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**PRINCIPLES OF CRIMINOLOGY
AND
CRIMINAL JUSTICE ADMINISTRATION**

M.A. CRIMINOLOGY AND POLICE SCIENCE



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**PRINCIPLES OF CRIMINOLOGY
AND
CRIMINAL JUSTICE ADMINISTRATION**

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UNIT-I: BASICS OF CRIMINOLOGY

Introduction

The social sciences in the recent past have become quite specialized in terms of the problems and responses covered in their purview. The origin of Criminology as specialized branch of learning was a part of similar process. Early Criminology better known as classical criminology emerged as part of protest against the prejudiced and discriminating legal practices that were prevalent in the contemporary society of the early eighteenth century. The leaders of criminal justice reforms were Beccaria and Bentham who demanded the reforms in the law and procedure. Afterwards Criminology has grown to be an advanced field of learning and practice. Emphasis in Criminology, in the interpretation of crime and criminality, has been changing over a period of time. The schools of thoughts in Criminology have been moving from classical to physiological, environmental to psychological and sociological to interactionist approaches and so on.

Definitions

Criminology (from Latin *crīmen*, "accusation"; and Greek *-λογία*, *-logia*) is the scientific study of the nature, extent, management, causes, control, consequences, and prevention of criminal behavior, both on the individual and social levels.

Criminology has been defined as the study of crime, the causes of crime (etiology), the meaning of crime in terms of law, and community reaction to crime. Not too long ago, criminology separated from its mother discipline, sociology, and although there are some historical continuities, it has since developed habits and methods of thinking about crime and criminal behavior that are uniquely its own. Criminology is hence perceived as a most inclusive concept. Criminology involves the inputs from all basic disciplines in social and behavioural sciences in explaining the problem of and response to crime.

Criminology is the scientific study of crime, including its causes, responses by law enforcement, and methods of prevention. It is a sub-group of sociology, which is the scientific study of social behavior. There are many fields of study that are used in the field of criminology, including biology, statistics, psychology, psychiatry, economics, and anthropology.

Just as criminology is a sub-group of sociology, criminology itself has several sub-groups, including

- Penology: the study of prisons and prison systems
- Criminal Justice
- Victimology
- Bio-criminology: the study of the biological basis of criminal behavior
- Feminist criminology: the study of women and crime
- Criminalistics: the study of crime detection

History of Criminology

Spiritual explanations for crime were rooted in people's religious beliefs and superstitions. The guilt or innocence of a crime, like victory or defeat in battles or disputes, was believed to be decided by divine intervention. Cures for criminal behavior ranged from religious conversion to torture and death. Natural explanations for crime were rooted in people's ideas about the nature of reality in the physical world. Ideas about reality were based on observations of nature but were not scientific. For example, the natural world was thought to include inherent good and evil, and crimes often were regarded as crimes against nature or the natural order rather than crimes against victims or against God. Seeking explanations for crime in the natural world provided a basis for the development of legal definitions and treatments of crime.

Cesare Beccaria, a major contributor to the classical school of criminology, was born in Milan, Italy, on March 15, 1738, and died in 1794. Born an aristocrat, he studied in Parma and graduated from the University of Pavia. In 1763, the protector of prisons, Pietro Verri, gave his friend Beccaria an assignment that would eventually become the essay "On Crimes and Punishments." It was completed in January, 1764, and first published anonymously in July of that year. The article caused a sensation, but not everybody liked it. The fact that it was first published anonymously suggested that "its contents were designed to undermine many if not all of the cherished beliefs of those in a position to determine the fate of those accused and convicted of crime. [An] attack on the prevailing systems for the administration of criminal justice has aroused the hostility and resistance of those who stood to gain by the perpetuation of the barbaric and archaic penological institutions of the day.

Beccaria's Proposed Reforms

Beccaria's specific suggestions for a system of criminal justice based on the social contract covered the areas of guilt and punishment. Even though people had to surrender part of their liberty for protection, Beccaria believed they would want to give up "the least possible portion": "The aggregate of these least possible portions constitutes the right to punish; all that exceeds this is abuse and not justice; it is fact but by no means right." Given this view, Beccaria advocated that only legislators should be the creators of laws. He stated that the authority for "making penal laws can reside only with the legislator, who represents the whole society united by the social contract." In addition, unless it was ordained by the laws, judges were not permitted to inflict punishment on any member of society. Beccaria also made some important points about being termed "guilty": "No man can be called guilty before a judge has sentenced him, nor can society deprive him of public protection before it has been decided that he has in fact violated the conditions under which such protection was accorded him. What right is it, then, if not simply that of might, which empowers a judge to inflict punishment on a citizen while doubt still remains as to his guilt or innocence?" This new concept, "innocent until proven guilty," underlies our criminal justice system today.

