit liquor traders encourage this trade.

8.3.3. Gambling

Gambling, betting and lottery have drained out the mental peace and happiness of many poor households. Becoming rich within a short time without much effort allures many to take up these practices. Soon they find themselves addicted to them and unable to extricate themselves. Gradually they destroy their lives and ruin their families.

8.4 TERRORISM

Terrorism is violence against innocent civilians that is designed to have a psychological impact on a broader audience in order to achieve a political, messianic or vengeful goal. It is the illegal use of force, premeditated, politically motivated violence perpetrated against noncombatant targets by clandestine agents, usually intended to influence an audience, against innocent people.

Terrorism is defined in the Prevention of Terrorism Ordinance 2002, (Space for Hints)
Section 3 (l) as

"Whoever with the intent to threaten the unity, integrity, security or sovereignty of India or to strike terror in the people does any act by using bombs or other explosives or by any other substances in such a manner as to cause or likely to cause death of or injury to persons or destruction of any property or equipment for the defence of India or is continuing to be a member of an association declared unlawful under the Unlawful Activities (Prevention) Act 1967 and is in possession of fire arms, explosives etc. commits any act resulting in loss of human life or grievous injury to any person or causes significant damage to any property commits a terrorist act."

8.4.1. Causes of Terrorism

1. **Self-esteem Regained** : A terrorist act reinstates and reaffirms his/her battered self-image and shattered self-respect by the socio-political forces in his/her life. A sense of power over so many people grips and exhilarates the terrorist.
2. **Identity Merger** : A terrorist while acting as an individual loses his individuality and personal identity and becomes dissolved into the collective identity of the ideological group.
3. **Establishing intimacy** : By terrorizing, the terrorist enforces recognition and subjectively feels a sense of intimacy with his victim.
4. **Mystique of Violent Power** : Through his action. the terrorist unleashes superhuman power onto the scene of crime. This is almost like magic a single individual belonging to a group of committed persons for a cause is able to unleash enormous damage to supposedly powerful and well-protected people, including civilians. The terrorist is transformed and acts in a frenzy, as if possessed by diabolical powers.

Check Your Progress

3. Examine the causes of Terrorism.

1. Age : The usual urban terrorist was between 22 and 25. Although terrorist cadres continue to fall into the early and mid-twenties, the leadership level of many terrorist organizations is usually much older.

2. Sex : Although women have functioned in a secondary role, they have occupied a very important position within the group.

3. Marital Status : "The unmarried terrorist is still the rule rather than the exception. Requirement for mobility, flexibility, initiative, security and total dedication normally dictate single status for virtually all operational terrorist cadres.

4. Rural/Urban : Most urban terrorists are natives or long-time residents of metropolitan areas, particularly the cities in which they operate.

5. Socio-economic Background : Most of them seem to belong to middle-class or even upper-class background.

6. Education / Occupation: As might be anticipated the vast majority is quite well educated. In fact, approximately two-thirds, are persons with some university training, university graduates and undergraduates.

7. Terrorist groups are usually led by a charismatic figure who personifies the vision of the group.

8. Terrorists crave for publicity through exposure in the press and television.

9. The terrorist is not aware of love or hate towards his victim. After killing he feels neither remorse nor guilt towards his victim.

8.4.3. Terrorists and the Media

Terrorists are very keen to attract the attention of the media to get as much publicity as possible.

"Terrorists choreograph their violence to enhance its newsworthiness, choosing a well-known victim, timing an act to coincide with an anniversary or

widely watched event, or picking a location where news coverage will be more intensive. One terrorist describes this process as follows: **(Space for Hints)**

“We give the media what they need newsworthy events. They cover us, explain our causes and thus unknowingly, legitimize us You must understand : the media are very interested in our actions. They look for contacts with us, they try to get information from us and they are eager to report everything we do or say ... Take for example the new agencies - within half an hour after calling them and briefing them. which we did quite often, you are in the headlines all over the world ... All you need is one phone call, a threat or a declaration” (Conklin p.57).

8.4.4. The Al Qaeda

The Al Qaeda is an international network. Its core members are estimated to be 200 to 300. As and when needed, new recruits and additional members are recruited and trained. For them, there are no national borders. They are really a global network. In one, country they may have explosive materials; support bases in another country, electronic support system in yet another and financial sources still in another. The structure of this organization is apparently constantly shifting in order to evade detection. It is said that the war in Afghanistan dispersed the members around the globe, thus making it an alliance of locally based terrorists.

The method of recruitment is varied:

- From the pious pilgrims to the holy sites in Saudi Arabia;
- Recruited by the Islamic radicals in French prisons;
- Through mosques and dissident groups in England.

After recruitment, they are sent to terrorist training camps and dispersed all over the globe. They are well connected through cell phones, e-mails and internet chats. The members adapt themselves to the neighbourhood in which they live, but at the same time are careful not to move freely. Occasionally they commit profitable crimes. They mask their identities with false documents. They may even hold jobs.

(Space for Hints)

Of the nineteen hijackers who died on September 11th 2001, fifteen were natives of Saudi Arabia. The majority came from well-to-do rural families. They were initiated in their mission in Hamburg, Germany, atleast two years earlier. From there they were sent to the USA. There, they formed a well-coordinated group. It consisted of four layers:

1. The Mastermind and three other leaders: These were responsible to choose the dates or the attack, and they actually flew the plane.
2. A support staff of three who would take care of the details like renting living quarters, securing driving licences and allocating finances to the teams.
3. The third and last group consisted of 12 members, whose main responsibility was to restrain the flight attendants and passengers.

8.5 TYPES OF TERRORISM

1. **Revolutionary terrorists:** Revolutionary terrorists use violence to frighten those in power and their supporters. The ultimate goal of these acts is to replace the existing government with a regime that holds acceptable political or religious views.
2. **Political terrorists:** This is directed at people or groups who oppose the terrorists' political ideology or who the terrorists define as 'outsiders' who must be destroyed.
3. **Nationalist terrorism :** It promotes the interests of a minority ethnic or religious group that believes it has been persecuted under majority rule and wishes to carve out its own independent homeland.
4. **Cause-based terrorism :** Some terrorists direct their terrorist activities against individuals and/or governments to whom they object. They espouse a particular social or religious cause and use violence to attract followers to their standard.

