PG. DIP. IN CRIMINOLOGY & POLICE ADMINISTRATION | **PAPER-I CRIMINOLOGY**

Lesson No. :

UNIT-A

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Note : Students can download the syllabus from department's website www.dccpbi.com.

LESSON NO. 1.1 UNIT-A **AUTHOR: MS. VEENA RANI**

CRIMINOLOGY MEANING, NATURE, SCOPE AND DEVELOPMENT

An Overview

1.1.0 Introduction

Crime is an inevitable part of human society and it is a social evil which emerged with the development of society. Crime is also defined as an anti-social act which is forbidden by law and punishable by State. The systematic study of crime is known as 'Criminology' *i.e.,* Science of law and a person who studied the crime is called Criminologist. The term "*Criminologia" i.e,* 'Criminology' was first time coined in 1885 by Italian Professor of Law Raffaele Garofalo, but afterwards French Anthropologist Paul Topinard used analogous term *"Criminologie".* Thus, Criminology is a combination of two Latin words: Crimen *i.e.,* crime and Logus or logy *i.e.,* study.

Hence, it is the systematic study of crime. It is concerned with the conduct of individuals which is prohibited by society and law. It is a socio-legal study which seeks to discover the causes of criminality and suggests appropriate remedies. However, criminology is one of the most important branches of criminal science which is concerned with societal study of crime and criminal behavior of a criminal. Its aim is to discover causes of crime as well as effective measures to reduce crime.

1.1.1 Definitions of Criminology

It is very difficult to give universally accepted definition of criminology. Divergent views and definitions have been given by different criminologists, legal experts and jurists from time to time. According to **Edwin Sutherland**, "Criminology is the body of knowledge regarding crime as social phenomenon and it includes within its scope the process of making the laws or breaking the laws and of reacting towards breaking the laws. The objective of criminology is the development of body of general and verified principle and other types of knowledge regarding this process of law, crime and treatment."

According to **Webster,** "Criminology is the scientific study of crime and criminals", while **Michael and Adler** have defined criminology as "the study of criminal behavior." In the same line, **M.A. Elliot** says "Criminology is the scientific study of crime and its behavior." According to **Walter Reckless**, "Criminology is a science which studies the violation of criminal code, set of rules and regulations in a society."

Donald Taft defined Criminology in two branches:

(1) General and

(2) Specific.

Criminology in a general sense is the study of crime and criminals. In a specific sense it seeks to study criminal behavior its goal being to reform the criminal behavior or conduct of the individual which society condemns. According to Mannheim, in narrow sense criminology is study of crime which embodies the causes, type and extension, while in broader sense it includes penology and studied the systems that dealing with crime, punishment and problems of crime prevention. Likewise, Dr. Kenny defined "Criminology is that branch of science that is related with causes, interpretation and prevention of crime."

Hence, criminology may be defined as branch of knowledge that studies the causes of crime, the method for the prevention the crime, its correction and the way by which one reaches from crime to criminal.

1.1.3 Nature and Scope of Criminology

Criminology is an immensely broad subject which knows few boundaries and becomes involved in all sciences which deals with man and his social organization. Criminology is mainly concerned with the study of delinquents and their criminal behavior, crime control and prevention, criminal's treatment and their rehabilitation etc. Its field of study and research is very wide. The major aspects as thought by various eminent criminologists relating to its scope

and area can be explained in following way. According to Elliot, the subject matters for the study of criminology are:

1. The nature of crime and its form
2. The causes of criminal conduct or practices
3. Personal or individual study of criminals
4. Prevention and remedies of crimes.

But on the other hand, according to Sutherland, the subject matters of criminology are:

1. The procedure of enactment of law
2. The procedure of violation of law
3. The reaction of violation of law.

According to Walter Reckless the Criminology covers the following field under its subject matters:

1. The mode of reporting of crime to official source and their reactions.
2. The development and changes under criminal law due to social, economic and political reason.
3. The comparative study of characteristic of criminals and non-criminals.
4. Causative factors of crime and formulation of criminals theories.
5. Special manifestations of crime, *e.g* white collar crime and organised crime.
6. Various efforts and experiments to prevent crime and formulations of criminal theories.

Thus, basic concept of criminology and its methodology are drawn from behavioural science, biology and to some extent, the history and sociology of criminal law. The criminology as a subject is not complete without covering the field of sociology, social work, history, economics, education, medical, biology, law, ethics and religion etc. The past practices and present trends must be studied comparatively so as to have the better understanding of modern approach of criminology under socio-legal system. Some other important areas which are the subject matters for the study of criminology may be described in following ways:

1. The reporting of law violations, clearance by arrest, criminal identification and the improvement measure to record crime, arrest criminals and identify violators etc.

2. A corporative study of criminal law in various countries as related to social, economic and political system, with appropriate attention to transitions in developing countries and to the system of traditional sanctions in tribal societies.
3. The specification of demographic characteristic of juvenile and adult offenders at points in the legal process (usually at the point of arrest or at the point of admission to penal or correctional institution) where it is possible to record age, nativity, ethnic group, marital status, occupation, education level, place of offence, place of residence etc.
4. The formulation, testing and revision of hypothesis or theories which attempt to explain crime and delinquency in general or any particular pattern of offender or criminal activity in particular.
5. The study of habitual criminals and identification of the first offenders, recidivist, hard core offenders, including offenders with character disorders and mental disturbance who relapse into delinquency and crime.
6. The study and control of problem of deviancy which have a close connection with crime *viz.,* abnormal sex offenders, prostitution, suicides, narcotic drug addiction, chronic alcoholism, gambling, begging, vagabondage etc.
7. The study and implementation of law enforcement and the operation of special law.
8. The evolution and operation of programmes for the prevention of delinquency and crime.

1.1.4 Criminology: Development

The American Institute of Criminal Law and Criminology organized a "National Conference of Criminal Law and Criminology" in June, 1990 at North Western University, Chicago and as a part of its work, the following resolution was passed:

"whereas, it is exceedingly desirable that important treaties on criminology in foreign language be made readily accessible in the English language, resolved that the President appoint a Committee of five with power to select such treaties as in their judgment should be translated, and to arrange for their publication."

The committee appointed under this resolution has made careful investigation of the literature on the subject and recognized that the area of criminal science

is larger than the criminal law. Section 77(b) of the Criminal Justice Act, 1948 empowered for the first time the secretary of State to incur expenses in the conduct of research into the causes of delinquency and the treatment of offenders, and matter connected therewith.

On 31st July, 1958 Lord Butter announced to Parliament that Cambridge would establish the Institute of Criminology. Dr. Radzinowicz becomes the first Wolfson Professor and Director of the Institute in 1959. Undoubtedly, the credit of the institution in Cambridge that criminology has now been firmly established as a subject of vital academic importance in so many universities.

Similarly, in India the "Institute of Criminology and Forensic Science", has been established in the year of 1971 in New Delhi, which organizes special orientation courses on Advanced Criminology for the police and other officials on juvenile delinquency, police-community relations, research methodology etc. A working group on 'Prison Reforms' appointed in the year of 1972 has made crucial recommendations which are now under the consideration of the Government of India. A full fledge Bureau of Police Research and Development has been set up in the year of 1970 by Government of India for promoting systematic study and research in the matter relating to analysis and study of crime, assistance in police research programmes in the States, processing, co-ordination of research projects, sponsoring extra mural research, participation in social and crime prevention programs, participation in the work of United Nations in the field of prevention of crime and treatments of offenders, Indian Police journal, Crime in India and Research Reports etc. The National Institute of Social Defence established in the year of 1961 (at that time it was known as Central Bureaue of Correctional Services) in the Ministry of Social Welfare and is a co-coordinating body for correctional work at National level. The working group of Planning Commission of Social Defence has recommended to the Government of India for setting up a National Social Defence Academy and Regional Training Institute and Research Cells at the Centre and State levels as part of an expansion programme for the Institute. In pursuance of the recommendation of National Policy Commission, Government of India, Ministry of Home Affairs, New Delhi has set up the National Crime Records Bureau and has assigned to it the following responsibilities, *vide* Government Resolution No.240 13/13/85-GPA-VI dated 11 March, 1986:

(a) To keep record of crime and criminals including those operating on national and international level.

(b) To gather the statistics of crime and criminals

(c) To receive and provide information regarding criminals to penal and correctional agencies and

(d) To guide the functioning of State Crime Record Bureau etc.

1.1.5 References and Suggested Books

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LESSON NO. 1.2 UNIT-A AUTHOR : MS. VEENA RANI

CRIME : CONCEPTUAL FRAMEWORK

An Overview

1.2.0 Introduction

Man by nature is a fighting animal hence to think of a crimeless society is a myth. Truly speaking, there is no society without the problem of crime and criminals. The concept of crime is essentially concerned with the social order. It is well known that a man's interests are best protected as a member of the community. Everyone owes certain duties to his fellow-men and at the same time has certain rights and privileges which he expects others to ensure for him. This sense of mutual respect and trust for the rights of others regulates the conduct of the members of society *inter se.* Although most people believe in 'live and let-live' policy yet there are a few who for one reason or the other, deviate from this normal behavioural pattern and associate themselves with anti-social elements. It is for this reason that Salmond has defined law as a "rule of action" regulating the conduct of individuals in society. The conducts which are prohibited by the existing law at a given time and place are known as wrongful acts or crimes whereas those which are permissible under the law are

treated as lawful. The wrongdoer committing crime is punished for his guilt under the law of the land.

1.2.1 Definition of Crime

A precise definition of crime is by no means an easy task. Jurists have always differed in their views about an exact definition of crime. But most of them generally agree that every criminal act involves some sort of law violation. It is important to note that 'Cross Jones' defines, "crime as a legal wrong the remedy for which is punishment of the offender at the instance of the State." In the same way, Gillin defines, "crime as an act that has been shown to be actually harmful to the society, or that is believed to be socially harmful by a group of people that has power to enforce its beliefs and that places such act under the ban of positive penalties." Thus, he considers crime as an offence against the law of the land, while Tappen has defined, "crime as an intentional act or omission in violation of criminal law committed without defense or excuse, and penalized by the State as a felony or misdemeanor."

According to Blackstone, "a crime is an act committed or omitted, in violation of a public law either forbidding or commanding". Supporting this contention Sutherland characterized, "crime as a symptom of social disorganization." Hence, the tendency of modern sociological penologists is therefore to treat crime as a social phenomenon which receives disapprobation of the society.

In the words of Donald Taft, "crime is a social injury and an expression of subjective opinion varying in time and place." Halsbury defines, "crime as an unlawful act which is an offence against the public and the perpetrator of that act is liable to legal punishment."

1.2.3 The Concept of Crime

Many attempts have been made to define crime, but all they fail to help us in identifying what kind of act or omission amounts of a crime. In other words, of all the branches of law, the branch that closely touches and concerns man in

his day-to-day affairs is criminal law, yet the law is not in a satisfactory state. Perhaps, this is because of the changing notions about crime from time to time and place to place. The very definition and concept of crime varies not only according to the values of a particular group and society, its ideals, faith, religious attitudes, customs, traditions and taboos, but also according to the form of government, political and economic structure of the society and a number of other factors.

To understand the meaning and concept of crime in its correct perspective, it would be appropriate to examine some of the definitions propounded by jurists in this context.

(i) Crime as a Public Wrong

In his classical work, "Commentaries on the Laws of England", Blackstone defines crime in two ways. In the first place, he says, "crime is an act committed or omitted in violation of a 'public law' forbidding or commanding it."

The definition appears to be misleading since it limits the scope of crime to violations of a 'public law'. As such, the definition would cover only political offences *viz.,* offences against the State. Such offences are merely a segment of the great bulk of criminal law. If 'public law' is taken as equivalent to 'positive' or 'municipal law' as noted by Kenny, the definition would become too wide and would cover all legal wrongs, while in fact every legal wrong is not a crime. Likewise, if 'public law' is interpreted to include both constitutional and criminal law, as with the Germans, the definition ceases to define, because it is fallacious to define crime with the help of constitutional law.

Perhaps, Blackstone visualized the inadequacy of his first definition of crime, so he modified it and explained, "Crime is a violation of the 'public rights and duties' due to the whole community, considered as a community."

While editing Blackstone's Commentaries, Stephen modified this definition slightly and reconstructed it in the following words, "A crime is a violation of a

right, considered in reference to the evil tendency of such violation as regards the community at large."

However, the definition is not free from error. It narrows down the scope of crime to the violation of rights only, whereas criminal law fastens criminal liability even on those persons who omit to perform duty required by law. Willful omission to provide food, clothing, shelter or medical aid to a child by a father or to wife by a husband is a crime.

The definitions given by Blackstone and Stephen further stress that crimes are braches of 'those laws which injure the community'. Similar was the idea in regard to the concept of crime with the Romans, who designated crimes as *delicta publica* (public wrongs) and criminal trials as *judica publica* (public justice). However, all the acts that are injurious to the community are not necessarily crimes.