Doctrine of Social Contract Theory

Beccaria based his call for reform on the theory that citizens and the state have a "social contract" that entitles people to legal protections against crime. Beccaria's blueprint for reform had its roots in social contract theory, which stresses the idea that people were originally without government. People then created the state through a "social contract," by which they surrendered many of their "natural liberties." In return, people received the security that government could provide "against antisocial acts." Beccaria wrote, "Laws are the conditions under which independent and isolated men united to form a society. Weary of living in a continual state of war, and of enjoying a liberty rendered useless by the uncertainty of preserving it, they sacrificed a part in order to enjoy the rest of it in peace and safety. The sum of all these portions of liberty sacrificed by each for his own good constitutes the sovereignty of a nation, and their legitimate depository and administrator is the sovereign."

Pleasure, Pain, and Punishment

Pleasure and pain, according to Beccaria, are the only "springs of action," and the purpose of punishment is to prevent a criminal from doing any further injury to the

community and to prevent others from committing similar crimes. Beccaria believed that punishment should be based on the pleasure/pain principle. For him, pleasure and pain were the only “springs of action” in people who are in possession of their senses: “If an equal punishment be ordained for two crimes that injure society in different degrees, there is nothing to deter men from committing the greater [crime] as often as it is attended with greater advantage.” He also believed that punishment and penalties should be imposed on the guilty according to a scale determined by the degree of danger the given crime poses for the community: “If mathematical calculation could be applied to the obscure and infinite combinations of human actions, there might be a corresponding scale of punishments descending from the greatest to the least.” With such an exact scale of crimes and punishments, people would know which penalties were attached to which criminal acts. What, then, was the purpose of punishment?

For Beccaria, its purpose was to prevent a criminal from doing any further injury to the community or society. The purpose of punishment was also to prevent others from committing similar crimes. These purposes required setting penalties that would make strong and lasting impressions on others with the “least torment to the body of the criminal.” Punishment should be no more severe than deemed necessary to deter individuals from committing crimes against others or the state. Maximizing the preventive, or deterrent, effect would be achieved by prompt, effective, and certain punishment: “The more promptly and the more closely punishment follows upon the commission of a crime, the more just and useful will it be....I have said that the promptness of punishments is more useful because when the length of time that passes between the punishment and misdeed is less, so much stronger and more lasting in the human mind is the association of these two ideas, crime and punishment; they then come insensibly to be considered, one as the cause, the other as the necessary inevitable effect.” After proposing that the rich should be punished in the same way as the poor, and that both torture to obtain confessions and capital punishment should be abolished, Beccaria concluded: “So that any punishment be not an act of violence of one or of many against the other, it is essential that it be public, prompt, necessary, [as] minimal in severity as possible under given circumstances, proportional to the crime, and prescribed by the laws.

Jeremy Bentham

An influential early classical theorist was the British philosopher Jeremy Bentham, born in 1748. He is one of the greatest scholars on those days. He believed that people have

the ability to choose right from wrong, good from evil. His explanation for criminal behavior included the idea that people are basically hedonistic, that is, they desire a high degree of pleasure and avoid pain. People who choose to commit criminal acts think they stand to gain more than they risk losing by committing the crime. Bentham believed that the criminal justice system should deter people from making this choice.

Utilitarianism

Jeremy Bentham, a major contributor to the classical school of criminology, based his theories on the principle of utilitarianism. Bentham's perspectives on human behavior had its roots in the concept of utilitarianism, which assumes that all of a person's actions are calculated. Utilitarianism is the doctrine that the purpose of all actions should be to bring about the greatest happiness for the greatest number of people. For Bentham, people calculate actions in accordance with their likelihood of obtaining pleasure or pain. Bentham stated that an act possesses utility if it "tends to produce benefit, advantage, pleasure, good or happiness (all this in the present case comes to the same thing) or (which again comes to the same thing) to prevent the happening of mischief, pain, evil or unhappiness to the party whose interest is considered."

Bentham developed a *felicitous calculus*, or moral calculus, for estimating the probability that a person will engage in a particular kind of behavior. People, he believed, weigh the possibility that a particular behavior pattern or action will cause current or future pleasure against the possibility that it will cause current or future pain. In response to the question of why a person commits a crime, Bentham would probably reply that the pleasure that the person anticipated from the criminal act was much greater than the subsequent pain that might be expected from it.