- 5. State-sponsored terrorism :** It occurs when a repressive government regime forces its citizens into obedience, oppresses minorities and stifles political dissent e.g. death squads, genocide. (Space for Hints)
- 6. Criminal terrorism :** Sometime terrorists become involved in common-law crimes such as drug dealing and kidnapping to fund their activities.

For example in Kadappa : “In the biggest-ever offensive against naxalites in Kadappa district, nine members of the CPI (Maoist), including some women, were shot dead by a combined team of Greyhounds and special police parties deep inside a forest on the border of Kadappa and Chittoor districts on Friday (28.04.2006) The police recovered from the scene of the encounter Rs.3.50 lakhs in cash and a large cache of arms and ammunition - including two self-loading rifles, one sten gun, one 303 rifle, one pistol, three single barrel guns. Three Claymore mines and a tin bomb. As many as 30 kit bags. one night vision camera, two electric wire bundles. Six water drums and revolutionary literature and provisions were recovered”. Let us see few more instances.

Vijayapuri South (Guntur District) : “On a day of fast-paced developments, five Maoists hijacked two motorized launches along with nine crew members from Nagarjunakonda. but four of them were killed in an encounter in Mahabubnagar district on Sunday (30.04.06)”.

New Delhi : “Naxal groups have been attempting to increase their activity and influence in some parts of Karnataka, Kerala, Uttaranchal and Tamil Nadu, a concern voiced by the high-level Standing Committee of Chief Ministers, of States hit by naxal violence”.

(Space for Hints)

Jagdalpur/Raipur : More than 2500 armed rebels besieged Usurp village of about 3000 people near the Andhra Pradesh border since Tuesday (18.04.06) morning in retaliation for tribals' support to the ongoing anti-naxalite 'Salwa Judum' campaign".

New Delhi : "The naxalite movement is now characterized by superior army style operations, better coordination and trained cadres, attacks on large targets through large-scale frontal assaults and possible external links. Hence, the affected States must set up unified commands and undertake joint operations to fight the menace". Prime Minister Manmohan Singh.

Islamabad : "Terrorism is the main issue that will figure in the talks on Tuesday (30.05.06) between the Home Secretary and Pakistan's Interior Secretary. The main agenda for the talks is addressing the problem of terrorism and all related issues. We will also discuss the drug and narcotics trade and all related issues".

8.6 GENOCIDE

Twentieth century was not only known for its world wars, but also for the systematic and focused eradication of certain groups of people, because they were members of a particular race, religion, ethnic group, nationality, opposing political ideology etc. In the recent past, genocide has also left its mark in our country too. Will twenty-first century be free from such diabolical and inhuman misadventures?

Genocide appears to be a regular and widespread event in the history of civilization. Determining which historical events constitute genocide and which are merely criminal or inhuman behaviour is not a clear-cut matter. Furthermore, in nearly every case where accusations of genocide have circulated, partisans of various sides have fiercely disputed the interpretation and details

of the event, often to the point of promoting wildly different versions of the facts. An accusation of genocide is certainly not taken lightly and will almost always be controversial. (Space for Hints)

8.6.1. Genocide - Definition

Genocide is defined by the U.N. General Assembly's Convention on the Prevention and Punishment of the Crime of Genocide (CPPCG), on 12th January 1951 in Article 2 as "any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such", -

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

8.6.2. Stages of genocide and efforts to prevent it

Genocide is said to develop in eight stages that are "predictable but not inexorable". The FBI has found somewhat similar stages for hate groups.

Stage	Characteristics	Preventive measures
1. Classification	People are divided into "us and them".	"The main preventive measure at this early stage is to develop universalistic institutions that transcend .. divisions."

Check Your Progress

4. What is Genocide?

(Space for Hints)

2. Symbolization	"When combined with hatred, symbols may be forced upon unwilling members of victimized groups ... "	"To combat symbolization, hate symbols can be legally forbidden ... as can hate speech".
3. Dehumanization	"Dehumanization overcomes the normal human revulsion against murder."	"Hate propaganda should be banned, hate crimes and atrocities should be promptly punished."
4. Organization	"Genocide is always organized ... Special army units or militias are often trained and armed ... "	"To combat this stage, membership in these militias should be outlawed."
5. Polarization	"Hate groups broadcast polarizing propaganda."	"Prevention may mean security protection for moderate leaders or assistance to human rights groups "
6. Identification	"Victims are identified and separated out because of their ethnic or religious identity ... "	"At this stage, a <i>Genocide Alert</i> must be called ..."
7. Extermination	"It is "extermination" to the killers because they do not believe their	"At this stage, only rapid and overwhelming armed intervention can stop genocide. Real safe areas

	victims to be fully human."	or refugee escape corridors should be established with heavily armed international protection."	(Space for Hints)
8. Denial	"The perpetrators ... deny that they committed any crimes ..."	"The response to denial is punishment by an international tribunal or national courts."	

As students of Criminology, we must grasp the process and product of genocide and collaborate with human rights groups to prevent and root out genocide from our midst.

8.7 SUMMARY

A study of the crime typologies reveals a wide variety of crimes committed by human beings - as individuals, groups, institutions, organizations and nations. No culture, continent and country seem to be immune from criminality. State legislatures try to make appropriate laws to curb and contain criminal behaviour and thus to help establish peace and harmony among the citizens. But legal measures alone will not suffice to bring about a world without crimes. Personal responsibility, social sensitivity and belief in human values should be instilled into the people from childhood onwards. Elders and leaders from all walks of life should be role models for others to follow.

8.8 KEY WORDS

- Organized crime - Illegal activities of people and organizations.
- Pornography - Sexually explicit books, magazines, films or tapes.
- Terrorism - The illegal use of force against innocent people to achieve a political motive.
- Vagrancy - The crime of being a homeless person.