(ii) Crime as a Moral Wrong

The word 'crime' owes its genesis to the Greek expression *'krimos',* which is synonymous with the Sanskrit word *'krama'* meaning social order. Thus, the word 'crime' is applied to those acts that go against social order and are worthy of serious condemnation. The Garafalo, an eminent criminologist, defines crime in terms of immoral and anti-social acts. He explained, "Crime is an immoral and harmful act that is regarded as criminal by public opinion because it is an injury to much of the moral sense as is possessed by a community- a measure which is indispensable for the adaptation of the individual to society."

In this definition, the emphasis on moral wrong breaks down in many respects. No doubt, immoral acts like murder, or causing hurt without any reasonable excuse, stealing or destroying another's property, kidnapping a child, raping a woman etc., have been traditionally considered as crimes.

There are many acts that are prohibited not because of their immoral nature, but because of social expediency and a number of other factors. For instance, traffic offences, offences relating to black-marketeering or hoarding of essential

commodities, customs, licensing, taxing statutes etc., are based upon economic expediency necessitated by a growing industrialized and urbanized social economy. Likewise, there are some harmless 'crimes' like vagrancy and loitering; some prophylactic 'crimes' like consorting and possession of prohibited goods (even without intent to use them) for example, weapons, drugs, illegal imports, and goods (including money) unlawfully obtained.

(iii) Crime as a Conventional Wrong

A noted criminologist, Edwin Sutherland, defines crime in terms of criminal behaviour. He described that, "Criminal behaviour is behaviour in violation of the criminal law. No matter what the degree of immorality, reprehensibility, or indecency of an act, it is not a crime unless it is prohibited by the criminal law. The criminal law, in turn, is defined conventionally as a body of specific rules regarding human conduct which have been promulgated by political authority, which apply uniformly to all members of the classes to which the rules refer, and which are enforced by punishment administered by the State. Characteristics, which distinguish this body of rules regarding human conduct from other rules, are therefore, politically, specificity, uniformity and penal sanction." Sutherland merely enumerates the characteristics of a crime instead of giving a definition of crime. He only says that crime is a violation of the criminal law.

Hence, Crime is an act that has been shown to be actually harmful to society, or that is believed to be socially harmful by a group of people that has the power to enforce its beliefs, and that places such act under the ban of positive penalties.

In Soviet Russia crime has been defined in terms of socially dangerous acts. Article 7 of the Criminal Law Fundaments of former USSR (1959) states that crime is:

"A socially dangerous act (commission or omission) provided for by the criminal law, which infringes the Soviet Social or State system, the socialist economic

system, socialist property, the person or the political, labours, property and other rights of citizens, or any other socially dangerous act provided for by the criminal law, which infringes the socialist legal order, shall be deemed to be a crime".

The sociological definition too, like other definitions, fails to explain a number of criminal behaviours. As stated earlier, when legislature enacts that a particular act shall become a crime or that an act that is criminal shall cease to be so, the act does not change in nature in any respect other than that of legal classification. In other words, the name of the behaviour would be changed, but the nature and the social reaction to the behaviour would remain the same, for the 'social interest' damaged by the behaviour would remain essentially unchanged. For instance, though now dowry is a crime, there is hardly any change in the attitude of the people. Perhaps, it is more in practice today than before as is evident from the number of dowry deaths and cases of bride burning reported each year.

(v) Crime as a Procedural Wrong

Some writers define crime in terms of nature of the proceedings. For instance, Austin says, "A wrong which is pursued by the sovereign or his subordinates is a crime (public wrong). A wrong which is pursued at the discretion of the injured party and his representatives is a civil injury (private wrong)."

The definition does not hold well in respect of a number of offences in which the prosecution could be initiated only at the instance of the injured party as in torts. No court will take cognizance of the offence of adultery and of criminal elopement (sections 497, 498 of the Indian Penal Code, 1860), except upon a complaint made by the husband of the woman and in case of cruelty by husband or relatives of husband upon police report or upon a complaint by the wife or women's parents, etc. (section 199A of the Code of Criminal Procedure, 1973).

It is important to mention here that Kenny modified Austin's definition and stated that, "Crimes are wrongs whose sanction is punitive, and is in no way

remissible by any private person, but is remissible by the Crown alone, if remissible at all."

Kenny's definition is also not free from lacunae and is open to criticism. It is with respect to the word 'remissible' that the difficulty arises. The definition lays stress on remission by the 'Crown', which is not always true. There are a number of compoundable offences that are remissible by some gratification from the accused.

From the foregoing discussion, it is crystal clear that crime has so far not been satisfactorily accomplished by any jurist. In fact, as stated by Russell, "Criminal offences are basically the creation of the criminal policy adopted from time to time by those sections of the community who are powerful or astute enough to safeguard their own security and comfort by causing the sovereign power in the State to repress conduct, which they feel may endanger their position."

(vi) Crime as a Legal Wrong

When a penal statute prescribes punishment for an act or illegal omission (section 32 of the Indian Penal Code, 1860), it becomes crime. But as regards the definition of the term 'crime', there is no satisfactory definition acceptable to all and applicable in all situations. Even the Indian Penal Code, 1860 is silent on this aspect, though it has codified the bulk of the criminal law of the country. Section 40 of this Code simply states:

"Except in the chapters and sections mentioned in clauses two and three of this section, the word 'offence' denotes a thing made punishable by this Code … or under any special or local law."

This provision is nothing, but a statement of fact and cannot be regarded as a definition of crime. However, one can understand what constitutes a crime, by the following three essential attributes:

i. Crime is an act of commission or an act of omission on the part of a human being, which is considered harmful and prohibited by the State;

ii. The transgression of such harmful acts is prevented by a threat or sanction of punishment administered by the State; and

iii. The guilt of the accused is determined after the accusation against him has been investigated in legal proceedings of a special kind in accordance with the provisions of law (as provided under Code of Criminal Procedure, 1973 and Indian Evidence Act, 1872).

1.2.4 Characteristics of Crime

From the above definitions of crime, it is evident that there are certain characteristics of a crime which make an unlawful act or omission punishable under the law of the land. The main characteristics of a crime are as follows:

1. **External Consequences:** Crimes always have a harmful impact on society may it be social, personal, emotional or mental.
2. **Act *(Actus)*:** There should be an act or omission to constitute a crime. Intention or *mens-rea* alone shall not constitute a crime unless it is followed by some external act.
3. **Guilty Mind or *Mens-rea*:** Guilty mind *i.e., mens-rea* is one of the essential ingredients of a crime. It may, however, be direct or implied. Implied *mens-rea* is otherwise termed as constructive *mens-rea*.
4. **Prohibited act:** The act should be prohibited or forbidden under the existing law.
5. **Punishment:** The act, in order to constitute a crime should not only be prohibited by the law, but should also be punishable, by the State.

1.2.5 Elements of Crime

Any act is not crime by itself and every act cannot be treated as crime. There are some elements which make any act as crime. The renowned criminologist 'Hall' has explained **seven** different elements of crime:

(a) Doing any criminal act intentionally and carelessly.

(b) Doing such act with malafide intention or criminal intention.

(c) Establishment of link between malafide intention and conduct.

(d) Such act causing damage to anyone *i.e.,* appearance of external effects of such act.

(e) Prohibition of such damage by law.

(f) When there is a causal relation between voluntary conduct and damage prohibited by law.

(g) The existence of punishment as specified by law for such acts.

Likewise, Huda has also mentioned has **four** elements of crime:

i. the existence of any obligation upon any person for doing anything and the existence of any proper penal provision on non-performance of such act

ii. doing such act either with malafide or criminal intention

iii. doing of such act with criminal motive

iv. such act if causes damage to anyone.

1.2.6 Causes of Crime

Normally there is one or the other reason behind any crime. We can call it motive or intention. In criminology, different causes have been explained which are based on any school. The criminologists mainly accept the following causes for the crime:

1. Physical Causes
2. Family Causes
3. Social Causes
4. Economic Causes
5. Political Causes
6. Psychological Causes
7. Other Causes.

1. Physical Causes

We can call them as personal causes. The famous criminologist Lombroso is the strong supporter of this. Lombroso has to say that the physical and mental conditions of criminals are different from that of normal persons. This is hereditary, on this basis, he developed the concept of hereditary criminal. It has been called atavist. The physical causes may be put under the following subgroups:

(a) Age

The first symptom affecting crimes is the age of criminal. According to criminologists, the persons in the age group of 15-16 years commit normal crime, while persons in the age group of 25-26 years commit crimes of serious nature. Sexual crimes are committed more in old age. The criminologist Burk is the strong supporter of this theme.

(b) Gender

It is the notion of criminologists that men commit more crimes as compared to that of females. According to Pollack the females commit more crimes of cheating, abortion and prostitution. The tendency of homosexuality is found more in men. Prof. Smith treats sexual defect as one of the causes of crime.

(c) Physical Constitution

The physical constitution *viz.,* shape, composition etc., of a man are also causes of crime. Men of normal nature and soberness commit less crimes, while on the other hand those of abnormal nature commit more crimes, men of ugly features, handicapped and bold persons are treated inferior and with hate and fun, that imbibes in them the feeling of despair, inferiority and insult which induced them to commit crime. The criminologist Gorring is considered as the strong supporter of this theme.

a) Mental Condition

The mental condition of a man induces him towards crime. Low level of intelligence, defective psychological conditions, insanity, mentally derailed persons etc., are symptoms of defective mentality. Such persons commit more crimes because they do not understand the nature of act and its consequences.

2. Family Causes

The conduct of a person depends more on family atmosphere. Whatever atmosphere a man finds in his family he acts in the light of that. It has also been said that family is the first school of a man. Donald R. Taft has also said that family is not only a first school, but most homogeneous, integrated and internal social school. For crimes, mainly the following family circumstances are treated as more responsible:

a) Lack of control of family head

b) Dissolution of family

c) Negligence towards relations

d) Lack of association

e) Emotional tensions etc.

It is relevant to mention here that Sutherland is of the view that children of such families become criminals:

- If the atmosphere of such family is immoral of addicting nature and criminal.
- When there are no father and mother.
- That family which is illiterate, follower of bad customs, non-sensitive and suffering from diseases.
- In which there is step motherly treatment with their own persons, they are neglected and jealousies are expressed towards them and the family which is over crowdy.

- The family whose economic condition is very poor and the members are unemployed.

Therefore family and family atmosphere and circumstances are also causes of crimes.

3. Social Causes

Society and social circumstances are one of the prominent causes in relation to crime. Man is a social creature and he spends his whole life in the society, and therefore, what type of atmosphere he finds in society, he adapts himself according to that atmosphere. In other words, it can be said that the type of society a man finds, he adjusts himself according to that society. Man belonging to civilized and well cultured society is also civilized and well cultured. If the society has criminal background then the person belonging to that society will also be criminal. There are many social practices and bad customs which become the causes of crime *viz.,* dowry system, child marriage, sati system, untouchability etc.

4. Economic Factor

Poverty, lack of money, economic disparities are also important causes of crime. When a family is in economic crisis then the members get involved in theft, prostitution, immorality etc. Idleness and unemployment is also the main cause of crime. Unemployed person mostly puts his steps towards theft, vulgarness, prostitution, sexual exploitation, begging, drinking etc. The lust, greed, selfishness, lavish lifestyle and the desire to earn more wealth are those instincts in man which given birth to crime, theft, decoity, criminal breach of trust, cheating, fraud, smuggling, black marketing, adulteration, bribery and so on. In other words crime is the result of these greedy instincts.

5. Political Factor

There are some political factors which are also responsible for growth of crimes in the society. It has become a normal notion of the people that most of the

criminals get protection of political leaders. Such people commit crime without any fear because the government and the administration cannot do anything against them. The politicians have their vested interests behind such protection. At the time of election, such criminals are used by the political leaders in many ways such as:

a) payment of subscription in election or extending economic cooperation

b) to compel the voters to cast their vote by force and use of violence

c) to frighten, threaten and terrorize the voters

d) to capture booths

e) to take the ballot box by force and running away

f) to effect false voting etc.

This is the very basic reason that today people talk about the criminalization of politics.

6. Psychological Factor

The psychological cause of crime also occupies an important place. Alfred Binet, a famous psychologist of France, propounded mental age and intelligence quotient by making experiments in his psychological laboratory on persons about the problem of low level of intelligence and analyzed its effects on criminality. Prof. Jerman also extended the experiments and research of Prof. Binet. In his opinion, mental age means that age of child when he develops normal intelligence and he gets competence to understand the cause and its consequences. This competence increases with age which is known as gaining intelligence or growth of intelligence. The renowned scientist Freud whose contribution in this area is also important, while analyzing the instinct of criminality, he said that three ideas often counterpart in human mind. They are known as:

a) Id

b) Ego

c) Super Ego

According to Donald R. Taft, "People of low intelligence are generally idle, lethargic and of cowardice nature and, therefore, they are under fear when they think of committing crimes, while person of sharp mind do not feel any fear while committing crime because they know that they cannot be captured. Such people commit crime in a planned way."