The Greatest Happiness and Social Control

Bentham advocated the "greatest happiness" principle and the use of punishment to deter crime. Bentham expounded a comprehensive code of ethics and placed much emphasis on the practical problem of decreasing the crime problem. He aimed at a system of social control -a method of checking the behavior of people according to the ethical principle of utilitarianism. He believed that an act should be judged not by an "irrational system of absolutes but by a supposedly verifiable principle. The principle was that of 'the greatest happiness for the greatest number' or simply 'the greatest happiness.'" For Bentham, checks or sanctions needed to be attached to criminal behavior and set up by legislation, which

would then serve “to bring the individual’s pursuit of his own happiness in line with the best interests of the society as a whole.” Punishment, Bentham believed, was a necessary evil - necessary to prevent greater evils from being inflicted on the society and thus diminishing happiness.¹⁶ Social control based on degrees of punishment that both fit the crime and discourage offending is part of our system of criminal justice today. As you can see, Jeremy Bentham, Cesare Beccaria, and the classical school of criminology had many influences on the American system of criminal justice.

Influences of the Classical School

The U.S. Bill of Rights is rooted in Beccaria’s writings. Beccaria and Bentham also influenced the development of the modern correctional system. There are many different theories of criminology that have developed throughout the past 250 years or so, and while some have fallen out of popularity, others are still thought relevant today. The creation of criminology as a field of study can be tracked as far back as the 18th century, when two social theorists, Cesare Beccaria in Italy and Jeremy Bentham in England, each pushed the idea that the punishment should be so severe that the criminal would decide that the pleasure of the criminal act would not be worth the pain of the punishment. This was known as the classical school of criminology. As recently as 1995, a judge in California sentenced a man to prison for 25 years to life for stealing a slice of pizza. The judge stated that his hands were tied because of the three strikes law, and the law would not allow the judge to look at the specific crime. This example follows the classical school of criminology that was developed over 200 years ago.

During the early 19th century, criminologists started to argue that the classical school of criminology does not differentiate between varying degrees of crimes. These criminologists were known as the positivists. The positivists believed that the punishment should fit the criminal, not the crime.

Cesare Lombroso, Italian physician and psychiatrist, was a leader of the positivist theory. He believed that criminals were born, not made, and that crime was a matter of nature, not nurture. He conducted extensive studies on cadavers of executed criminals, coming up with the argument that certain facial features, such as very large jawbones and strong canine teeth, were obvious signs that an individual was or would be a criminal. However, this theory became less popular for moral reasons and in favor of later theories focusing on environmental factors that contribute to criminal behavior.

Durkheim also theorized about the ways in which modern, industrial societies differ from non- industrial ones. Industrial societies are not as effective at producing what Durkheim called a collective conscience that effectively controls the behavior of individuals. Individuals in industrial societies are more likely to exhibit what Durkheim called anomie, an Greek word meaning "without norms." Consequently, modern societies have had to develop specialized laws and criminal justice systems that were not necessary in early societies to control behavior.

Criminology: Nature and scope

The field of criminology systematically studies the causes of crime. The explanations for crime are not simple; we live in a complex society, and the causes of crime are as complex as the society itself. As discussed in Chapter 1, the criminologist attempts to explore the conditions leading to criminal behavior and the factors in society that contribute to its continued existence. This chapter and those that follow explore a wide variety of theories regarding crime. These theoretical explanations contribute to an understanding of criminal behavior and also provide an important framework for examining current policies and past as well as present treatment efforts established to deal with or alleviate the crime problem.

Criminology is, ordinarily, the science of crime and seeks to study the phenomenon of criminality in its entirety. Criminology as a branch of knowledge is concerned with those particular conducts of individual behaviour which are prohibited by society. It is therefore a societal study which seeks to discover the causes of criminality and suggest remedies to reduce crimes. Criminology consists of two main branches- criminal biology, which investigates causes of criminality found in the mental and physical constitution of the deviant, 'and criminal sociology which deals with enquiries into the effect of environment as a cause of criminality.

Criminology, penology and criminal law are inter-related fields. Penology deals with the custody, treatment, prevention and control of crimes. Criminal law seeks to implement policies envisaged by criminology and penology (the formulation of criminal policy essentially depends on crime causations and factors correlated therewith). The object of criminology is to study the sequence of law making, law-breaking and reaction to law breaking from the point of view of the efficiency of law as a method of control. The science of criminology aims at taking up case to case study of different crimes and suggests measures to 'reform' the offenders. Liberalization of punishment for affording greater

opportunities for rehabilitation of offenders has been accepted as the ultimate object of penal justice. The most significant aspect of criminology is its concern for crime and criminals. It presupposes the study of criminal with basic assumption that no one is born criminal. It treats reformation as the ultimate object of punishment while individualization (treatment accorded to each individual according to his personality) the method of it.