(Space for Hints)

Victimless crimes

-

Crimes that violate the moral order but in which there is no actual victim or target.

8.9 ANSWER TO CHECK YOUR PROGRESS

1. Refer 8.1.2
2. Refer 8.2
3. Refer 8.4.1
4. Refer 8.6.1

8.10 MODEL QUESTIONS

Long Answer Questions

1. Define organized crime and bring out its characteristics.
2. Enumerate the types of organized crimes, with suitable examples.
3. 'Crimes without victims' - explain with examples.

Short Answer Questions

Write a note on :

1. Terrorism
2. Genocide
3. Racketeering

CRIMINAL TYPOLOGY - I**INTRODUCTION**

The aim of the study of Criminology is to understand the phenomenon of crime and criminal behaviour, to help reduce crime, reform or rehabilitate the criminal and bring order and harmony in society. As a first step towards this goal, Criminologists attempt to classify and analyse the crime and the offenders. In this unit we shall define what a criminal typology is and present some of the generic and specific typologies available in the criminological and legal literature.

UNIT OBJECTIVES

- To understand the nature of criminal typology and the need for it.
- To have a clear concept about the various criminal typologies presented in the unit.

UNIT STRUCTURES

Introduction

Unit Objectives

Unit Structure

- 9.1 Criminal Typology
- 9.2 Specific Typology
- 9.3 Summary
- 9.4 Key words
- 9.5 Answer to check your progress
- 9.6 Model Questions

9.1 CRIMINAL TYPOLOGY

In the process of studying crime and criminology, criminologists often try to group them together into particular categories, called typology. The objective of such a method is to deepen our knowledge and increase our understanding of criminal behaviour, leading to a better crime control and effective treatment of criminals. This categorization can be done on the basis of legal definitions and the collective goals, objectives and consequences of offences and offenders. There are two types of classification: (1) Generic and (2) Specific.

9.1.1. Generic:

Under the Indian Penal Code, 1860 the offenders are classified as those who have committed, -

- offences against property
- offences against person
- offences against public tranquility
- Offences against state
- Offences affecting mental disorder
- Offences relating to documents.

9.1.2. Another classification of offenders found in criminological literature is :

- **Legal offenders** : those who commit conventional crimes such as theft, robbery, dacoity, rape, hurt and rioting.
- **Political offenders** : those who commit politically motivated crimes such as violation of the election laws, or norms set out for politicians for their political activities.
- **Economic offenders** : those who commit white - collar offences such as tax evasion, smuggling, foreign exchange violations etc.

- **Social offenders** : those who commit crimes under social legislations (Space for Hints) like, Protection of Civil Rights Act, 1955, Dowry Prohibition Act, 1961, Domestic Violence Act, etc.

9.1.3. There is yet another classification of offenders :

- Persons who commit crime due to need
- Persons who commit crime due to an opportunity
- Persons who commit crime by imitation or association
- Persons who commit crime just for the fun of it
- Persons who commit crimes of tradition
- Persons who commit crime by habit
- Persons who commit crime as a profession

9.1.4. From the point of view of treatment and correction, we can classify the offenders as:

- Psychotic and neurotic offenders who need treatment more than any punishment.
- Hardened and habitual offenders who need to be reformed while being punished.
- White collar criminals who need to be punished without any treatment.
- The first offenders, traffic law violators etc. who need neither punishment nor treatment, but simply warning or release on probation.

9.1.5. Occasional Offenders

The majority of economic crimes are the work of amateur criminals whose decision to steal is spontaneous and whose acts are unskilled, impulsive and haphazard. Occasional property crime occurs when there is an opportunity or situational inducement to commit crime. Situational inducements are short-term

(Space for Hints) influences on a person's behaviour that increase risk-taking. Opportunity and situational inducements are not the cause of crime; rather, they are the occasion for crime, hence the term occasional criminal. Occasional offenders are not professional criminals, nor do they make crime their occupation. They do not rely on skills or knowledge to commit their crimes, and they are not committed to crime as a way of life. Occasional offenders may be the most likely to respond to the general deterrent effect of the law.

9.1.6. Professional Criminals

In contrast to occasional criminals, professional criminals make a significant portion of their income from crime. They engage in crimes that produce the greater losses to society and perhaps cause the more significant social harm. In his classic works, Sutherland used the term to refer only to thieves who do not use force or physical violence in their crimes and who live solely by their wits and skill. However, some criminologists use the term to refer to any criminal who identifies with a criminal subculture, who make the bulk of his or her living from crime, and who possesses a degree of skill in his or her chosen trade.

Professional criminals must acquire status in their profession. Status is based on their technical skill, financial standing, connections, power, dress, manners and wide knowledge base. They enjoy the same internal organization as that characterizing such legitimate professions as advertising, banking, teaching or police work.

The Professional offender is some one who earns his or her livelihood solely by buying and reselling stolen goods. A significant portion of all fencing today is performed by occasional criminals.

Check Your Progress

1. Who is an Occasional Offenders?

Professional burglars use the title 'good burglars' to characterize colleagues who have distinguished themselves as successful burglars. Characteristics of the good burglar include : (1) technical competence, (2) maintenance of personal integrity, (3) specialization in burglary, (4) financial success and (5) the ability to a voice prison sentences.

9.1.7. Chronic Offenders

(Space for Hints)

A chronic offender is a person who has violated the law frequently. Criminologists define 'frequently' in various ways, with some classifying offenders as chronic if they commit three or more serious crimes, and others requiring nine or more convictions. Similar to the chronic offender is the Serious and Violent Juvenile (SVJ) offender. They are juveniles who have committed one or more of the following crimes: homicide, voluntary manslaughter, rape or attempted rape, robbery, aggravated assault, arson of an occupied building or kidnapping. They are usually male, and have early behavioural problems such as trouble at school, substance abuse precocious sexual behaviour and mental health problems.