The psychologists also consider the following factors as causes of crimes:

a) Sentimental instability

b) Sense of inferiority

c) Family atmosphere

People of sentimental instability are not able to take timely and correct decisions and, therefore, they move towards crimes. Similarly, the people having sense of inferiority lose their mental balance. They are affected by fear, anger and hate. This makes them criminal. Dissolution of family and atmosphere is also an important cause of commitment of crime. According to psychologists, persons commit more crimes who are:

- Weak on sentimental basis
- Weak and unstable economically
- The people who struggle for their living always
- Idle and unemployed
- Sufferers of family quarrels
- People who fail in love affairs
- People who become victim of some unpleasant incident
- Disappointed from their age of minority

1.2.7 References and Suggested Books

1. Prof. (Dr.) Syed Mohammad Afzal Qadri, "Criminology and Penology", Eastern Book Company, Lucknow, 6th edn., (Reprinted) 2011.

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LESSON NO. 1.3 UNIT-A AUTHOR : MS. VEENA RANI

CLASSIFICATION OF CRIME

An Overview

1.3.0 Introduction

Man by nature is a fighting animal hence to think of a crimeless society is a myth. Truly speaking, there is no society without the problem of crime and criminals. The concept of crime is essentially concerned with the social order. It is well known that a man's interests are best protected as a member of the community. Everyone owes certain duties to his fellow-men and at the same time has certain rights and privileges which he expects others to ensure for him. This sense of mutual respect and trust for the rights of others regulates the conduct of the members of society *inter se.* Although most people believe in 'live and let-live' policy yet there are a few who for one reason or the other, deviate from this normal behavioural pattern and associate themselves with anti-social elements. It is for this reason that Salmond has defined law as a "rule of action" regulating the conduct of individuals in society. The conducts which are prohibited by the existing law at a given time and place are known as wrongful acts or crimes whereas those which are permissible under the law are

treated as lawful. The wrongdoer committing crime is punished for his guilt under the law of the land.

1.3.1 Classification of Crimes

There are a variety of crimes such as violent personal crimes, occasional property crime, occupational crimes, political crimes, public-order crimes, conventional crimes, organized crimes, professional crimes, white collar crimes, sexual crimes, crimes against property, person, decency, public order etc. Broadly speaking, all these crimes may be categorized into three heads, namely:

(i) Offences under the Indian Penal Code, 1860

(ii) Offences falling under the Code of Criminal Procedure, 1973

(iii) Offences under other local, special laws or enactments.

The classification of crimes is also described into legal, political, economic, social and miscellaneous crime.

Legal crimes can be termed as traditional crimes like theft, robbery, dacoity, rape, hurt, rioting and so on, while political offences are those which are motivated politically or committed in violation of the election laws or norms set out for the politicians in course of their political activities. The economic crimes include white collar crimes like offences in relation to tax evasion, smuggling, prostitution, gambling, foreign exchange violations etc. likewise, social crimes are those which are committed under social legislation *viz.,* the Prohibition of Child Marriage Act, 2006 and the Dowry Prohibition Act, 1961 etc. All other remaining crimes which are committed under local or special Acts, are termed as miscellaneous crimes, for example, offences committed under the Prevention of Food Adulteration Act, 1954; the Consumer's Protection Act, 1986; the Narcotic and Psychotropic Substances Act, 1985 etc.

Classification of offences under the Indian Penal Code, 1860

In the Indian Penal Code, 1860 various types of offences have been classified into followings broad categories:

- Offences against Person
- Offences against Property
- Offences relating to Documents
- Offences Effecting Mind (Mental order)
- Offences against Public Tranquility
- Offences against State
- Offences Relating to Public Servants

This classification seems to be more elaborate and useful from the point of view administration of criminal justice and punishment of offenders.

Classification of Crimes in the Code of Criminal Procedure, 1973

The Code of Criminal Procedure, 1973 classifies the offences as follows:-

- **Cognizable Offences**

These are the offences of a very serious nature. The police can arrest a person who commits such offence without warrant by the Court. Even a person designing to commit a cognizable offence can be arrested without warrant of the Court and criminal proceedings can be started against him.

- **Non-Cognizable Offences**

These are the offences not of serious nature. The police, as a general rule, cannot arrest the person committing a non-cognizable offence without warrant by the Court and criminal proceeding cannot be started by the police.

- **Bailable Offences**

These are the offences in which the persons accused of such offences have to be granted the bail as a matter of right.

- **Non-bailable Offences**

These are the offences in which bail is granted to the person accused of such offences not as a matter of right.

- **Compoundable Offences**

These are the offences in which the victims and offenders can compound the offences. In some cases, compositions may be done with the permission of the Court.

- **Non-Compoundable Offences**

The offences which cannot be compounded by the victims and offenders are non-compoundable offences.

1.3.2 Prevention of Crime

Prevention of crime and juvenile delinquency like the prevention of any other phenomenon of an unpleasant and destructive nature is obviously much better than their subsequent control after they occur. Prevention of crime or delinquency can be achieved in a number of ways and contexts. When an offender is sent behind bars or is given capital punishment, he is prevented from committing further crimes during the period of his incarceration or punishment is to prevent the commission of crimes by the actual as well as the potential offenders. Prevention in the present context, however, is used by criminologists in a limited sense *i.e.,* forestalling criminal behaviour by taking advance action in terms of individual and environmental adjustments. It follows from the concept of crime prevention, the programmes for the prevention of crime and delinquency are to be directed not only to those who have already indulged in criminal behavior, but also to those who either have manifested some tendency to suggest possible delinquency by them in future or who may be otherwise normal, but because of individual or environmental factors operating against them criminal or delinquent behaviour can be expected from them.

Kinds of Prevention Programmes

The Prevention programmes may take one of two forms *viz.,* programmes focusing on an individual and programmes having an environmental orientation. The former involves the prevention of delinquency through

counseling, psychotherapy and proper education while the latter approach employs techniques with a view to changing the socio-economic context likely to promote delinquency. These two forms of preventive approach are reflected in the following strategies which are adopted in crime prevention programmes.

- **Psychiatric Clinics**

The object of psychiatric aids through psychiatrists, clinical psychologists and psychiatric social workers is to help potential delinquents by understanding their personality problems and, thereafter, treating and counseling them at appropriate times. Psychologists have listed the functions of psychiatric clinics as follows:

- To participate in the discovery of "pre-delinquents".
- To investigate cases selected for study and treatment.
- To treat cases itself or to refer cases to other agencies for treatment.
- To arouse interest of other agencies in the psychiatrically-oriented types of treatment of behavioural disorders in children.
- To reveal to the community un-met needs of types of children.
- In some communities to engage in behavioural research.
- To cooperate in the training of students intending to specialize in the treatment of behavioural problems.

- **Educational Programmes**

Unlike India, in countries where almost every child goes to school the impact of educational institutions is very significant and preventive programmes can, therefore, be launched in an effective manner through schools. Three goals of school education have been suggested in this context:

- Developing a new value system in which the school would be a force working against the discrimination and rejection experienced by pupils drawn from the lower classes.

- Making schools an instrument for fostering work attitudes, self-esteem and job skills to improve the employability of graduates of schools in deprived areas.
- Providing school experiences designed to improve the self-image of delinquency-prone children.

➢ Recreational Programmes

There is a popular belief that recreational programmes are a good check on delinquency since idleness provides a fertile ground for many evils. It is believed that the energies of youth can be very well channelized into pursuits like sports, games and other healthy activities which would counteract delinquent propensities among the participants.

➢ Community Programmes

The strategies discussed above are mainly directed to individuals with a view to eliminating the factors responsible for their social maladjustments. Besides these there are programmes involving community and group participations where efforts are made in terms of environmental factors. The basic strategy of such programme is to reach the people in need of help instead of the people approaching the workers and agencies. Another significance of such programmes is that the participation of the local community is considered to be more important and the role of professional leadership is sought to be kept at the minimum level.

Thus, Marshall B. Clinard has outlined the key assumptions of these programmes as follows, “Local people will participate in efforts to change neighbourhood conditions, because they do not accept an adverse social and physical environment as natural and inevitable, and because self-imposed changes in the immediate environment will have real significance to the residents and consequently will have more permanent effect.”

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LESSON NO. 1.4 UNIT-A AUTHOR : MS. VEENA RANI

MAINTENANCE OF CRIME RECORDS

An Overview

1.4.1 National Crime Records Bureau (NCRB)

Crime records perform a very important task in the scheme of police working for prevention and detection of crime. The Indian Police, over the years, have sought to advance the competence of the crime records systems to fulfill their responsibilities with greater competence and efficacy. Generally, any

organization or agency should be capable of monitoring its own activities. In general terms, management can be characterized as a process of organizing a set of resources to accomplish established goals and objectives. Effective management requires information to determine whether the goals and objectives are being accomplished in a timely and orderly fashion, and whether the resources are being used efficiently and effectively. The more complex the organisation, the greater will be the need for statistical information, particularly on resources and resource allocation and on cases and caseloads.

The National Crime Records Bureau was set up in 1986 to function as repository of information on crime and criminals so as to assist the investigation in linking crime to the perpetrators based on the recommendation of the National Police Commission (1977-1981). NRCB developed Integrated Investigation Forms *i.e.,* IIF in 1989-93 and implemented the Crime and Criminal Investigation System (CCIS) during the year of 1995. NCRB was entrusted with the responsibilities for monitoring, co-ordinating and implementing the Crime and Criminal Tracking Network System (CCTNS). To fulfill these aspects, NCRB collect, analyze and publish data/statistics of different crimes, prison statistics and accidental deaths also. NCRB is divided into six different division and these are as follows:

1. Crime and Criminal Tracking Network and Systems (CCTNS)
2. Training Brach
3. Statistical Branch.
4. Data Centre and Technical Branch (DCT)
5. Central Finger Prints Bureau (CFPB)
6. Crime Records Branch (CRB)

1.4.1.1 Crime and Criminal Tracking Network and Systems (CCTNS)

It is a strategic scheme formulated in the light of experience of a non-plan scheme namely “Common Integrated Police Application” (CIPA). While the Crime

and Criminal Tracking Network and Systems (CCTNS) is a Mission Model Project under the National E-Governance Plan of the Government of India. CCTNS intend to create a comprehensive and integrated system for improving the efficiency and effectiveness of policing through assume the principle of E-Governance and construction of a nationwide networking infrastructure for development of IT-enabled State of the art tracking system in the field of investigation of crime and detection of criminals.

1.4.1.2 Training Brach

One of the goals of NCRB is to provide training in IT and finger print science for capacity building in police forces in the country. Training branch of NCRB has been striving hard for achieving this objective. Each year this branch conducts on an average 22 training programmes for Indian Police Officers. Duration of these courses vary from 3 Days to 1 week. Training in subjects CCTNS, Advanced Fingerprint Science, Network and E-Security, Coloured Portrait Building System, Operators Course for Statistical Software Crime in India and ADSI, Operator Course for Prison Statistics India etc., are conducted. NCRB also conducts the courses on 'Train the Trainer' for development of training resource persons in Police. The Programmes conducted in NCRB are attended by officers of all ranks including senior IPS officers from States / Union Territories as well as from Central Police Organizations and have been very well received.

1.4.1.3 Statistical Branch

This branch was formed out of the Statistical Section of Bureau of Police Research and Development (BPR&D) which was one of the four units that were merged in NCRB at the time of NCRB's creation. Hence, Statistical Branch of NCRB is one of the founding branches of NCRB. The Branch is headed by Chief Statistical Officer (CSO) who is an STS level officer belonging to the Indian Statistical Service (ISS). The CSO is assisted by a Statistical Officer (SO), who is a JTS level officer of ISS, and a Junior Staff Officer (JSO), who is an officer

belonging to the EDP cadre of NCRB. The SO and the JSO guide and supervise the teams of DPAs, DEOs and other officials working under them. The DPAs and DEOs belong to the EDP cadre of NCRB.