Criminology also seeks to create conditions conducive to social solidarity in as much as it tries to point out what behaviours are obnoxious and anti-social. The ultimate object is to render a crimeless society so far as possible with a view to achieving social harmony.

Criminology as a Social Science, Relations with Sciences

Criminology is the study of crime, as indicated by the formative Latin terms *crimino* (accusation or guilt) and *logy* (study of). As an intellectual domain, criminology comprises contributions from multiple academic disciplines, including psychology, biology, anthropology, law, and, especially, sociology. Although the defining statements of criminology are rooted across these diverse areas, contemporary criminology is becoming ever more intertwined with still additional sciences and professional fields such as geography, social work, and public health.

This plurality of influences, often referred to as multidisciplinary, is altogether logical given the complex subject matter and diverse nature of crime. Scholarly attention to crime from various perspectives allows for an extensive range of research questions to be addressed, making possible a fuller understanding of the criminal mind, the nature of crime, and social control processes.

Legal scholarship, for example, ranges from philosophical attention to social justice issues to technocratic factors determinant of case outcome. Alternatively, psychology approaches the topic of crime with a focus on individual-level maladjustment and behavioral abnormality. Sociological criminology differs still by concentrating on the multiple causes and nature of crime, as well as society's reaction to it.

The individuals who study crime, criminologists, engage research on virtually every imaginable aspect of illegality and society's reactions to it, ranging from the development of theories of crime causation, the roles and uses of social control (e.g., police, courts, and corrections), crime prevention, and victimization. Of course, criminologists have also developed substantial knowledge bases on specific offenses, which are often categorized as

- (a) Crimes against property (e.g., burglary, theft, robbery, and shoplifting);

- (b) Crimes against a person (e.g., homicide, assault, and rape);
- (c) Morality/social order crimes (e.g., gambling, prostitution, substance offenses, vandalism); and
- (d) Technology crime/cybercrime, which overlaps with and often facilitates crime in each of the other categories.

The collective basic knowledge that criminologists have generated through the scientific process has great potential for informing social policy and criminal justice practice through enhancement of the effectiveness and efficiency of prevention, intervention, enforcement, and rehabilitative strategies and practices in the 21st century.

While tracing criminology's history and acknowledging its intellectual diversity (these matters are more fully addressed in Research Paper on History and Evolution of Criminology), it is contended that criminology is correctly understood and best practiced as a social science.

Furthermore, as a field of scientific inquiry criminology is no longer a specialty area of other established disciplines, such as deviance within sociology or abnormal psychology, but instead is a new and steadily growing independent academic discipline in its own right. Last, the rise of academic criminal justice is acknowledged as a shaping force on criminology that is steadily moving the discipline toward greater interdisciplinary status and public policy utility.

Criminology Vs Criminal Justice

Criminology is the study of the anatomy of a crime, specifically its causes, consequences and costs. Criminal justice, on the other hand, refers to established systems for dealing with crime, specifically detection of crime, detaining of criminals, and criminal prosecution and punishment.

Difference between Criminology and Criminal Justice

Criminology is the study of the anatomy of a crime, specifically its causes, consequences and costs. Criminal justice, on the other hand, refers to established systems for dealing with crime, specifically detection of crime, detaining of criminals, and criminal prosecution and punishment. Criminal justice is directly associated with law enforcement. Students pursuing career opportunities in criminal justice will study the different components

of criminal justice and law enforcement systems. Students pursuing a career as criminologist will study the behavior patterns, backgrounds, and sociological trends of criminals. While both fields are different, criminologists and criminal justice professionals work together in the criminal justice system to thwart crime.

Criminology: Nature and Scope

As there are many different specialties within the field of criminology, it can be difficult to identify one career that encapsulates what “typical” member of the profession is and does. Depending on the background, education, experience and position, a criminologist may perform any number of functions, including crime scene investigation, interview and interrogate suspects, participate in autopsies, or profile criminals. Some within this field focus almost exclusively on research; others work as consultants for government’s agencies or liaisons, while some work as consultants and employees of private security companies. Criminologists also work with law firms and courts to provide expert testimony in criminal proceedings and a few works within the prisons systems assisting in the rehabilitation of convicted criminals.