9.1.8 Violent Offenders

A great percentage of offenders are covered in this category. They use violence in the process of committing offences like rape, homicide, assault, robbery, hate crime, domestic violence, child abuse and terrorism. What sets off a violent person? Some experts suggest that a small number of inherently violence-prone individuals may themselves have been victims of physical or psychological abnormalities. Another view is that violence and aggression are inherently human traits that can affect any person any time. There may be violence-prone sub-cultures within society whose members value force, routinely carry weapons and consider violence to have an acceptable place in social interaction.

9.2 SPECIFIC TYPOLOGY

This is done by categorizing the types within a particular criminal behaviour.

9.2.1. Types of Robbers

1. **Professional Robbers** : Those who have a long-term commitment to crime as a source of livelihood. Planning and skills are the

trademarks of the professional robber, who usually operates in groups with assigned roles.

2. **Opportunist Robbers** : Those who steal to obtain small amounts of money when an accessible target presents itself. They do not plan their crime. They are seldom organized and spend little time discussing weapon use, getaway plans or other strategies. They are what we otherwise call 'petty thieves'.
3. **Addict Robbers** : Those who steal to support their drug habits. They have a low commitment to robbery because of its danger but a high commitment to theft because it supplies needed funds. The addict is less likely to plan crime or use weapons than the professional robber but is more cautious than the opportunist.
4. **Alcoholic Robbers** : Those who steal for reasons related their excessive consumption of alcohol. They steal (1) when, in a disoriented state, they attempt to get some money to buy liquor or (2) when their condition makes them unemployable and they need funds. They plan their crimes randomly and give little thought to their victim, circumstance, or escape. For that reason, they are the most likely to be caught.

A few Criminologists observe that most robbers, except the most inebriated, are rational decision-makers. Even when they are opportunistic or steal to support a drug habit. there is some planning involved.

9.2.2. Types of Rapists

Check Your Progress

2. What are the various types of Robbers?

One of the best-known attempts to classify the personalities of rapists was made by psychologist A. Nicholas Groth, an expert on classifying and treating sex offenders. According to him, every rape encounter contains at least one of these three elements: anger, power and sadism. Consequently, rapists can be classified according to one of these three dimensions.

1. In **anger rape**, the rapist uses far more brutality than would have been necessary if his real objective had been simply to have sex with his victim. His aim is to hurt his victim as much as possible. (Space for Hints)
2. In **power rape**, the attacker does not want to harm his victim as much as he wants to possess her sexually. His goal is sexual conquest.
3. **Sadistic rape** involves both sexuality and aggression. The sadistic rapist is bound up in ritual he may torment his victim, bind her and torture her. He gets satisfaction from abusing, degrading and humiliating his captive.

9.2.3. Types of Killers

a. Serial Killers

1. Thrill killers strive for either sexual sadism or dominance. This is the most common form of serial murderer.
2. Mission Killers want to reform the world or have a vision that drives them to kill.
3. Expedience Killers are out for profit or want to protect themselves from a perceived threat.

b. Mass Murderers

1. Revenge Killers seek to get even with individuals or society at large. Their typical target is an estranged wife or an employer.
2. Love Killers are motivated by a warped sense of devotion. They are often despondent people who commit suicide and take others, such as wife and children, with them.
3. Profit Killers are usually trying to cover up a crime, eliminate witnesses and carry out a criminal conspiracy.

(Space for Hints)

4. Terrorist Killers are trying to send a message. Gang killings tell rivals to watch out; cult killers may actually leave a message behind to warn society about impending doom.

9.2.4. Types of Terrorists

Revolutionary Terrorists : They use violence to frighten those in power and their supporters. They use kidnapping, assassination, and bombings to draw repressive responses from governments.

Political Terrorists : This is directed at people or groups who oppose the terrorists political ideology or whom the terrorists define as 'outsiders' who must be destroyed. Political terrorists tend to be heavily armed, organized around such themes as racist supremacy or religious revisionism.

Nationalist Terrorists : This type promotes the interests of a minority ethnic or religious group that believes that it has been persecuted under majority rule and wishes to carve out its own independent homeland.

Cause-based terrorists : Some terrorists, such as Al-Qaeda organization, direct their terrorist activities against individuals and/or governments to whom they object. They espouse a particular social or religious cause and use violence to attract followers to their standard. The new generation of value oriented terrorists is especially frightening because they have no need to live to enjoy the fruits of their victory. They do not hope to regain a homeland or a political voice; hence, they are willing to engage in suicide missions to achieve their goals.

Criminal terrorists : Sometimes terrorist groups become involved in common-law crime such as drug dealing and kidnapping to fund their activities. In some cases there has been close cooperation between organized criminal groups and guerillas.

**Check Your
Progress**

3. Who is a
Political
Terrorists?

Regardless of why people commit crime, their actions are defined by law as falling into particular crime categories or typologies. Besides, Criminologists often seek to group individual criminal offenders or behaviours so they may be more easily studied and understood. These are referred to as offender typologies. We have seen how the offenders are categorized generically and specifically. Any classification is useful only in so far as it helps to plan and execute suitable, effective, and fruitful reform and rehabilitation measures for the offender and lead to harmony and peace in society.

9.4 KEY WORDS

- | | | |
|------------------------|---|---|
| Career criminal | - | A person who repeatedly violates the law and organizes his or her lifestyle around criminality. |
| Chronic offender | - | A delinquent offender who is arrested five or more times and subsequently becoming an adult criminal. |
| Situational Inducement | - | Short-term influence on a person's behaviour, such as financial problems or peer pressure that increases risk-taking. |
| Professional Criminals | - | Offenders who make a significant portion of their income from crime. |
| Professional Fence | - | An individual who earns his or her living solely by buying and reselling stolen merchandise. |

9.5 ANSWER TO CHECK YOUR PROGRESS

1. Refer 9.1.5
2. Refer 9.2.1
3. Refer 9.2.4

9.6. MODEL QUESTIONS

Long Answer Questions

1. What is criminal typology and what are the Classifications?
2. Bring out the salient features of the generic typology of criminals.
3. Describe anyone of the specific typologies and critically comment on it.