1.4.1.4 Data Centre and Technical Branch (DCT)

DCT was formed to ensure the regulations of following activities:

- To build up, update and maintain a secure National Database on crimes, criminals and property which will make available informed, accurate and timely information online to all State forces and Central agencies for the purpose of improving day to day functioning in terms of crime detection, crime prevention, maintenance of public order etc.
- To update, maintain and build up a secure database on lost and recovered vehicles and provide updating facility to all vehicle counters in the country and border check posts.
- It provides 'recovered vehicles' data for NCRB website from the National Databank of stolen/recovered automobiles.
- To procure necessary IT hardware, software as per requirement of various divisions in NCRB and monitor their maintenance and performance.
- To act as a Control Room for the organization round the clock.
- In addition to above, this branch also provides data communication facilities

1.4.1.5 Central Finger Prints Bureau (CFPB)

The Central Finger Print Bureau came into being in 1955 in Calcutta (now Kolkata) under the administrative control of the Intelligence Bureau. In 1973 the administrative control was transferred to CBI and it was in July, 1986 that the CFPB was finally placed under the administrative control of the newly formed National Crime Records Bureau. At the Central Finger Prints Bureau, all the questioned documents involving disputed Finger Prints are examined and opinion given regarding their identity or otherwise. The service is free of charge for all Government agencies and Public Sector Undertakings. In case of private

agencies or individuals, the documents should be routed through Government agencies.

1.4.1.6 Crime Records Branch (CRB)

The main function of this Division is to collect, compile and disseminate information on Crime, Criminal, Missing persons and Property in respect of various offences on the basis of monthly returns from State / UT Police authorities. Data stored is used for co-ordination of lost and recovered property/persons *viz.,* Motor vehicles, Firearms, Missing Persons etc. These results are communicated through post/email to the various District SPs. Also the data bank is used to provide the vehicle verification report to the various Transport Authorities within Delhi.

Thus, both of the organizations, Bureau of Police Research and Development as well as the National Crime Records Bureau, has their significance as per their goals, aims, mission and vision. These organizations were formed to enhance the effectiveness of police, improve professionalism in police and also to update and make police more service oriented in the democratic country like India. These approaches, practice of creating better policing through trainings and modules. These organizations are in the developing direction and yet to achieve more in future.

1.4.1.7 Functions of National Crime Records Bureau (NCRB)

Following are the important functions of NCRB:

1. To keep various records of crimes and criminals including those operating at national and international level as well as to assist the police and other investigation agency.
2. To collect information of criminals from respective States and national investigation agency without referring to the police station records.
3. To collect and process the statistics of the crime and criminals at the national level.

4. To furnish information about crime and criminals to reformative agencies for their task of rehabilitation of criminals, their remand, parole and premature release.
5. To provide guidance to State Crime Record Bureau.
6. To evaluate the functions of Crime Record Bureau at District level.
7. To play the role of National repository of fingerprint records of convicted including the foreign criminals.
8. To assist police and other investigating agencies in finding the criminals by the help of fingerprint search.

1.4.2 State Crime Records Bureau (SCRB)

The State Crime Records Bureau (hereinafter read as SCRB) act as the hub of all crime related information. It collects, collates and analyses data related to crimes and criminals and furnish crime statistics of the State to the National Crime Records Bureau and to the State as and when required by them.

1.4.2.1 Composition of SCRB

The State Crime Records Bureau includes:

- Finger Print Bureau
- Modus Operandi Bureau under the administrative control of CBI and CID
- Police Computer Wing
- Statistical Cell under the administrative control of Chief Office
- SCRB Administrative Office

1. Finger Print Bureau (FPB)

The Finger Print Bureau was established in the year 1895 where the finger print slips of the State criminals as well as bordering States and international criminals are recorded for aiding the police in the detection and prevention of crime. In India, FPB came into existence in the year of 1955 and it fulfilled all the requirement of law enforcement agencies throughout the country as a nodal

agency to effectively deal in inter-State criminal enquiries by tracing or locating inter State criminals. It has 35 Single Digit Finger Print Bureau. Each SDFP headed by Additional Superintendent of Police (ADSP) or Deputy Superintendent of Police (DSP).

Functions and Duties of FPB

- Aid and advice to the investigating Officers with the finger prints of the criminals.
- Searching, comparison and identification of finger prints.
- Documenting finger prints of convicts and conviction details.
- Deposing expert opinion on criminal and civil cases in the court of law.
- Furnishing conviction particulars and finger print slips to NCRB.
- Matching of finger prints slips of criminals with Finger Print Database and advising the Investigation Officers.

2. MOB (Modus Operandi Bureau)

Modus Operandi is a Latin term which is "method of operation" or plan of working. Ordinarily, the Modus Operandi method of investigation is based on the study of various crime patterns and the plan adopted by different criminals committing different crime. Modus Operandi Bureau maintains records on the basis of modus operandi of criminals. It came into existence in the year of 1960. The prime functions of Modus Operandi Bureau (MOB) are:

- To maintain records of inter-State criminals.
- To maintain records of inter District criminals.
- Guidance is given to the IOs regarding criminals as per modus operandi adopted by the accused as when required.
- To compile monthly diaries and further submission to National Crime Record Bureau.
- To collect, consolidate, collate and disseminate information on crimes and criminals.
- To maintain history sheets of MOB criminals.

- To maintain general subject files for property offenders.
- To maintain profiles of criminal gangs.

3. Police Computer Wing

The Police Computer Wing was established under MPF scheme to control computerize crime and criminal Information. The important tasks of the Police Computer Wing are:

- To aid in the investigation and for statistical purpose
- To record all the crime and criminal data of the State,
- The maintenance of software supplied by NCRB *viz.,* MVCS, CCIS, Talash, Potrait Building System etc.
- Implementation of software supplied by NCRB such as CIPA and CCTNS.
- Preparation of Crime Review of SCRB Bulletin and assist NCRB in compiling of Crime in India.
- Maintenance and updation of Police Websites *i.e.,* en-RAS (Road Accident Statistic Software).
- Imparting training to the District personnel in CCIS, PBS, CIPA.

4. Statistical Cell

Statistical Cell was attached with SCRB in 1995. They are under the functional control of Chief Office. The main functions and duties of Statistical Cell are:

- Collection and compilation of all statistical data pertaining to the Office of the Director General of Police.
- To prepare Policy Note, Governor's / Chief Minister's speech for Police Budget.
- To prepare Statistical Hand book on Tamil Nadu Police.
- To collect statistical data *i.e.,* Road Accidents (Monthly and Annual accidental death and Suicides) from the districts and to furnish data to the State and Central Government.

5. SCRB Administrative Office

Administrative Office is attached to SCRB for the administration purpose of SCRB. It has a Personal Assistant (Administration) and 5 Superintendents, 11 Assistants, 2 Stenos, 2 Typists, 7 JAs, 7 Office Assistants, 3 Record Clerks, 4 Sweepers etc.

1.4.3 References and Suggested Books

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LESSON NO. 1.5 UNIT-B AUTHOR : MS. VEENA RANI

CRIMINOGENIC FACTORS

An Overview

1.5.0 Introduction

Urbanization, economic liberalization, political upheaval, inappropriate and inadequate policies are the bases of crime in any society. Moreover, poverty and inequality caused due to rising expectations and a sense of moral outrage that some members of the society are growing rich have contributed to higher and growing levels of crime. Whenever criminologists are trying to describe the causes of crime, part of that analysis examines the criminogenic needs of an offender. In this lesson, we will try to discuss criminogenic factors with regard to criminal offenders.

1.5.1 Sociological Factor

Sociological factor of criminology locate causation of crime in social environment. As stated earlier, Tarde was the first to reject the anthropological approach of positivists and held that crimes were the outcome of human tendency to imitate others. Sociologists carried their researches and attempted to co-relate variations in crime rate to changes in social organisation. They

successfully established that other factors such as mobility, culture, religion, economy, political ideologies, density of population, employment situations etc., that have a direct bearing on the incidence of crime in a given society. Placing reliance on these multiple causes, Sutherland sought to explain various processes through which a person becomes criminal. In his theory of 'Differential Association' he suggested that human personality and culture are directly related and a person becomes criminal mostly by the chain of circumstances in which he associates or moves.

1.5.2 Psychological Factor

Psychological factor includes the study of mind and behavioral attitudes of the criminals. It is the duty of individual characteristics *viz.,* personality, reasoning, thought perceptions, intelligence, imagination, memory, creativity and so on. Psychologists treat crime as a behavior learnt by the criminal in course of his contact with different persons. Sociologists seek to explain crime in terms of environmental circumstances. Lombroso attributed criminality to atavism which meant that criminals have savagery ancestral history and criminality in them is hereditary. Similar assertions were made by Goring who pointed out that criminalistic traits in criminals are imbibed by heredity and through instinctive patterns and, therefore, environmental conditions are of little importance. Subsequent researches by psychologists and sociologists have demonstrated beyond doubt that it is not the heredity, but the psychological influences operating in delinquent families that make anyone criminal. The child unconsciously imbibes criminalistic traits from the family background of the delinquent parents and subsequently turns into a confirmed criminal. The children who are removed away from their parents at an early age tend to follow criminality for want of proper parental care and lack of affection which develops the feeling of inferiority complex, frustration and humiliation in them. The psychologists consider the following factors as causes of crimes:

(a) sentimental instability;

(b) sense of inferiority; and

(c) family atmosphere.

People of sentimental instability are not able to take timely and correct decisions and, therefore, they move towards crimes. Similarly, some people having sense of inferiority lose their mental balance. They are affected by fear, anger and hate. This makes them criminal. Dissolution of family and atmosphere is also an important cause of commitment of crime. According to psychologists, such persons commit more crimes who are:

- weak on sentimental basis;
- weak and unstable economically;
- the people who struggle for their living always;
- idle and unemployed;
- sufferers of family quarrels;
- people who fail in love affairs;
- people who become victim of some unpleasant incident or
- disappointed from their age of minority etc.

1.5.3 Economic Factor

The importance of economic factors in the causation of crime and of economic crimes in general can be pointed out by quoting Hermann Mannheim. According to him, if traffic offences are omitted, the administration of criminal justice all over the world has to devote probably three-quarters of its time and energy to "economic crimes". There cannot be any doubt that poverty contributes a great deal, both directly and indirectly, to the commission of delinquent and criminal acts. But it is equally obvious that poverty alone cannot be made accountable for all the economic crimes committed. It hardly requires any research to say that there are many people who manage to keep themselves honest and upright even in the most trying circumstances while there may be others who after earning millions would like to earn another million by employing dishonest means. As stated above, poverty, lack of money,

economic disparities etc., are important causes of crime. When a family is in economic crisis then the members get involved in theft, prostitution, immorality. Idleness and unemployment is also the main cause of crime and bad instincts. Idle an unemployed person puts his steps towards theft, vulgarness, prostitution, sexual exploitation, begging and drinking etc. The lust, greed, selfishness and the desire to earn more wealth are the instincts in man which give birth to crime, theft, decoity, criminal breach of trust, cheating, fraud, smuggling, black marketing, adulteration and bribery are the result of this greedy, instinct.

1.5.4 Political Factor

There are political factors of crimes also. It has become a normal notion of the people that most of the criminals gets protection of political leaders. Such people commit crime without any fear because the government and the administration cannot do anything for them. The politicians have their vested interests behind such protection. At the time of election, such criminals co-operate the political leaders such as:

(a) payment of subscription in election or extending economic cooperation;
(b) to compel the voters to case vote by force and violence;
(c) to frighten threaten and terrorize the voters;
(d) to capture booths;
(e) to take the ballot box by force and running away;
(f) to effect false voting etc;

1.5.5 Radical Factor

The current development in the field of criminology is radical criminology which has been influenced by Marxism and conflict theories. It makes a departure from the traditional criminology which has its focus on correctional institutions and personal pathologies of the criminal and concentrates on the view that the behaviours of the powerless in any society are more likely to be criminalized and this group is more likely to be arrested, convicted and harshly sentenced. It

further believes that many acts which are more injurious than crime and tolerated as perfectly legal because they tend to be the behaviours which are carried out by the powerful group in the society. Influenced by the Marxist's view, the propounders of radical criminology have advocated the view that human nature by itself is not criminal; it is the capitalism which makes people greedy, self-centered and exploitative. The laws are the tools of the owners of the means of production and are used to serve their interests in keeping their activities even if they are harmful, brutal or morally unacceptable. Thus, there is differential enforcement of the criminal laws by the so called "Power Group".

It is important to note that Quinney's views on radical criminology are primarily based on the presumption that unequal economic situation which exists in a capitalists society leads to inequality of power and political position. The economically powerful are also politically powerful and this results in conflict of interests between the powerful and the powerless groups of society. Marxists, therefore, believed that criminology was basically a social creation.

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LESSON NO. 1.6 UNIT-B AUTHOR : MS. VEENA RANI

PUNISHMENTS

An Overview

1.6.0 Introduction

Punishment is one of the oldest method of controlling crime and criminality. However, variations in modalities of punishment, namely, severity, uniformity, certainty etc., are noticeable, because of variations in general societal to law breaking. In some societies punishments may be comparatively severe, uniform, swift and definite, while in others, it may not be so. This account for variations in the use of specific methods is punishment from time to time. Blood feud was one of the common modes of punishment in early society which was regulated by customary rule of procedure. It was undoubtedly a retaliatory method which underlined the principle of *lex tailonis i.e,* "eye for an eye and tooth for a tooth". These blood-feuds sometimes led to serious clashes between the clans which made life extremely difficult. With the advancement of time primitive societies gradually transformed into the civil societies and the institution of kingship began to exercise its authority in settling disputes.