No matter what career specialty of criminology pursued, most criminologists will be involved in data collection and profiling. Criminologists are analysts. They study crimes, collect data and then analyze their findings to provide actionable information and recommendations. Criminologists seek to identify who committed crimes, when crimes were committed, and why they were committed. As part of their analysis, criminologists consider psychological behavior, socioeconomic and economic indicators, and environmental factors.

When dealing with high-profile cases, it's not uncommon for criminologists to spend a fair amount of their time corresponding with media and public relations managers. Sometimes criminologists will go as far as publish their experiences and findings in industry journals or even write books. However, the day-to-day routine for most criminologists is far less glamorous -performing much of their work alone, outside of the public eye.

Much of the work performed by criminologists involves the collection of statistics which are used to develop active profiles to be used by other law enforcement professionals and agencies to better understand and predict criminal behavior. In order for a criminologist's work to be useful and effective, it must be precise and accurate. Consequently, professionals working in criminology must have a good understanding of statistics and math.

Launching a career in criminology typically requires college level education in criminology, statistics or mathematics. While an associate's degree will qualify candidates for some entry-level positions, a bachelor's degree is usually the minimum entry-level requirement, and a master's degree or PhD is preferred. The best positions and career advancement opportunities are reserved for professionals who have master's or doctorate degree.

Even with a degree, success as a criminologist requires dedication, intelligence, the ability to analyze complex situations, and a desire to help improve society. Skills including creativity, verbal and written communication, and an analytical mind are essential attributes of a criminologist.

Criminal Justice: Nature and Scope

Unlike criminology, where the primary focus is on the study and analysis of crime, criminal justice revolves around the societal system(s) set up to address criminal behavior and the perpetrators of crimes. The three main components of the criminal justice system in the India include: law enforcement, the courts and corrections. These components are intended to prevent and punish criminal behavior. Criminal justice careers almost always fall into one of these three component categories.

The most visible and popular component of criminal justice is law enforcement – and within law enforcement police officers. Police officers are our front line of defense against the criminal element in society. They patrol communities and focus on crime prevention. They also investigate crimes once they've occurred and apprehend suspected criminals. Other law enforcement offers that perform duties similar those of police officers include CBI, State Police, Anti-corruption Bureaux, Probation Services, Protection Officers, Border patrol and Victim services. Once someone has been arrested, they then enter the courts system.

While less visible to the public than law enforcement, the courts system is just as vital to the U.S. criminal justice system. The primary purpose of the courts is to determine the guilt or innocence of suspected criminals. The courts system includes various criminal justice professionals including attorneys, judges, and bailiffs, to name just a few. In the courts a suspect is considered innocent until proven guilty and all suspects are entitled to a fair trial. However, if found guilty, a suspect is given a sentence, or punishment and mostly remanded to the corrections system.

The corrections system is responsible for enforcing punishments and carrying out sentencing as mandated by the courts. The corrections system is made up of incarceration, probation and parole. All three subsets are designed to punish and rehabilitate convicted criminals. Careers in corrections include probation officer, parole officer, prison warden, and guard, among others.

Social Work and Society

Social work plays a critical role in improving the well-being of individuals and communities. It helps people overcome challenges like poverty, mental health issues, and family conflicts. Social workers often work in areas such as child protection, healthcare, and criminal justice. By promoting social justice, equality, and inclusion, social work contributes to building a healthier and safer society.

One of the key ways social work interacts with society is through supporting social control mechanisms. These mechanisms help maintain order, ensure people follow rules, and promote harmony in communities.

Social Control Mechanisms

1. Formal Social Control

Formal social control refers to official systems and institutions that enforce laws and rules. These include the police, courts, prisons, and government agencies. These organizations use written rules, like laws, to regulate behavior.

For example:

- If someone commits a crime, they might be arrested by the police and tried in court.
- Schools may expel students for violating serious policies.

Formal social control relies on structured authority and punishment to discourage unlawful or harmful actions.

2. Informal Social Control

Informal social control is less structured and relies on social interactions and cultural expectations to regulate behavior. It includes the influence of family, friends, neighbors, and community groups.

Examples of informal social control:

- Parents teaching children good manners.
- Neighbors discouraging noisy parties late at night.
- Peer groups promoting acceptable behavior through approval or disapproval.

Unlike formal mechanisms, informal control relies on social pressure, shame, and rewards to shape behavior.

Concepts Related to Social Control

1. Socialization

Socialization is the process by which individuals learn the norms, values, and behaviors that are acceptable in their society. It starts in childhood and continues throughout life. Family, schools, peers, and media are key agents of socialization.

For example, children learn to say “please” and “thank you” from their parents, follow rules in school, and respect cultural traditions. Socialization ensures that people understand their roles in society and act accordingly.