Short Answer Questions

1. Who is a Chronic Offender?
2. What are the various types of terrorists?

UNIT – 10

FEMALE OFFENDERS AND JUVENILE DELINQUENTS

INTRODUCTION

Age and gender play a key role in understanding crime and criminality. In a country like India where women form a significant part of the population and the work force and influence the formation of children to become law-abiding and contributing members of society, we need to pay attention to female offenders in a special way. So also, the juvenile offenders pose a special challenge to the law enforcement agencies and the general public. They are the future citizens of India who have the responsibility to carry on our tradition forward and to shoulder the burden of building up a modern and vibrant India of the twenty-first century.

UNIT OBJECTIVES

- To understand the nature and types of female criminality
- To understand the nature and types of juvenile delinquency

UNIT STRUCTURE

Introduction

Unit Objectives

Unit Structure

10.1 Female Offenders

10.2 Juvenile Offenders

10.3 Juvenile Justice Act, 2000

10.4 Differences between Juvenile Justice and Adult Criminal Justice System

(Space for Hints) 10.5 Development of a Delinquent Career

10.6 Different types of Juvenile Gangs in Chennai

10.7 Summary

10.8 Key words

10.9 Answer to check your progress

10.10 Model Questions

10.1 FEMALE OFFENDERS

10.1.1. Women and Crime

It is an observed fact that women do commit crimes, that these crimes are committed by a disproportionately less number of women, and that the crime rate among women is much less compared to that of men. What is the reason for this fact?

10.1.1.1. Masculinity Hypothesis.

Early Criminologists pointed to the emotional, physical and psychological differences between men and women to explain the differences in crime rates. Cesare Lombroso argued in his book 'Female Offender' (1895) that a small number of female criminals lacked 'typical' female traits of 'piety, maternity, undeveloped intelligence and weakness." Essentially, a few 'masculine' women were responsible for the crimes women commit. This theory is known as the masculinity hypothesis.

10.1.1.2. Chivalry Hypothesis

This view held that low female crime and delinquency rates are a reflection of the leniency with which police and the correctional administrators treat female offenders. Police are less likely to arrest them, juries are less likely to convict and judges are less likely to imprison female criminals. It was because of our culture's protective and benevolent attitude toward women in general.

10.1.1.3 Harmonal Hypothesis

(Space for Hints)

Some Criminologists link antisocial behaviour to hormonal influences. Biosocial theorists maintain that there is an association between violent behaviour and hormone levels. They suggest that abnormal levels of male sex hormones (androgens) do in fact. produce aggressive behaviour. Gender differences in the crime rate, therefore, may be explained by the relative difference in androgens between the two sexes. Females seem to be biologically 'protected' from deviant behaviour through this mechanism.

Is there a link between premenstrual syndrome and aggression? Diana Fishbein, a noted research scholar on biosocial theory, after studying the criminal life history of women prisoners, concludes

- a) that a significant number of women prisoners committed their crimes during the premenstrual phase, and
- b) that at least a small percentage of women appear vulnerable to cyclic hormonal changes, which make them more prone to anxiety and hostility .

10.1.1.4. Socialization

By the mid-1900s Criminologists ascribed gender differences in the crime rate to the process of socialization. Most girls are socialized to be less aggressive than boys and are supervised more closely by parents. As a result, girls develop moral values that strongly discourage antisocial behaviour. These values help shield them from the influence of delinquent peers. The relatively few women who commit violent crimes report having home and family relationships that are more troubled than those experienced by male delinquents.

10.1.1.5. Feminist Views

In the 1970s liberal feminist theory focused attention on the social and economic role of women in society and its relationship to female crime rates. The lower crime rate for women could be explained by their 'second-class' economic and

Check Your Progress

1. What are the various types of Women Offenders?

(Space for Hints) social position. As women's roles in society change and their lifestyles become more like those of males, their crime rates may converge. At this time, Criminologists began to refer to the 'new female criminal'. During the 1960s and 1970s there was a rapid increase in the female crime rate, especially in what had traditionally been male-oriented crimes - such as burglary and larceny. Criminologists began to pay more attention to the association between economic issues, gender roles and criminality.

10.1.1.6. Types of women offenders

What Barbara Owen wrote about the women criminals in the USA can be well applied to the women criminals in India," Females tend to commit survival crimes, fed by a drug-dependent life and escape brutalizing conditions and relationships". Perhaps we can substitute 'fed by a drug-dependent life' by fed by oppressive social traditions and drugged by certain religious practices'.

We can classify women offenders as follows:

1. Persons who commit crime due to need.
2. Persons who commit crime due to an opportunity.
3. Crime by imitation or association.
4. Crime by habit.
5. Crimes of tradition.
6. Crime by conviction and commitment to social change.
7. Crime as a profession.

While it is true that most of the women offenders fall in the first five categories, that is, those who commit crime due to need and opportunity, by association, habit and tradition, there are certain others who take up to arms like the naxalites and terrorists who are led to a life of violent crime because of their conviction and commitment to a cause. According to National Crime Record Bureau 2010 report, women formed 4.1% of the total prisoners. There were

4632 women convicts (428 with 497 children) and 10252 undertrials (1063 with 1166 children). There were 34 deaths of women inmates in 2010 of which 5 were suicides. (Space for Hints)

Naxal Woman

Naxal leader Sabita Kumari, 22, speaks with no remorse about the five murders she has committed . "I will murder at least a 100 if I remain alive for another 100 years", she says, As with most of her Naxal comrades, Sabita was forced to take up arms after her 'oppressors' - money-lenders of her native village Pabira in Jharkand - murdered her two young sisters and then seized her ancestral land with police help. She recalls, "When I went to the police station to seek justice, the officer-in-charge demanded sex in return. So I decided to seek justice on my own."