Thus private vengeance fell into disuse giving rise to public disposition of wrongdoers. With the State assuming charge of administration of criminal justice, the process of public control of private wrong start which eventually culminated into modern penal system of world. The institute of police as a law enforcement agency and the court as justice of dispensation mechanism developed only after crime and punishment become the matter of public control. It has stated from the cruel and barbaric punishment and reached the stage of probation, parole and reformatory system.

1.6.1 Definitions of Punishment

There is no universal definition of punishment, but however different criminologists try to define the concept of punishment in different ways such as, according to Thomas Hobbes, "Punishment as an evil afflicted by a public authority on him that has done or omitted that which is adjudged by the same authority to be a transgression of the law; to the end that the will of men may thereby be disposed to obedience".

Wolf Middendorff defines, "Punishment as an unpleasant consequence which penal law prescribes for socially undesired human conduct and which courts impose according to the laws of penal procedure". According to Sir Rupert Cross, "Punishment as the affliction of pain by the State on someone convicted of an offence". On the other hand, Westmark define, "Punishment as a person is said to be punished when some pain is afflicted on him. That pain may take the form of imprisonment, fines, forfeiture of property or some other restriction or detriment imposed by society as a mark of its disapproval of the act or omission of the individual punished." According to Sutherland and Cressy, two essential ideas contained in the concept of punishment as an instrument of public justice:

1. It is inflicted by the group in its cooperate capacity upon one who is regarded as a member of the same group. The loss of status which often

follows crime is not punishment, except in so far as it is administered by the group in its corporate capacity.

2. Punishment involves pain or suffering produced by design and justified by some value that the suffering is assumed to have. This is the conventional conception as used in criminal law. If the suffering is merely accidental, to be avoided if possible, it is not punishment.

According to Grunhut, three components must be present if punishment is inflicted for checking crime:

- Speedy and inescapable detection and prosecution
- After punishment, the offender must have a chance for a fresh start. Thus punishment should not import any stigma on the offender.
- The State which claims the right of punishment must uphold superior values.

On the other hand Parker defines punishment as follows:

1. It must involve pain or some other consequence normally considered unpleasant
2. It must be for an offence against legal rules
3. It must be imposed on an actual offender for his offence
4. It must be properly administered by human beings other than the offender
5. There must be a spirit of reform behind the punishment
6. It must be imposed and administered by an authority constituted by a legal system against which the offence is committed
7. It must be imposed for the dominant purpose of preventing offences against legal rules.

Hence, the study of treatment of offenders initially focused exclusively on punishment and excluded other ways of dealing with offenders. However,

modern approaches to criminology focus on the role of society and social pressures on the making of criminal offenders. Penologists have thereby been forced to look beyond punishment.

1.6.2 Penal System in India

1.6.2.1 Ancient Penal System

In ancient penal system of the different counties as well as in India, the penal system has been cruel and barbaric and severe type of punishments has been prevalent at that time, such as:

1. Scolding

To beat the criminal with scolds *(Koras)* is very ancient. This punishment was given to the persons for breaking the soberness of women, vulgarness, cheating, drinking wine etc. The number of koras depended upon the discretion of the King. It was abolished afterwards because it was a very cruel punishment.

2. Mutilation

The mutilation was yet another kind of corporal punishment commonly used in early times**.** The punishment of separation of organ is also very old. It was prevalent in India and in other European countries. There were two objectives of this system mainly:

(a)To resist crimes, and

(b) To take revenge.

This punishment was given in case of theft and immorality. In case of offence of theft, both hands were cut and if he indulged in sex crime, sexual organs were cut off. The main objective of this theory was “life shall go for life, hand for hand and tooth for tooth, eye for eye and foot for foot.”

3. Branding

This system is also very old and under this system, hot iron bars were touched on the heads of body of the criminal. This system was also prevalent in European countries. The convicts were branded as a mask of indelible criminal record leaving visible marks such as scars in the body parts which are normally noticeable. These permanent indelible marks not only served as caution for the society to guard against such hardened criminals, but also carried stigma which deterred them from repeating the offence.

4. Stoning

Stoning the criminal to death is also known to have been in practice during the medieval period. The guilty person is made to stand in small trench dug in the ground and people surround him from all sides and pelt stones on him until he dies.

5. Pillory

This form of punishment also existed in the past. The punishment of pillory was considered as very cruel. In this system, the hands and feet of criminals were put in an iron box in such a way that he could not move his body. Sometimes, the criminal was beaten with *koras*. Hot Iron bars were put on body *(dagana)* and stones were thrown upon him. The criminal was to be fitted in the wall and punished. Such punishments were given in case of theft, rape and immorality etc. This penal system was prevalent in Moghul period in India. This exists even today in some Islamic countries.

6. Banishment

Banishment was also known as learning the country. In India, it was called punishment of black water. Under this system, the criminal sent to distant sea areas so that he may remain far off from the society. Lombroso has accepted as the best method of punishment. The criminologist Garefalo was of the same

view. In India, the system of Zila Badar is the reformed shape of this punishment. Some of criminologists considered it as reformatory system.

7. Amercement (fine)

Amercement was a financial penalty under English penal system, which was commonly used during Middle ages. It was imposed either by courts or by peers. It was similar to fine with only difference that fine could be fixed sum prescribed by the statute while amercement was arbitrary. It was used as punishment for minor offences as an alternative to fine.

8. Solitary Imprisonment

This penal system is just like banishment. Under this system, the criminal are kept separate from the society *i.e.,* they are kept in isolation with no contract with anyone else and are usually locked in small cellular room with smaller windows. This penalty was intolerable because the man could not bear this torture as a social creature. Under sections 73 and 74 of Indian Penal Code, 1860, the provisions have been made of solitary confinement. Section 73 runs as under, "Whenever any person is convicted of an offence for which under this Code the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that is to say-

(1) a time not exceeding one month if the term of imprisonment shall not exceed six months;

(2) a time not exceeding two months if the term of imprisonment shall exceed six months and shall not exceed one year;

(3) a time not exceeding three months if the term of imprisonment shall exceed one year."

Similarly, section 74 described the limit of solitary confinement and it runs as under, " In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods; and when the imprisonment awarded shall exceed three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods."

In addition to these punishments, to throw in the boiling hot water and to throw before wild beasts have also been the forms of punishment in the previous time in India.

1.6.2.2 Present Penal System of India

The present penal system of India is being governed by the Indian Penal Code, 1860. Under section 53 of the Code, the following types of punishment have been provided:

1. Death Penalty
2. Life Imprisonment
3. Imprisonment (Rigorous and Simple)
4. Forfeiture of Property
5. Fine

In addition to the above, reformatory penal system also exists which includes probation and admonition etc.

1. Death Penalty

Death Penalty or Death Sentence is the most severe and the highest punishment. Under this punishment, the person *i.e.,* the criminal is punished with capital punishment. In common parlance it is known as punishment of hanging till death *(Fansi ki Saja)*. This punishment is given in rare to rarest

cases. Under Indian Penal Code, 1860, the capital punishment is awarded in the following cases:

(a) to wage a war against Government of India (Section 121)

(b) abetment of mutiny, if mutiny is committed in consequences thereof (Section 132)

(c) giving or fabricating false evidence with intent to procure conviction of capital offence and innocent person thereby be convicted and executed (Section 194)

(d) murder (Section 302)

(e) abetment of suicide of child or insane person (Section 305)

(f) dacoity with murder (Section 396)

(g) attempt to murder by such person who has been punished with life imprisonment (Section 307).

It is important to note that after the gruesome Kathua rape case, Indian Parliament has amend the Protection of Children from Sexual Offences Act, 2012 (POCSO Act) in the year of 2018 to grant death penalty for the rape of children under the age of 12.

It is to be mentioned here that the order of Court of Sessions imposing death penalty cannot be implemented till it is ratified by High Court under section 366 of Code of Criminal Procedure, 1973.

2. Life Imprisonment

From the severity of punishment, life imprisonment stands next to death penalty. Life imprisonment means imprisonment till the criminal lives alive. But under section 57 of Indian Penal Code, 1860, this period of life imprisonment is taken as 20 years. According to Jail Manual, this period can be up to 14 years in certain cases.

3. Imprisonment

It stands third in the chain of punishments. In reality, this is the most popular form of punishment and in majority of the cases, this punishment is given. Under this, the criminal is kept in prison. This punishment is of two types:

(a) Rigorous or Severe Imprisonment

(b) Simple imprisonment

In severe punishment, hard labour is to be done by the criminal in prison *viz.,* grinding floor, drawing water, digging soil and cutting the wood etc. But under simple imprisonment the prisoner is kept (confined) in prison. No labour is to be done by the criminal. Under section 60 of Indian Penal Code, 1860, any imprisonment may be partially hard or partially simple.

4. Forfeiture of Property

Forfeiture of property is though part of the fine, but it has been considered as a separate punishment. In this case, the property of criminal is forfeited. In the part, this punishment was prevalent, but now it has remained only in name. The following sections of Indian Penal Code, 1860 provides this way of punishment:

(a) Looting in the territory of the country friendly with India (Section 126)

(b) Acquiring such property by looting and taking it in possession (Section 127)

(c) To sell property illegally and bidding for it by public servant (Section 169)

5. Fine

It is a punishment of normal nature. For normal or simple offences, the punishment of fine exists almost in all countries. It is simple type of punishment:

(a) which increases government revenue; and

(b) not torturous to the man under charge.

The system of fine exists in case of offences relating to motor and commercial establishments. But in case of non-payment of fine, then the criminal may be punished with imprisonment. Under sections 63 and 64 of the Indian Penal Code, 1860 and under sections 357 and 421 of the Code of Criminal Procedure, 1973, provisions have been made in this regard. While imposing fine nature of crime, severity, age of criminal, character, status, family background etc., factors are also considered.

1.6.2.3 Other Prevalent Reformatory Punishments

It is a new concept of punishment. This concept is based on the maxim that, "hate crime not criminal." The concept is that the man is not criminal by birth, it is circumstances which make him criminal. Therefore, such circumstances should be removed and the criminal should be given the chance to reform himself. On the basis of this theory, some reformatory steps have been taken in making provisions in the criminal laws:

(a) Probation

The convict is released on the condition that he will maintain good conduct instead of putting him in jail. According to Illiot, "to reduce punishment of the criminal when the crime is proved by the court on the condition of maintenance of good conduct is probation." According to Walter C. Reckless, "the suspension of punishment of the convict by the court is known as probation."

The main objective of probation is to give chance to the criminal to reform himself instead of punishing him. In India, provisions regarding probation have been made under section 49 of the Probation of Offenders Act, 1958 and under sections 360 and 361 of the Code of Criminal Procedure, 1973.

(b) Admonition or Warning

Like probation, admonition is also a form of reformatory punishment. Under this, the criminal is not put in jail, but given the chance to reform himself in future by giving him warning as not to commit such crime. The provision for

admonition has been made under section 3 of the Probation of Offenders Act, 1958.

(c) Parole

Parole is also said as a form of reformatory system. It is also known as holiday from prison. According to Warms and Teeter, "Parole is the type of conditional release, which is granted to the criminal after undergoing by him of part of the punishment imposed upon him." In the words of Illiot, "to release the criminal before completing the term of punishment of imprisonment on the recommendation of Parole officer is parole. The main objective of parole is to give the chance to the criminals to reform and to develop a system of confidence in them.

(d) Remission

Some sentenced prisoners may eligible for remission. Remission is the reduction in the length of a prisoner's sentence, up to a maximum of 3 months. If a prisoner or detainee is again found guilty of a prison offence, then the prisoner may lose part or all of his/her remission.

(e) Pardon

A pardon is a government decision to allow a person to be absolved of guilt for an alleged crime or other legal offence, as if the act never occurred. The pardon may be granted before or after conviction for the crime, depending on the laws of the countries. Pardons are sometimes offered to persons who were either wrongfully convicted or who claim that they were wrongfully convicted. Cases of wrongful conviction are nowadays more often dealt with by appeal rather than by pardon; however, a pardon is sometimes offered when innocence is undisputed in order to avoid the costs that are associated with a retrial. Clemency plays a very important role when capital punishment is applied.

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LESSON NO. 1.7 UNIT-B AUTHOR : MS. VEENA RANI

THEORIES OF PUNISHMENTS

An Overview

1.7.0 Introduction

Punishment is one of the oldest method of controlling crime and criminality. However, variations in modalities of punishment, namely, severity, uniformity, certainty etc., are noticeable, because of variations in general societal to law breaking. In some societies punishments may be comparatively severe, uniform, swift and definite, while in others, it may not be so. This account for variations in the use of specific methods is punishment from time to time. Blood feud was one of the common modes of punishment in early society which was regulated by customary rule of procedure. It was undoubtedly a retaliatory method which underlined the principle of *lex tailonis i.e,* "eye for an eye and tooth for a tooth". These blood-feuds sometimes led to serious clashes between the clans which made life extremely difficult. With the advancement of time primitive societies gradually transformed into the civil societies and the institution of kingship began to exercise its authority in settling disputes.