2. Norms

Norms are the unwritten rules and expectations about how people should behave in specific situations. They guide everyday behavior and maintain order in society.

Examples:

- Greeting people when you meet them.
- Waiting in line instead of pushing ahead.

Violating norms may lead to informal punishments like disapproval or social exclusion.

3. Values

Values are the shared beliefs about what is right, good, or important in a society. They provide a moral framework for people’s actions.

Examples:

- Honesty, kindness, and hard work are commonly valued traits.
- Societies may prioritize values like equality, freedom, or religious faith.

Values influence norms and help determine what behaviors are acceptable.

4. Culture

Culture refers to the shared customs, beliefs, and practices of a group of people. It includes language, traditions, art, food, and rituals. Culture shapes how people think and behave and plays a central role in social control.

For example:

- In some cultures, it is customary to remove shoes before entering a home.
- Religious ceremonies and festivals are cultural expressions that unite communities.

5. Subculture

A subculture is a smaller group within a larger culture that has its own distinct norms, values, and practices. While subcultures share some aspects of the larger culture, they often differ in significant ways.

Examples:

- Skateboarders or bikers have unique slang, dress styles, and interests.
- Criminal gangs may form subcultures with norms that differ from mainstream society, such as promoting loyalty to the group over following laws.

6. Social Conformity

Social conformity refers to the act of following norms, values, and behaviors that are accepted by the majority. It is a key way societies maintain harmony and order.

Examples of conformity:

- Dressing according to societal expectations, like formal clothes for a job interview.
- Following traffic rules to avoid accidents.

People conform due to social pressures, the desire to fit in, or fear of punishment. However, too much emphasis on conformity can discourage individuality and creativity.

Social Disorganization and Crime

Social disorganization is a theoretical perspective that explains ecological differences in levels of crime based on structural and cultural factors shaping the nature of the social order across communities. The theory directly links crime rates to neighborhood ecological characteristics; a core principle of social disorganization theory is that place matters. The theory has not been used to explain organized crime, corporate crime, or deviant behavior that takes place outside neighborhood settings.

The theory of social disorganization states a person's physical and social environments are primarily responsible for the behavioral choices that a person makes. At the core of social disorganization theory, is that location matters when it comes to predicting illegal activity. Shaw and McKay noted that neighborhoods with the highest crime rates have at least three common problems, physical dilapidation, poverty, and higher level of ethnic and culture mixing. Shaw and McKay claimed that delinquency was not caused at the individual level, but is a normal response by normal individuals to abnormal conditions. Social disorganization theory is widely used as an important predictor of youth violence and crime.

Social Disorganization Theory and Delinquency

“Poverty is the mother of crime”... Marcus Aurelius

Shaw and McKay discovered that there were four (4) specific assumptions as an explanation of delinquency.

- The first assumption is the collapse of community based controls and people living in these disadvantaged neighborhoods are responding naturally to environmental conditions.
- The second is the rapid growth of immigration in urban disadvantage neighborhoods.
- The third is business located closely to the disadvantaged neighborhoods that are influenced by the “ecological approach” of competition and dominance.
- The fourth and last assumption is disadvantaged urban neighborhoods lead to the development of criminal values that replace normal society values.

Social disorganization theory suggest that a person’s residential location is more significant than the person’s characteristics when predicting criminal activity and the juveniles living in this areas acquire criminality by the cultures approval within the disadvantaged urban neighborhoods. Therefore, location matters when it comes to criminality according to social disorganization theory.

Social Pathology and Crime

Social pathology definition, a social factor, as poverty, old age, or crime that tends to increase social disorganization and inhibit personal adjustment. Social pathology is a term used to describe social factors, such as poverty, old age or crime that bolster social disorganization.

Social pathology is a concept developed in modern social science to refer both to aspects of social structures and to the behaviors and values attributed to particular social categories.

Definitions of *social pathology* are particular to specific times and reflect the dominant moral concerns of the era. This concept fits within the ideas of anthropologist Mary Douglas. In *Purity and Danger* (1966) she examines the universality of cultural explanations of things considered “out of order” as polluting and dangerous. These cultural constructions emerge in specific contexts. Regarding social pathology, prior to the Enlightenment in Europe, social transgressions (pathologies) were attributed to supernatural forces exerted by spirits (e.g., possession) or evil humans (witchcraft). As the Enlightenment

focused on human reason and scientific understanding of the natural world, early social scientists began to objectify what they defined as natural laws of “society” that explained undesirable human behaviors as transgressions of natural law.