Sabita is a hard-core Naxal who had a hand in hacking to death 13 policemen at the Topchanchi station, Dhanbad, on October 31, 2001. Last year, Sabita was part of the squad that broke into the Jehanabad jail, killing 12, to free 340 comrades. Sabita, a member of a 12-member armed squad is a graduate from a college in Daltonganj and speaks a bit of English. "Sabita is not my real name; it is my party name", she says. Pointing to a one-eyed man she continues: "He is our commander. There are three women in our squad. We eat together, move together and sleep together. We don't have a physical relationship because we have no time to think about it."

Sabita's parents had hoped she would become a teacher. But fate decided otherwise. Ask her about her marriage and she says: "Why would I marry? My mission is to establish the rule of the people in India". (The Week, 11.06.2006)

10.2 JUVENILE OFFENDERS

10.2.1. Deviance

Sociologists define deviance as any behaviour that members of a social group define as violating their norms. This concept applies both to criminal acts of deviance and non-criminal acts that members of a group view as unethical, immoral, sick, unacceptable or otherwise outside the bounds of respectability. Both legal and cultural norms are included in this concept. The legal norm states which type of behaviour is forbidden by law, while the cultural norm indicates which kind of behaviour is in contradiction with the value demands of the dominant culture within which a child or an adolescent moves.

10.2.2. Delinquent

Juvenile delinquency is easily described than defined, since it may 'morally mean one thing; legally, something else; practically a third thing; and statistically still a fourth'. According Cyril Burt, "a child is to be regarded as technically a delinquent when his antisocial tendencies appear so grave that he becomes or ought to become the subject of official action". A delinquent act is a resultant of a dynamic life process and cannot be understood from the standpoint of its overt expression alone; rather, it should be looked at from the point of view of a person's successive social experiences and motivation.

10.2.3. Juvenile Delinquent

Taking into consideration the legal, social and psychological aspects of delinquency, we can define the juvenile delinquent as "any child whose repetitive behaviour, contrary to law or damaging to himself or to others, reflects a breakdown in the child's personality". The seriousness of the behaviour, its frequency and the attitude of the offender toward a lawfully constituted society should form a holistic definition of a delinquent. The word "juvenile" legally means a person less than eighteen years and the word 'delinquency' denotes crime or misdeed. The term 'juvenile delinquency' refers to a large variety of disapproved behaviours of children and adolescents, which society does not approve of and for which some kind of admonishment or corrective measure is imposed in the public interest.

**Check Your
Progress**

2. Who is a delinquent?

Juvenile delinquency laws contain many acts which if committed by adults (Space for Hints) are not criminal acts. At times they are considered as socially acceptable acts if committed by adults. Therefore we can say that the concept of juvenile delinquency has a very wide and extensive meaning. It includes within its definition acts such as begging, vagrancy, obscenity, loitering, pilfering, drinking, gambling etc., A juvenile is an adolescent person between childhood and manhood or woman, as the case may be, who indulges in some sort of antisocial behaviour, which if not checked, may turn him into a potential offender. If we consider the law of American States, they contain a variety of acts generally prohibited. Every State does not prescribe all the act. Each state may prescribe eight or nine acts from the list.

1. Absenting oneself from home without permission.
2. Engaging in illegal occupation.
3. Begging or receiving alms.
4. Growing up in idleness or crime.
5. Habitually using vile, obscene or vulgar language in public place.
6. Habitually remaining truant from school.
7. Habitually wandering about railroad yards and tracks.
8. Incurigibles.
9. Immoral conduct around school.
10. Immoral or indecent behaviour.
11. Jumping into trains or entering cars or engines without authority.
12. Knowingly entering or visiting houses of ill-repute.
13. Knowingly associating with vicious or immoral persons.
14. Loitering and sleeping in alleys.
15. Patronizing saloon or dram shop where liquor is sold, visiting policy shop or gambling place.

(Space for Hints)

16. Smoking cigarettes in-public place.
17. Violation of any law or ordinance.
18. Wandering in streets at night, not on lawful business.

In England the following acts constitute juvenile delinquency.

1. Violation of a penal statute.
2. That the juvenile is not receiving such care, protection and guidance as a good, parent may be reasonably, expected to give, and in addition,
 - i) That he is falling, into bad association or is being exposed to moral danger, to
 - ii) That the lack of care, protection or guidance is likely to cause him unnecessary suffering or seriously affect his health or proper development or
 - iii) That he has been the victim of a sexual offence or an offence involving bodily injury, or lives in the same household as a perpetrator of an offence against a juvenile.
3. That he is beyond his parent's control.

The following authorities can act on the above circumstances and bring the child before the juvenile court.

They should not be punished but reformed. In order to prevent stigmatisation the proceedings against the children are not published. Their names and addresses are not disclosed. The general public is excluded from witnessing the trial. The parents may attend the court.

10.2.4 Causes of Juvenile Delinquency

The following are some of the causes for unprecedented increase in juvenile delinquency.

1. With the passage of time the parental control over the ward decreases. (Space for Hints)
2. The disintegration of family system is yet another cause of increase in juvenile delinquency. The former British Home secretary, Mr. Butler, once observed that the natural consequence of affection towards children which increase delinquency among children.
3. The industrial development has resulted into urbanization. This has resulted and given rise to new problems such as overcrowding in urban areas, lack of parental control, family disintegration, housing and slum dwelling. The cost of living in the urban areas compels the urban women to take to employment. With the result she does not find sufficient time to exercise control over her child.
4. The luxuries in modern life is another reason for the commission of delinquent acts by the younger generation. In order to satisfy their needs they may resort to delinquency.
5. Certain type of biological factors such, as physical maturity and low intelligence are also reasons for the commission of delinquent acts. The age of puberty has gone down. The Indian girl attains puberty at the age of eleven or twelve. But they are mentally incapable of appreciating the realities of life. Therefore they fall an easy prey to sexual gravity.
6. The increasing change the pattern in the modern living also make it difficult for children and adolescents to adjust themselves to new ways of life. They are often confronted to differentiate between right and wrong.
7. The position of the family is affected by divorce and matrimonial disputes between the parents. Differential treatment or step motherly treatment had also an adverse effect on the children. The family institution is the first institution with which a child comes into contact soon after its birth. Therefore the institution of family must cater to

Check Your Progress

3. What are the causes of Juvenile delinquency?

the need of the child. The family must give adequate opportunities for their youngsters to develop their personality.