Thus private vengeance fell into disuse giving rise to public disposition of wrongdoers. With the State assuming charge of administration of criminal justice, the process of public control of private wrong start which eventually culminated into modern penal system of world. The institute of police as a law

enforcement agency and the court as justice of dispensation mechanism developed only after crime and punishment become the matter of public control. It has stated from the cruel and barbaric punishment and reached the stage of probation, parole and reformatory system.

1.7.1 Theories of Punishment

It is said about punishment that uninvestigated criminals are an expensive luxury. This statement is correct. The punishment is directly related with crime. The punishment is given according to the nature of crime. While awarding punishment, to the criminal, the surrounding circumstances are also taken into account. Many things assist in commitment of crime *viz.,* circumstances under which crime has been committed, conduct of criminal, his conscience, the conduct of aggrieved party and his status; they all determine the form and quantum of punishment etc.

Many times crimes are committed under compulsion and adverse circumstances. The criminal has to repent afterwards on his act. The spent of reform arises in him. While passing order for punishment, this thing has also to be taken into account. Further, this is also one aim of punishment that the severest possible punishment should be given to the criminal so that crimes may be prevented, terror may be created in the society and nobody may dare to commit crime considering all these things into account, some theories of punishment have been propounded. The main theories are as follows:

1. Deterrent Theory
2. Preventive Theory
3. Retributive Theory
4. Expiratory Theory
5. Reformative Theory

1. Deterrent Theory

This is the oldest theory of punishment and its main objective is to keep separate the criminal from the crime by terrorizing him by means of punishment. In addition to this, its objective is to terrorize the other persons in the society so that they may remain separate from crimes. Thus the main objective of this theory is to check crimes by means of terror of punishment. The main assumption of the supporters of this theory is that the criminals should be given very rigorous punishment, torture etc., so that the criminal himself and the whole society may become terrorised and may not dare to commit crime in future. Though this theory is practiced in some countries, but it has been criticized by many criminologists. The critics have to say that the crimes cannot be checked by means of punishment only. From severe punishment, the possibility may exist of increasing rather than reduction in crime. The critics treat it as barbaric and cruel and therefore, it has no place in the present system of punishment.

According to Dr. Sethana, "Only the severe punishment is not the only means of prevention of crime because many times, the criminal becomes habitual while tolerating punishment. Therefore, to check crime, some compensation must be imposed upon the criminal." Sutherland is of the same view. According to him, many criminals do not think over punishment, even they are not under terror, because they have defective mentality. Many times, crimes are committed under severe excitement and emotions which have no relation which the form and quantum of punishment.

2. Preventive Theory

This theory is of most rigorous type. The objective of this theory is to make the criminal disabled and to provide security to the society. The supporters of this theory have to say that the criminals are thorns for a society. They create chaos and insecurity in the society. Thus criminals should be kept separate from the society. The following forms of punishments are proper for them:

(a) Death Penalty

(b) Lifetime Imprisonment

(c) Banishment

This theory of punishment is based on the maxim that, prevention is better than cure. Instead of taking revenge from the criminal, the crime itself should be prevented. The famous jurist Fische has to say that the aim of all penal laws is that they should not be applied *i.e.,* such conditions should not be created so that they are to be applied. It means, that the main objective of punishment is that the people should not commit crime; and when they will not commit crime, there will be no need to apply the penal laws.

It is important to note that Bentham and Mill are also the strong supporters of this theory. According to them, the death penalty is awarded to the criminal not on the basis that he should not commit crime in future, but awarded so that the society may get rid of such person.

This theory is also subject to criticism. The critics have to say that how long a society may be kept separate from the criminal? On some day or other, he will be turned out of the prison. After turning out, he will not commit cannot be guaranteed. Therefore, this is not the final solution of commitment of crime. In spite of this, the forms of punishment *viz.,* death penalty and life imprisonment have been given important place in the penal system of various countries.

3. Retributive Theory

It is also known as revengeful theory. The main objective of this theory is to take revenge from the criminal. The main idea lies behind this theory is that, "as you sow so shall you reap." Life shall go for life, hand for hand and foot for foot, eye for eye and tooth for tooth. According to P.K. Sen, "evil for evil without thinking of consequences is the main objective of this theory." Plato has to say that, "justice is the goodness of soul and health and injustice is illness and evil whose remedy is punishment." In the words of Bardlay, "the relation between

criminal law and revenge is such as it is between marriage and affection." According to Sir Walter Moberly, "the main objective of retributive theory is that the criminal get punishments for his wrongful act. Punishment is necessary for healthy society how so very the society may not like." But some critics have criticized this theory. Salmond has to say that, "revenge is not the remedy of crime, but cause of increase in crime." Other critics consider it as the punishment of very low or degraded nature. Along with criticism, some thinkers have supported this theory. In the opinion of Dr. M.J. Sethana, "the objective of retributive theory is not revenge but it is the wrongful acts. What a man does, he should get the like results." Professor Keetan think of this theory as ethical. His view is that this theory is relevant in the changed context of today.

4. Expiatory Theory

This is the theory of expiation. Since crime is considered as sin in our society, therefore, expiation is necessary for this sin. In reality, it is not a legal theory of punishment, because it is based upon religious concepts. It has no legal effects. It is not necessary that a criminal should not be punished after his expiation for his sin.

5. Reformative Theory

This is the modern theory of punishment. The main objective of this theory is to give the chance to the criminal to reform. It clears the way of society after reforming the criminal. It is based on the maxim 'hate the crime and not the criminal.' A man is not criminal by birth, if the circumstances which make him criminal. Poverty, emotions, compulsion and family atmosphere are such causes which make a man criminal. After commitment of crime, the criminal repents upon his acts many times. He wants to reform himself. Keeping all these things into account, the reformatory theory has been evolved. According to this, a criminal is not awarded the punishment of imprisonment, but is given the chance to reform himself by means of the following:

- probation;

- admonition;
- parole;
- keeping in a reformatory house;
- to pay remuneration for the work done; and
- rehabilitation etc.

Bentham, Ferri, Garefalo, Walter Reckless etc., are the strong supporters of this theory. They are hopeful of prevention of crime by means of this theory. Sutherland is also supporter of this theory. This theory has also been criticized. According to critics:

(a) the terror of punishment is necessary for prevention of crime;

(b) there is a strong possibility of misuse of reformatory system;

(c) the reformatory measures cannot prove successful for habitual offenders; and

(d) the effect of this theory may be experienced only on juvenile delinquents and emotional criminals.

In an American report titled 'struggle for justice' it has been said that, "The reformatory theory is nothing except as a show. The main objective behind adoption of this theory by prison authorities is to increase their powers." From the above, it is clear that each theory has its own advantage and disadvantage. In the present context, no single theory can prove successful. For prevention of crime, severe punishment is necessary for creating terror. The criminal should get the result of his act. Along with this, if the crime has been committed under compulsion, emotions, and if he expiates for that, he should be given the chance to reform himself. Therefore, it is desired that a universally acceptable theory of punishment should be evolved which may take into consideration the surrounding circumstances, age character, nature of crime and spirit of reform etc.

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LESSON NO. 1.8 UNIT-B AUTHOR : MS. VEENA RANI

JUVENILE DELINQUENCY

An Overview

1.8.0 Introduction

The crime related to children is known as "Juvenile Delinquency". Normally it's believed that child does not commit crime. The act of the child may be indecent, polite, pleasant and condemnable, but not punishable. Because of this reason the word delinquency has been used with children in the place of word crime or offence. The juvenile delinquency is considered as the prior stage of children offences. This is a situation where a minor revolt or rebel against authority and breaks laws and regulations as laid down by society, the State or the family. The movement for special treatment of juvenile offenders started towards the end of eighteenth century. Prior to this juvenile offenders treated like adult offenders. They were prosecuted in criminal courts and were the subject of

same penalties as adult. The campaign against ill-treatment towards young offenders began in the year of 1772, when certain special concessions were granted to juvenile delinquents in civil matters, such as probate, gifts etc. The adoption of the principle of *parans patriae* (parent of the nation) evolved by Court of Chancery in England necessitated special provisions for handlings the Estate of minors as they could not manage their property themselves. Similar provisions were extended to children under criminal law and finally treatment to children offenders emerged as independent movement.

In India, special provision which provided for the care, protection, treatment, development and rehabilitation of neglected or delinquent juveniles are enacted under the Juvenile Justice Act, 1986 which was uniformly applicable throughout the country except Jammu and Kashmir. The Juvenile Justice Act, 1986 was repealed by the Juvenile Justice (Care and Protection of Children) Act, 2000 which was amended by the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006 and it again and finally replaced by the Juvenile Justice (Care and Protection of Children) Amendment Act, 2015. Currently, the Juvenile Justice (Care and Protection of Children) Amendment Bill, 2018 is also introduced in Lok Sabha by Women and Child Development Minister Maneka Gandhi for the further improvements in this law.

Etymologically, the term 'Delinquency' has been derived from Latin word *delinquer* which means 'to omit'. The Romans used the term to refer to the failure of a person to perform the assigned task or duty. It was William Coxson who in the year of 1484 used the term 'Delinquent' to describe a person found guilty of customary offence. The word also found place in Shakespearean famous play *'Macbeth'* in 1605. In simple words it may be said that delinquency is a form of behavior or rather misbehavior or deviation from the generally accepted norms of conduct in the society. The Juvenile Justice (Care and Protection of Children) Amendment Act, 2015 provide the definitions of child, juvenile and children of care and protection. Under section 2(12) of the above

said Act "child" means a person who has not completed eighteen years of age. Section 2 (35) defines the term Juvenile" means a child below the age of eighteen years. Under section 2(14) "child in need of care and protection" means a child:

i. who is found without any home or settled place of abode and without any ostensible means of subsistence; or

ii. who is found working in contravention of labour laws for the time being in force or is found begging, or living on the street; or

iii. who resides with a person (whether a guardian of the child or not) and such person—

a. has injured, exploited, abused or neglected the child or has violated any other law for the time being in force meant for the protection of child; or

b. has threatened to kill, injure, exploit or abuse the child and there is a reasonable likelihood of the threat being carried out; or

c. has killed, abused, neglected or exploited some other child or children and there is a reasonable likelihood of the child in question being killed, abused, exploited or neglected by that person; or

iv. who is mentally ill or mentally or physically challenged or suffering from terminal or incurable disease, having no one to support or look after or having parents or guardians unfit to take care, if found so by the Board or the Committee; or

v. who has a parent or guardian and such parent or guardian is found to be unfit or incapacitated, by the Committee or the Board, to care for and protect the safety and well-being of the child; or

vi. who does not have parents and no one is willing to take care of, or whose parents have abandoned or surrendered him; or

vii. who is missing or run away child, or whose parents cannot be found after making reasonable inquiry in such manner as may be prescribed; or

viii. who has been or is being or is likely to be abused, tortured or exploited for the purpose of sexual abuse or illegal acts; or

ix. who is found vulnerable and is likely to be inducted into drug abuse or trafficking; or

x. who is being or is likely to be abused for unconscionable gains; or

xi. who is victim of or affected by any armed conflict, civil unrest or natural calamity; or

xii. who is at imminent risk of marriage before attaining the age of marriage and whose parents, family members, guardian and any other persons are likely to be responsible for solemnization of such marriage

1.8.1 Definitions of Juvenile Delinquency

It is very difficult to give any universal definition of juvenile delinquency. Various Criminologists have defined it in their own way. Some of these definitions are as follows: According to Dr. M.J. Sethna, "Juvenile delinquency includes such unlawful acts of a child which as per prevalent law are committed by young persons of age specified by law." According to Dr. P.N. Varma, "Delinquency is neglect or violation of duty." In the words of Robbinson, "Juvenile delinquency means vulgarness, begging, mischievousness, rude behavior in courteousness and the like activities." In the words of Siddhiki, "Any act prohibited by law for children up to a prescribed age limit is juvenile delinquency and child found to have committed an act of juvenile delinquency by a court is a juvenile delinquent." In the words of Kaldnell, "Juvenile delinquency means those acts committed by minors which are protected by the State. Similarly, Ruth Shonle Cavan of USA observed that "irrespective of legal definition, a child might be regarded as delinquent when his anti-social conduct inflicts suffering upon others or when his family finds him difficult to control, so that he becomes a serious concern of the community."

In a broad generic sense, juvenile delinquency refers to a variety of anti-social behavior of a child and is defined somewhat differently by different societies, though a common converging tendency may be noted in those forms, namely, socially unacceptable tendency of the child at any given time.