Modern social science developed during a period of rapid social change produced by expanding industrial capitalism and colonialism. Such processes created increased migration and a growing wealth gap between, on the one hand, colonial nations and colonized territories, and on the other, wealthy industrialist/financiers and European working classes. These social changes produced dislocations and inequalities that led to fears among established groups of moral and social danger. In the nineteenth century, following parallel developments in the advancing science of biology, social theory often used either biology (e.g., racial types) or biological analogies to the physical body and biological processes to explain the social system.

Émile Durkheim, a French sociologist, created the foundation for the modern sociological study of society by focusing on social facts, structures, and systems rather than individuals. His profound ideas generated many concepts and laid the basis for many fields of study. Like other foundational social theorists confronting rapid change, he privileged solidarity and cohesion as normal. Durkheim introduced two analogies for a smoothly functioning social order characterized by solidarity: the machine (mechanical) and the body (organic). He envisioned society as a system seeking equilibrium with norms for behavior. *Anomie* was a pathological condition of moral breakdown at the societal level.

Throughout the early twentieth century, this emphasis on social equilibrium or structural functionalism, further developed by such thinkers as Talcott Parsons, dominated U.S. social theory. In defining equilibrium and stasis (status quo) as desirable, it was implied that change and disorder were abnormal and threatening. These pathologies were not attributed to the differential nature and value of individuals but rather to aspects of structure. Nonetheless, such ideas emphasized the value of returning to the status quo over change.

The idea of declaring the behavior of individual’s in particular social categories as socially pathological followed a different trajectory. In the post-Darwin nineteenth century, Darwin’s theories of evolutionary change were applied loosely in ways that misinterpreted his theory. Particular social categories or populations were seen as having an essential, innate, and immutable behavioral inferiority leading to criminal and dangerous behaviors. While Darwin saw natural selection occurring in a random, purposeless way with no implied hierarchy of worth, Social Darwinism saw different classes and races as arrayed in terms of

inferiority and superiority.

The development of race studies occurred as new nation-states were restructured from former European imperial monarchies, creating a need to build national unity and loyalty among diverse citizens. This led to preoccupations with the dangers of difference and an interest in the scientific study of race. Throughout the new nations of Europe and in the United States, nascent disciplines emerged such as the now-repudiated anthropological “science” of race and the racially tinged science of criminology, which used race to predict and explain criminal behavior and justify policies of “social hygiene.” In the twentieth century, the racial ideas of scientific racism and criminology continued, especially in Germany. There they culminated in Nazi racial theory, which advocated a removal of categories of people defined as biologically debased, such as Jews, Gypsies, and homosexuals.

As such racial thinking was repudiated in the twentieth century, concepts of culture and cultural relativism, as well as concepts related to the self, psychic states, and personal identity, developed. Behaviors viewed as pathological for society relied less on innate racial attributes. While they continued to be associated with specific social categories, the new link between populations and pathology emphasized cultural learning and personal experience rather than biology. While biological attributes retained explanatory power for differences between genders and sexualities (e.g., homosexuality), behavioral pathologies were more associated with improper values, choices, and psychological states.

Ideas such as the culture of poverty first promulgated by Oscar Lewis blamed poor people for perpetuating their condition through inappropriate values and “weak ego structures.” A whole series of “social pathologies,” from dependence on welfare to substance abuse and inner-city gang violence, were linked to having learned improper values through substandard parenting in single-parent households. Yet these explanations, which blamed specific populations for social pathology, merely replaced racial determinism with cultural determinism.

Because stability and order are privileged as natural and normal and the profound and rapid social changes of recent decades are relegated to the sphere of the abnormal and dangerous, people who are the most disadvantaged and excluded in dominant ideologies and representations, such as single mothers (“welfare queens”), nonwhites, and non-heterosexuals, are blamed for their own situations. They also function as popular scapegoats for broader social problems and “moral decline.” In this way, they carry the

weight of social problems not only through their personal circumstances of material and political deprivation but also through their symbolic representation as stigmatized and despised people.

Social science critiques of the culture of poverty examine ways to represent poor people as varied individuals with competence and awareness that cannot be categorized in terms of innate biology or culture. Particular behaviors of the poor can be analyzed in terms of the extremely constrained options of disadvantaged social positions, as rational strategies, or as political opposition rather than social pathology.