The delinquency rate among the boys is greater than that of the girls. The boys more often commit offences of theft, gambling, pick-pocketing, eve-teasing, mischief and obscenity. The girls often commit sexual acts, truancy, shoplifting etc., The boys are taught rough and tough whereas the girls are taught the necessities of life. This is the reason for the increase in delinquency rate among boys. According to NCRB report 2011, the juvenile IPC crimes in 2011 have increased by 10.5% over 2010. In 2011, 25,125 cases registered against juveniles. Juvenile delinquency under Special Local Laws (SLL) has increased by 10.9% in 2011 compared to 2010. The number of cases reported under this head in 2011 accounts to 2837. Among states, Madhya Pradesh, Maharashtra, Chattisgarh, Andhra Pradesh, Rajasthan and Gujarat have reported high incidence of juvenile crimes under IPC.

10.2.5. Classification based on Criminal Responsibility

The English common law made three assumptions concerning age and criminal responsibility.

1. Children under the age-of seven were presumed to be incapable of holding criminal intent.
2. From the ages of seven to fourteen, offenders were not held responsible unless the state could prove they could clearly distinguish between right and wrong.
3. If offenders were fourteen or older, they were assumed to be responsible for their acts and therefore deserving of punishment. Here, the burden was on the defenders to prove they were not responsible.

The King was considered the father of his country, who assumed responsibility for protecting all dependent children.

Today, for judicial purposes, delinquents are divided into three categories:

1. Children who allegedly committed an offence that would be a crime if an adult had committed it.
2. Status offenders who have allegedly violated regulations that apply only to juveniles: vagrancy, begging, pilfering, gambling etc.
3. Incurable or unruly juveniles who have been declared unmanageable by their parents and the court.

10.3 JUVENILE JUSTICE ACT 2000

In the case of **Sheela Barse Vs Union India AIR 1986 SC 1773**, the Supreme Court had suggested that instead of each state having its own Children's Act different in procedure and content, it would be desirable if the Central Government initiates a parliamentary Legislation on the subject to bring in uniformity in regard to the various provisions relating to juveniles in the entire country. In accordance with this observation of the Supreme court, the central government enacted the Juvenile justice Act, 1986 to deal with problem of juvenile delinquency in India replacing Children's Act 1960 and 31 mixed up state laws. Later in review of the working of juvenile Act 1986 would indicate the much greater attention is required to be given children in conflict with law or those in need of care and protection. The justice system as available for adults is not considered suitable for being applied to juvenile or the child. It is also necessary that the juvenile justice system must be easily accessible to juvenile or the child or anyone on their behalf including the police, voluntary organizations, social workers or parents and guardians, There is also an urgent need for creating equal infrastructure necessary for the implementation of the proposed legislation with a larger involvement of informal systems specially the family, the voluntary organization and the community.

The passing of the Juvenile Justice (Care and Protection of Children) Act 2000 in the Parliament was a major step towards creating a favourable institutional frame work for the rehabilitation and social reintegration of children at social risk. In order to provide wide ranging services to such children and to protect their interests, the Juvenile Justice Act, 2000 was drafted to replace the Juvenile Justice Act, 1986 bearing in mind the UN Convention on the Rights of Child (CRC) which India has ratified in 1992. It, thus promises to stand by the set of globally accepted standards of securing the best interest of children. It reiterates India's commitment for the care and protection of maladjusted children and other destitute children in need of care and protection.

Considering the fact that there are large number of such children, formulation of the Act is just the first step. The implementation of a law is possible only by a collaborative effort between the people and the government. Thus, the Act envisages an active role for the NGOS and the Public through Voluntary action to bring about its effective implementation.

This Act consolidates and amends the law relating to juveniles in conflict with law and children in need of care and protection.

Under the Juvenile Justice (Care and Protection of Children) Act, 2000, a 'juvenile' means a person who has not completed eighteenth year of age. It provides for a fair and humane treatment of juveniles in conflict with the law. In particular, it aims at promoting the well-being of the juvenile and guaranteeing a proportionate reaction by the authorities to the nature of the offender as well as the offence. There are certain significant differences between the Juvenile Justice from Adult Criminal Justice System in India.

10.4 DIFFERENCES BETWEEN JUVENILE JUSTICE AND ADULT CRIMINAL JUSTICE SYSTEMS (Space for Hints)

	Juvenile Criminal Justice System	Adult Criminal Justice System
Primary Purpose	To provide opportunities for growth, development & Rehabilitation	To punish the guilty or at best to take reformatory measures
What is expected of Criminal Justice?	To be detained and kept in custodial care and adjudicated for appropriate measures	To be arrested and convicted
What determines the jurisdiction of the court?	Age primarily determines the jurisdiction on Juvenile Court	The nature of offence
Is apprehension possible even if acts are not criminal?	Yes, possible under the Act.	Not possible
Procedure	Informal, personalized and in camera	Formal and open to the public
Identity related information by media	Prohibited	Not prohibited; accessible to media
Involvement of Relatives	Closely involved	Not so

(Space for Hints)

Right to bail	Not available. To be released in the custody of parent/guardian/relatives	Adults have right to bail
Search without specific reason and that too without warrant in an institution	Yes, provision is available	It cannot be
Destruction of records	Juvenile's police or court record is sealed and supposed to be completely out of record after obtaining adulthood	Maintained for future use
Correctional facilities	Held in separate correctional facility than that of adults	Adult facilities
Death penalty	Not there. However, 16& 17 year olds tried in adult court may be given death penalty	Yes

10.5 DEVELOPMENT OF A DELINQUENT CAREER

The juvenile delinquent performs his/her delinquent acts in three ways:

1. Alone by himself/herself,
2. Together with an informal and spontaneous group, and
3. As a member of a well-organized gang.