1.8.2 Causes of Juvenile Delinquency

There are some causes of juvenile delinquency which can be described following way:

(1) Family Atmosphere

The first cause of juvenile delinquency is atmosphere of the family. The type of atmosphere a child gets in the family, he becomes like that. The family is considered as a first school of a child. If a child gets good atmosphere in the family, he becomes cultured and well behaving and becomes criminal when he gets adverse atmosphere. Mostly the children are of criminal nature in a dissolved families where they found undisciplined because of want of sufficient control over them.

(2) Poverty

The second most important cause of juvenile delinquency is poverty. When the economic condition of family is very poor then the looking after, maintenance, education and fulfillment of these needs do not take place properly and with the result, that the children become victims of begging, theft and sexual exploitation. The sense of interiority develops sometimes among the children because of lack of money and they stop towards crimes because of this inferiority.

(3) Negligence

The negligence of child in the family is also an important cause of child delinquency. When the children do not get natural love of their parents, they get disappointment and despair and they become naughty and undisciplined. In the absence of natural affection by parents, the children do not become

confident. The needs of children are not fulfilled, within the result, the child adopts criminal instincts.

(4) Physical Defects

When a child is handicapped, ugly faced, and blind, then he is considered as a matter of fun, then a child gets the sense of inferiority. Such children do not get employment and do not get married. Under such conditions, mostly the children become delinquent.

(5) Mental Insanity

Mental insanity is also one of the causes of juvenile delinquency because of mental insanity the children do not possess the capacity to think their benefit or loss and good or bad. These blocks up their growth of intelligency and children attract towards theft, begging and other crimes.

(6) Cinema, Television and Internet

Cinema, television and internet are also responsible for juvenile delinquency. Many obscene films are shown in the cinema hall and on television which affects the innocent child and he becomes guilty. Such films and sketches affect the child and he becomes criminal. A case when a school going child in Delhi was caught while drawing obscene sketch of girls and action was taken against him under the Information Technology Act, 2000.

(7) Obscene Literature-

Literature affects the man and his personality immensely. When a man reads any type of literature, his conscience and conduct becomes according to the spirit of that. A man becomes well cultured on reading of good literature while becomes criminal on reading of obscene literature. When a child reads sexual literature, criminal novels, comics etc., he tries to commit theft, immorality, prostitution etc. When a child reads sex exciting literature, sees obscene sketches, sexual stories and essays, his conscience becomes unpurified and he

becomes criminal. In brief, it can be said that literature is a boon as well as a curse.

1.8.3 The Juvenile Justice (Care and Protection of Children) Act, 2015: Some Basic Features

1.8.3.1 General provision regarding Care and Protection of Children

The Central Government, the State Governments, the Board, and other agencies, as the case may be, while implementing the provisions of this Act shall be guided by the following fundamental principles:

i. **Principle of presumption of innocence:** Any child shall be presumed to be an innocent of any malafide or criminal intent up to the age of eighteen years.

ii. **Principle of dignity and worth:** All human beings shall be treated with equal dignity and rights.

iii. **Principle of participation:** Every child shall have a right to be heard and to participate in all processes and decisions affecting his interest and the child views shall be taken into consideration with due regard to the age and maturity of the child.

iv. **Principle of best interest:** All decisions regarding the child shall be based on the primary consideration that they are in the best interest of the child and to help the child to develop full potential.

v. **Principle of family responsibility:** The primary responsibility of care, nurture and protection of the child shall be that of the biological family or adoptive or foster parents, as the case may be.

vi. **Principle of safety:** All measures shall be taken to ensure that the child is safe and is not subjected to any harm, abuse or maltreatment while in contact with the care and protection system, and thereafter.

vii. **Positive measures:** All resources are to be mobilized including those of family and community for promoting the well-being, facilitating development of identity and providing an inclusive and enabling environment, to reduce vulnerabilities of children and the need for intervention under this Act.

viii. **Principle of non-stigmatizing semantics:** Adversarial or accusatory words are not to be used in the processes pertaining to a child.

ix. **Principle of non-waiver of rights:** No waiver of any of the right of the child is permissible or valid, whether sought by the child or person acting on behalf of the child, or a Board or a Committee and any non-exercise of a fundamental right shall not amount to waiver.

x. **Principle of equality and non-discrimination:** There shall be no discrimination against a child on any grounds of sex, caste, ethnicity, place of birth, disability and equality of access, opportunity and equal treatment shall be provided to every child.

xi. **Principle of right to privacy and confidentiality:** Every child shall have a right to protection of his privacy and confidentiality, by all means and throughout the judicial process.

xii. **Principle of institutionalization as a measure of last resort:** A child shall be placed in institutional care as a step of last resort after making a reasonable inquiry.

xiii. **Principle of repatriation and restoration:** Every child in the juvenile justice system shall have the right to be re-united with his family at the earliest and to be restored to the same socio-economic and cultural status that he was in, before coming under the purview of this Act, unless such restoration and repatriation is not in his best interest.

xiv. **Principle of fresh start:** All past records of any child under the Juvenile Justice system should be erased except in special circumstances.

xv. Principle of diversion: Measures for dealing with children in conflict with law without resorting to judicial proceedings shall be promoted unless it is in the best interest of the child or the society as a whole.

xvi. Principles of natural justice: Basic procedural standards of fairness shall be adhered to, including the right to a fair hearing, rule against bias and the right to review, by all persons or bodies, acting in a judicial capacity under this Act.

1.8.3.2 Formation of Juvenile Justice Board

Under this Act, the power to established juvenile justice board has been provided to the State Government. The Act provided that:

1. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the State Government shall, constitute for every district, one or more Juvenile Justice Boards for exercising the powers and discharging its functions relating to children in conflict with law under this Act.
2. A Board shall consist of a Metropolitan Magistrate or a Judicial Magistrate of First Class not being Chief Metropolitan Magistrate or Chief Judicial Magistrate (hereinafter referred to as Principal Magistrate) with at least three years experience and two social workers selected in such manner as may be prescribed, of whom at least one shall be a woman, forming a Bench and every such Bench shall have the powers conferred by the Code of Criminal Procedure, 1973 on a Metropolitan Magistrate or, as the case may be, a Judicial Magistrate of First Class.
3. No social worker shall be appointed as a member of the Board unless such person has been actively involved in health, education, or welfare activities pertaining to children for at least seven years or a practicing professional with a degree in child psychology, psychiatry, sociology or law.
4. No person shall be eligible for selection as a member of the Board, if he

i. has any past record of violation of human rights or child rights;

ii. has been convicted of an offence involving moral turpitude, and such conviction has not been reversed or has not been granted full pardon in respect of such offence;

iii. has been removed or dismissed from service of the Central Government or a State Government or an undertaking or corporation owned or controlled by the Central Government or a State Government;

iv. has ever indulged in child abuse or employment of child labour or any other violation of human rights or immoral act.

1.8.3.3 Powers, functions and responsibilities of Juvenile Justice Board

The powers conferred on the Board by or under this Act may also be exercised by the High Court and the Children's Court, when the proceedings come before them under section 19 or in appeal, revision or otherwise. The functions and responsibilities of the Board:

a. To ensure the informed participation of the child and the parent or guardian, in every step of the process;

b. To ensure that the child's rights are protected throughout the process of apprehending the child, inquiry, aftercare and rehabilitation;

c. Ensuring availability of legal aid for the child through the legal services institutions;

d. Wherever necessary the Board shall provide an interpreter or translator, having such qualifications, experience, and on payment of such fees as may be prescribed, to the child if he fails to understand the language used in the proceedings;

e. Directing the Probation Officer, or in case a Probation Officer is not available to the Child Welfare Officer or a social worker, to undertake a social investigation into the case and submit a social investigation report within a

period of fifteen days from the date of first production before the Board to ascertain the circumstances in which the alleged offence was committed;

f. Adjudicate and dispose of cases of children in conflict with law in accordance with the process of inquiry specified in section 14;

g. Transferring to the Committee, matters concerning the child alleged to be in conflict with law, stated to be in need of care and protection at any stage, thereby recognizing that a child in conflict with law can also be a child in need of care simultaneously and there is a need for the Committee and the Board to be both involved;

h. Disposing of the matter and passing a final order that includes an individual care plan for the child's rehabilitation, including follow up by the Probation Officer or the District Child Protection Unit or a member of a non-governmental organization, as may be required;

i. Conducting inquiry for declaring fit persons regarding care of children in conflict with law;

j. Conducting at least one inspection visit every month of residential facilities for children in conflict with law and recommend action for improvement in quality of services to the District Child Protection Unit and the State Government;

k. Order the police for registration of first information report for offences committed against any child in conflict with law, under this Act or any other law for the time being in force, on a complaint made in this regard;

l. Order the police for registration of first information report (FIR) for offences committed against any child in need of care and protection, under this Act or any other law for the time being in force, on a written complaint by a Committee in this regard;

m. Conducting regular inspection of jails meant for adults to check if any child is lodged in such jails and take immediate measures for transfer of such a child to the observation home; and

n. Any other function as may be prescribed.

1.8.3.4 Provisions regarding Child Welfare Committee

A. Constitution of Child Welfare Committee

Under the Act, for the proper welfare of the child, the concept of Child Welfare Committee has been inserted and following are the important statutory provisions in this context and for the constitution of such committees:

1. The State Government shall by notification in the Official Gazette constitute for every district, one or more Child Welfare Committees for exercising the powers and to discharge the duties conferred on such Committees in relation to children in need of care and protection under this Act and ensure that induction training and sensitisation of all members of the committee is provided within two months from the date of notification.
2. The Committee shall consist of a Chairperson, and four other members as the State Government may think fit to appoint, of whom atleast one shall be a woman and another, an expert on the matters concerning children.
3. The District Child Protection Unit shall provide a Secretary and other staff that may be required for secretarial support to the Committee for its effective functioning.
4. No person shall be appointed as a member of the Committee unless such person has been actively involved in health, education or welfare activities pertaining to children for atleast seven years or is a practicing professional with a degree in child psychology or psychiatry or law or social work or sociology or human development.
5. No person shall be appointed as a member unless he possesses such other qualifications as may be prescribed.
6. No person shall be appointed for a period of more than three years as a member of the Committee.

7. The appointment of any member of the Committee shall be terminated by the State Government after making an inquiry, if—

   i. he has been found guilty of misuse of power vested on him under this Act;

   ii. he has been convicted of an offence involving moral turpitude and such conviction has not been reversed or he has not been granted full pardon in respect of such offence;

   iii. he fails to attend the proceedings of the Committee consecutively for three months without any valid reason or he fails to attend less than three-fourths of the sittings in a year.

8. The District Magistrate shall conduct a quarterly review of the functioning of the Committee.

9. The Committee shall function as a Bench and shall have the powers conferred by the Code of Criminal Procedure, 1973 on a Metropolitan Magistrate or, as the case may be, a Judicial Magistrate of First Class.

10. The District Magistrate shall be the grievances redressal authority for the Child Welfare Committee and anyone connected with the child, may file a petition before the District Magistrate, who shall consider and pass appropriate orders.

B. Powers of Child Welfare Committee

The Committee shall have the authority to dispose of cases for the care, protection, treatment, development and rehabilitation of children in need of care and protection, as well as to provide for their basic needs and protection. Where a Committee has been constituted for any area, such Committee shall, notwithstanding anything contained in any other law for the time being in force, but save as otherwise expressly provided in this Act, have the power to deal exclusively with all proceedings under this Act relating to children in need of care and protection.

C. Functions and Responsibilities of Committee

The functions and responsibilities of the Committee shall include:

1. Taking cognizance of and receiving the children produced before it.
2. Conducting inquiry on all issues relating to and affecting the safety and wellbeing of the children under this Act.
3. Directing the Child Welfare Officers or probation officers or District Child Protection Unit or non-governmental organisations to conduct social investigation and submit a report before the Committee.
4. Conducting inquiry for declaring fit persons for care of children in need of care and protection.
5. Directing placement of a child in foster care.
6. Ensuring care, protection, appropriate rehabilitation or restoration of children in need of care and protection, based on the child's individual care plan and passing necessary directions to parents or guardians or fit persons or children's homes or fit facility in this regard.
7. Selecting registered institution for placement of each child requiring institutional support, based on the child's age, gender, disability and needs and keeping in mind the available capacity of the institution.
8. Conducting at least two inspection visits per month of residential facilities for children in need of care and protection and recommending action for improvement in quality of services to the District Child Protection Unit and the State Government.
9. Certifying the execution of the surrender deed by the parents and ensuring that they are given time to reconsider their decision as well as making all efforts to keep the family together.
10. Ensuring that all efforts are made for restoration of abandoned or lost children to their families following due process, as may be prescribed.