1. The Beginning Phase

(Space for Hints)

The onset of crime can be traced to a deterioration of the social bond during adolescence, marked by a weakened attachment to parents, commitment to school and belief in conventional values. Youths growing up in socially disorganized areas in which deviant values and attitudes can be learned from and reinforced by delinquent peers also stand the greatest risk of a weakened social bond and subsequent delinquency. In this stage, he is still on his own, acting individually.

2. The Criminal Peer Group

The individual, who has already accepted a delinquent way of life, seeks out a criminal peer group for company and support. The informal group supports and develops his behaviour. Weak social and familial bonds lead the young person to develop friendships with deviant peers and get involved in further delinquency.

3. The Juvenile Gang

As the social bonds further weaken, the informal, unstructured peer group gradually takes the shape of an organized juvenile gang. It acquires the following dimensions of an organization:

1. Complexity of their division of labour, including the number of members, the degree of stratification and the degree of specialization of organizational roles.
2. Coordination among organizational roles, including the degree to which rules, agreements and codes regulating relationships are defined and enforced.
3. Purposiveness with which they specify, strive toward and achieve their goals.

Juvenile gangs are collectives in which the interaction of individuals, both leadership and rank and file, is organized and governed by a set of rules and roles. Juvenile gangs are varied :

(Space for Hints)

1. **Social Gangs** have a group identity, a relatively permanent structure, informal leadership based on popularity and intimate interaction among members.
2. **Delinquent Gangs** have a tight primary group structure and are organized to carry out specific profitable crimes, e.g. drug trafficking.
3. **Violent Gangs** are fighting gangs that emerges spontaneously to defend a territory against rival gangs, often resorting to violence over trivial provocations. Lewis Yablonsky (1966) characterizes the members of violent gangs as psychopaths who are unable to empathize with their victims or develop intimate bonds to others, including other gang members.

10.6 DIFFERENT TYPES OF JUVENILE GANGS IN CHENNAI

A recent study identifies and describes four different types of juvenile gangs:

1. Mercenary Gangs 2. Theft Gangs 3. Dacoity Gangs and 4. Drug Gangs
- Mercenary Gangs comprise of hardened criminals, who murder for money and undertake criminal jobs like assaulting, disfiguring, maiming and kidnapping people. They loot and destroy property on assignment and their fee depends on the nature of the job and the number of persons employed to carry out the task. When they are not killing, these gangsters go as henchmen behind politicians or caste groups or trade unions to supplement their income.
 - Theft gangs are involved in committing offences like theft, robbery and burglary. They are well organized and have separate 'departments' for purposes of surveillance, planning, organizing and execution. The gangs have informers for collection of information, executors to conduct operation and middle agents to dispose of the stolen property. Auto and taxi drivers, servants and servant maids are retained as informers.

Check Your Progress

4. What are the different types of Juvenile Gangs?

- Dacoity gangs are very selective in choosing their target. They first conduct surveillance to select targets, in which they can make enormous profits and then conduct operation. Though these gangs have committed crimes in their own territory, they have also extended their operation outside their territorial limits, 'in their neighbouring and peripheral areas. (Space for Hints)
- Drug gangs operate in three layers, with the top layer comprising key members of the gang keeping themselves away from the frontline staff.
1. The high level group, which consists of the leader, assistant or second in command and patrons of the gang, involves itself in planning, organizing, expansion and diversification of their illicit enterprise.
 2. The middle level group, which consists of the personal informer of the leader, procurers, distributors and the personal guards, works directly under the command of the headquarters.
 3. The lower level sells the drugs.

The main activities in bootlegging involve distillation, transportation and marketing. A group of strong men gives protection at all levels from the distillation point to the selling units and also during transit and transportation of the illicit goods.

10.7 SUMMARY

Women commit crimes; their crime rate is much lower than that of male offenders. We considered the various reasons given to explain this fact. A classification of women offenders based on the type of their committing crime and the motive for their crime was provided in this unit. In the second part, we analysed the meaning of juvenile delinquency from various angles - historical, legal and social. We, then discussed the three phases in the development of a delinquent career. The unit also explained with a clarification of what a gang is and how the four types of juvenile gangs operate in Chennai.

10.8 KEY WORDS

- Chivalry hypothesis - The idea that low female crime and delinquency rates are a reflection of the leniency with which police treat female offenders.
- Delinquent - A juvenile who has been adjudicated as having committed a delinquent act.
- Status offence - An act or conduct that is declared by statute to be an offence, but only when committed or engaged in by a juvenile, and that can be adjudicated only by a juvenile court.
- Vagrant - A person who goes from place to place without visible means of support.

10.9 ANSWER TO CHECK YOUR PROGRESS

1. Refer 10.1.1.6
2. Refer 10.2.2
3. Refer 10.2.4
4. Refer 10.6

10.10 MODEL QUESTIONS

Long Answer Questions

1. What are the different explanations given to justify the lower crime rate among women? Explain briefly.
2. Bring out the major differences between the Juvenile justice system Adult criminal justice system.

Short Answer Questions

1. The development of a delinquent career.
2. What is a juvenile gang? Illustrate it with the gangs found to be active in Chennai.

MODEL QUESTION

PRINCIPLES OF CRIMINOLOGY

Time : Three hours

Maximum : 100 marks

Answer any FIVE questions

Each question carry equal marks

(5 × 20 = 100)

1. Define Criminology. Explain the scope of criminology with reference to other social sciences.
2. Explain the historical perspectives in criminology.
3. Study the contribution of Cartographic school of criminology.
4. Write short notes on
 - (a) Classical school
 - (b) Biological school
5. Study the need and significance of cooperation and coordination among various agencies of criminal justice system.
6. Explain the roles of Legislature and prison in criminal justice system.
7. Examine the need to differentiate between adult and juvenile offenders.
8. Define and differentiate between Violent and Habitual offenders.
9. Define cyber crime. Cyber crime is proving very hardship on the part of police to crack it and prosecute the offenders. Discuss.
10. Explain in detail about the organized crime its impact and measures to curb it.