11. Declaration of orphan, abandoned and surrendered child as legally free for adoption after due inquiry.
12. Taking *suo-motu* cognizance of cases and reaching out to children in need of care and protection, who are not produced before the Committee, provided that such decision is taken by at least three members.
13. Taking action for rehabilitation of sexually abused children who are reported as children in need of care and protection to the Committee by Special Juvenile Police Unit or local police, as the case may be, under the Protection of Children from Sexual Offences Act, 2012;
14. Dealing with cases referred by the Board under sub-section (2) of section 17, co-ordinate with the police, labour department and other agencies involved in the care and protection of children with support of the District Child Protection Unit or the State Government;
15. In case of a complaint of abuse of a child in any child care institution, the Committee shall conduct an inquiry and give directions to the police or the District Child Protection Unit or labour department or child line services, as the case may be;
16. Accessing appropriate legal services for children and such other functions and responsibilities, as may be prescribed.

1.8.4 References and Suggested Books

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CRIMINAL PROFILING TECHNIQUES

An Overview

1.9.0 Introduction

Forensic science plays a vital role in crime detection and it is powerful weapon in the armory of administration of criminal justice. According to Encarta World Dictionary, the word forensic is the crime- solving method relating to the application of science to decide questions arising from crime or litigation". In present scenario, forensic science can be said to be an important branch of jurisprudence. The operation of forensic is nothing but application of techniques and tools of basic science for various analysis of evidence associated with crimes. The scientific examination by forensic scientists adjoins a missing link and strengthens the weak chain of investigation. When criminals are shrewd enough that they hardly leave any evidence, we need to bring into picture forensic science.

In this backdrop, criminal profiling is a very useful tool in the investigation of very violent crime. The present development of criminal profiling has been said to be more art than science. Most criminal profiling uses information drawn from forensic and behavioural science, but the scientific merit of profiling has not yet been demonstrated in a systematic fashion. The Supreme Court of India in the case of Som Prakash v. State of Delhi, AIR 1974 SC 1983, recognized the requirement and the necessity of scientific investigation. Law Commission India has also emphasized on the need of training of Police officers in using scientific methods of investigation.

1.9.1 What is Criminal Profiling?

Criminal profiling is the inferring of an offender's characteristics from his or her crime scene behaviour. According to Douglas and Olshaker, "criminal profiling is the development of an investigation by means of obtainable information regarding an offence and crime scene to compile a psychosomatic representation of the known architect of the crime". For example, a profiler might try to infer a criminal's age, gender or employment history commencing from the manner he or she have performed throughout the period the crime was carried out. This practice has been referred to by names including offender profiling, psychological profiling and specific profile analysis. Criminal profiling is typically used with crimes where the offender's identity is unknown and with serious types of crime where the offender's identity is unknown and with serious types of crime, such as murder or rape. Profilers are also likely to work on crime series, which are collections of crimes that are thought to have been committed by the same offender. There are many profiling techniques which are used by the criminal investigation agencies for the proper scientific investigation of crime and some of them profiling techniques are explained as under:

- Brain Fingerprinting
- Lie-Detection
- Narco-Analysis

1.9.1.1 Brain Fingerprinting

In criminal justice system, Brain fingerprinting is an investigative technique that measures recognition of familiar stimuli by measuring electrical brain wave responses to words, phrases, or pictures that are presented on a computer screen. In other words, brain fingerprinting is a lie detection technique which uses electroencephalography *i.e.,* EEG, to determine whether specific information is stored in a subject's brain. Brain fingerprinting was invented by Lawrence Farwell. The theory is that the suspect's reaction to the details of an event or activity will reflect if the suspect had prior knowledge of the event or activity. This test uses what Farwell calls the MERMER *i.e.,* Memory and Encoding Related Multifaceted Electroencephalographic Response, to detect familiarity reaction. One of the applications is lie detection. Dr. Lawrence A. Farwell has invented, developed, proven, and patented the technique of Farwell Brain Fingerprinting, a new computer-based technology to identify the perpetrator of a crime accurately and scientifically by measuring brain-wave responses to crime relevant words or pictures presented on a computer screen.

Farwell Brain Fingerprinting has proven 100% accurate in over 120 tests, including tests on FBI agents, tests for a US intelligence agency and for the US Navy, and tests on real-life situations including actual crimes.

Hence, Brain fingerprinting is designed to determine whether an individual recognizes specific information related to an event or activity by measuring electrical brain wave responses to words, phrases, or pictures presented on a computer screen. The technique can be applied only in situations where investigators have a sufficient amount of specific information about an event or activity that would be known only to the perpetrator and Investigator. In this respect, Brain Fingerprinting is considered a type of Guilty Knowledge Test, where the "guilty" party is expected to react strongly to the relevant detail of the event of activity.

- **Application of Brain Fingerprinting Testing**

The application of Brain Fingerprinting testing in a criminal case involves four phases:

1. Investigation
2. Interview
3. Scientific testing and
4. Adjudication

It is relevant to mention here that out of these four phases, only the third one is in the domain of science. The first phase is undertaken by a skilled investigator, the second by an interviewer who may be an investigator or a scientist, the third by a scientist, and the fourth by a judge and jury. Brain Fingerprinting testing does not prove guilt or innocence. That is the role of a judge and jury. This exciting technology gives the judge and jury new, scientifically valid evidence to help them for arriving at their decision.

DNA evidence and fingerprints are available in only about 1% of major crimes. It is important to note that DNA which stands for “deoxyribonucleic acid” is a nucleic acid that contains the genetic code. It is estimated that Brain Fingerprinting testing will apply in approximately 60 to 70% of these major crimes. The impacts on the criminal justice system will be profound. The potential now exists to significantly improve the speed and accuracy of the entire system, from investigations to parole hearings. Brain Fingerprinting testing will be able to dramatically reduce the costs associated with investigating and prosecuting innocent people and allow law enforcement

professionals to concentrate on suspects who have verifiable, detailed knowledge of the crimes.

- **Importance of Brain Fingerprinting**

Brain Fingerprinting is based on the principle that the brain is central to all human acts. In a criminal act, there may or may not be many kinds of peripheral evidence, but the brain is always there, planning, executing, and recording the crime. The fundamental difference between a perpetrator and a falsely accused, innocent person is that the perpetrator, having committed the crime, has the details of the crime stored in his brain, and the innocent suspect does not. This is what Brain Fingerprinting detects scientifically. The secrets of Brain Fingerprinting Matching evidence at the crime scene with evidence in the brain. When a crime is committed, a record is stored in the brain of the perpetrator. Brain Fingerprinting provides a means to objectively and scientifically connect evidence from the crime scene with evidence stored in the brain. Only the evidence evaluated by Brain Fingerprinting is evidence stored in the brain. Brain Fingerprinting measures electrical brain activity in response to crime-relevant words or pictures presented on a computer screen, and reveals a brain MERMER, when, and only when, the evidence stored in the brain matches the evidence from the crime scene. Thus, the guilty can be identified and the innocent can be cleared in an accurate, scientific, objective, non-invasive, non-stressful, and non-testimonial manner. Hence, Brain Fingerprinting is a revolutionary and new scientific technology for solving the crimes, identifying perpetrators, and exonerating innocent suspects with a record of complete accuracy in research with government agencies, actual criminal cases, and other applications. The technology fulfills an urgent need for governments, law enforcement agencies, corporations, investigators, crime victims, falsely accused innocent suspects etc.

1.9.1.2 Lie Detection Technique

Lie has been playing important role in human beings life. There is not anywhere that has not had lie. It is used sometimes escaping from threats that affect their life. Sometimes it is used aimless so it becomes habituation, and it is also used as a white lie that is not seemed immoral behavior from society. In some places, detecting lie is playing important role, such as criminal, medical or legal areas. A medical specialist needs to understand his/her patients are lying or not to diagnose them in a true way. In legal issue, lawyer should be fair and he is able to distinguish truthful person to liars. In criminal behavior, deciding and finding perpetrator is challenge and critical issue as well. Because of them,

some technique was created for detecting liars. In this context, some important lie deduction techniques are:

- TMS (Transcranial Magnetic Stimulation)
- FMRI (Functional Magnetic Resonance Imaging)
- PET (Positron Emission Tomography)
- ERP (Event Related Potential)
- EEG (Electroencephalography)
- Brain Fingerprinting
- Polygraph
- Eye-Tracking
- Voice Stress Analysis

1.9.1.3 Narco Analysis

Narco-analysis has become one of the most popular techniques of crime detection in criminal justice system. It is a kind of psychotherapy which is conducted on a person by inducing by bringing that individual into semi-sleep with the help of scientific drugs. Human beings have the tendency of speaking lies from the time immemorial. A person is able to lie by using his mind's eye. In this test, the subject's self-consciousness is allowed to sink down by making intrusion to his nervous system. In such a state an attempt is made to extract information in form of clues about the crime as under the influence of drugs it becomes extremely difficult for the subject to lie. Generally it is viewed that if a drug is given to person which repress his power to reasoning without affecting the memory and speak, it is possible to made him to speak truth. The underlying theory is that a person is able to lie by using his imagination, but due to the influence of drug a person losses his self control as a result of which he fails to imagine the fact and would speak the truth. In this state it is very difficult for him to tell lies, rather he would talk about which he or she had the knowledge. The utilization of such drug in police work or interrogation is alike to the traditional.

A new terminology had been added in the field of criminal investigation through forensic science in the year 1936 which is known as Narco-Analysis test. The term 'Narco-Analysis' is derived from the Greek word Narco which means "anaesthesia" or "torpor" and is used to describe diagnostic and psychotherapeutic techniques that used psychotropic drugs, particularly barbiturates to induce a stupor in which mental element with strong associated

effect come to the surface, where they can be exploited by the therapist. It is also known as drug hypnosis or a truth serum or a combination of hypnosis or narcosis. Hence, it is method to make human thought and communication manageable. According to Webster Dictionary, "Narco-Analysis means psycho analysis in a state which is similar to sleep and this state is achieved by use of drugs. These drugs are known as 'truth drugs' or truth serum."

- **Procedure for Narco Analysis Test**

Drugs used for the tests are commonly known as Truth Serum. Generally, the drug called "Barbiturates" or "Sodium Pentothal" is used for conducting narco analysis test. It is also known by the name of "Penthol Sodium" or' Thiopental" or "Thiopentone". Important things involved in the tests are:

(i) Video recording

(ii) Tape recorder

(iii) Disposable syringe

(iv) Distilled water

(v) Prescribed truth drug

The quantity of Truth Serum or the dose depends upon the suspect's sex, age, health and physical and mental condition. In normal condition 3gm of Truth drugs of barbiturate class like sodium pentothal, sodium Amytal etc., is required for the test. 3gm of the drug is dissolved in 3000ml of distilled water. When the mixture (solution) becomes ready it is administered intravenously along with 10% of dextrose on interval of 3 hours to the suspect accused. It is relevant to point that the presence of investigation Authorities at the time of performing test is mandatory such as:

(i) Physician

(ii) Neurologist

(iii) Cardiologist

(iv) Anesthetist

(v) Lawyer

- **Precautions and Guidelines**

The following precautions should be taken into consideration for the effective result of test:

(i) The test should be conducted in a well-lit room which is otherwise quiet.

(ii) Prior consent of the subject has to be obtained and the person subjected to the test should be given an option if he or she wishes to avail the test.

(iii) Consent should be recorded and it should be done before a Judicial Magistrate.

(iv) The physical and emotional implication along with the legal implications of the test should be explained to the subject by the lawyer accessing him or her or by the police that he or she submits himself or herself to the test voluntarily.

(v) The person subjected to the test should be made clear during the hearing that his or her statements so made shall not be a "confessional statement" to the Magistrate, but a statement to the police.

(vi) The entire process should be videotaped.

(vii) The drug should be diluted at 8.66% and should be injected showing at intervals throughout the interview.

(viii) The drug should be administrated so that a state between sleep and wakefulness is maintained.

(ix) Caffeine should be used to prevent the subject from going into deep sleep.

(x) The interview should not exceed one hour of time.

(xi) The actual recording of test shall be done in the presence of a lawyer.

(xii) Manner of information received must be completely narrated in full medical and factual terms and must be recorded.

(xiii) In India the test should be conducted as per norms of the NHRC (National Human Rights Commission).

Thus, these tests can be successfully used in criminal justice system and the investigating agencies have carried out these tests in a number of high profile cases. Rapidly and swiftly these scientific tools of investigation can become an alternate of third degree physical torture in police custody. As was rightly held by the Supreme Court in the case of D. K. Basu v. State of West Bengal, AIR 1977 SC 610, that there is need for developing scientific methods of investigation and interrogation of accused as custodial deaths and torture is nothing but a blow at rule of law.

Thus, Narco-Analysis, Polygraph and Brain-Mapping are revolutionary tools of forensic science that can prove to be very helpful in crime scene investigation.

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