Moreover, in the second half of the twentieth century U.S. sociologists such as C. Wright Mills and William Ryan began to point out the role that dominant elite interests play in defining normalcy and pathology as the status quo as well as the way this masks the relationship between structural relations of power and the social production of inequality. Blaming the victims (stigmatized and disadvantaged groups such as the poor) was shown to not only hide the effects of power and privilege but also to stifle recognition of a need to address social problems through sociopolitical change. Late-twentieth-century European social theories developed by such thinkers as Michel Foucault, Pierre Bourdieu, and others have brought issues of differential power and inequality to the fore. After continued world wars and the cold war as well as social movements advocating anti-colonial independence, socialism, feminism, and civil and human rights, these ideas have emerged and have led to reexamining the ideological uses of social pathology as a way of reinforcing current inequalities in the social order.

Anti Social Behavior

Anti-social behaviour is defined as acting in a manner that has "caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household" as the perpetrator.

Antisocial behaviors are disruptive acts characterized by covert and overt hostility and intentional aggression toward others. Antisocial behaviors exist along a severity continuum and include repeated violations of social rules, defiance of authority and of the rights of others, deceitfulness, theft, and reckless disregard for self and others. Antisocial behavior can be identified in children as young as three or four years of age. If left unchecked these coercive behavior patterns will persist and escalate in severity over time, becoming a chronic behavioral disorder.

Description

Antisocial behavior may be overt, involving aggressive actions against siblings, peers, parents, teachers, or other adults, such as verbal abuse, bullying and hitting; or covert, involving aggressive actions against property, such as theft, vandalism, and fire-setting. Covert antisocial behaviors in early childhood may include noncompliance, sneaking, lying, or secretly destroying another's property. Antisocial behaviors also include drug and alcohol abuse and high-risk activities involving self and others.

Demographics

These disruptive behaviors are one of the most common forms of psychopathology, accounting for half of all childhood mental health referrals. Gender differences in antisocial behavior patterns are evident as early as age three or four. There has been far less research into the nature and development pattern of antisocial behavior in girls. Pre-adolescent boys are far more likely to engage in overtly aggressive antisocial behaviors than girls. Boys exhibit more physical and verbal aggression, whereas antisocial behavior in girls is more indirect and relational, involving harmful social manipulation of others.

The gender differences in the way antisocial behavior is expressed may be related to the differing rate of maturity between girls and boys. Physical aggression is expressed at the earliest stages of development, then direct verbal threats, and, last, indirect strategies for manipulating the existing social structure.

Antisocial behaviors may have an early onset, identifiable as soon as age four, or late onset, manifesting in middle or late adolescence. Some research indicates that girls are more likely than boys to exhibit late onset antisocial behavior. Late onset antisocial behaviors are less persistent and more likely to be discarded as a behavioral strategy than those that first appear in early childhood.

As many as half of all elementary school children who demonstrate antisocial behavior patterns continue these behaviors into adolescence, and as many as 75 percent of adolescents who demonstrate antisocial behaviors continue to do so into early adulthood.

Causes and symptoms

Antisocial behavior develops and is shaped in the context of coercive social interactions within the family, community, and educational environment. It is also influenced by the child's temperament and irritability, cognitive ability, the level of involvement with deviant peers, exposure to violence, and deficit of cooperative problem-

solving skills.

Antisocial behavior is frequently accompanied by other behavioral and developmental problems such as hyperactivity, depression, learning disabilities, and impulsivity.

Multiple risk factors for development and persistence of antisocial behaviors include genetic, neurobiological, and environmental stressors beginning at the prenatal stage and often continuing throughout the childhood years. Genetic factors are thought to contribute substantially to the development of antisocial behaviors.

Genetic factors, including abnormalities in the structure of the prefrontal cortex of the brain, may play a role in an inherited predisposition to antisocial behaviors. Neurobiological risks include maternal drug use during pregnancy, birth complications, low birth weight, prenatal brain damage, traumatic head injury, and chronic illness.

High-risk factors in the family setting include the following

- Parental history of antisocial behaviors
- Parental alcohol and drug abuse
- Chaotic and unstable home life
- Absence of good parenting skills
- Use of coercive and corporal punishment
- Parental disruption due to divorce , death, or other separation
- Parental psychiatric disorders, especially maternal depression
- Economic distress due to poverty and unemployment

Heavy exposure to media violence through television, movies, Internet sites, video games, and even cartoons has long been associated with an increase in the likelihood that a child will become desensitized to violence and behave in aggressive and antisocial ways. However, research relating the use of violent video games with antisocial behavior is inconsistent and varies in design and quality, with findings of both increased and decreased aggression after exposure to violent video games.

Companions and peers are influential in the development of antisocial behaviors. Some studies of boys with antisocial behaviors have found that companions are mutually reinforcing with their talk of rule breaking in ways that predict later delinquency and substance abuse.

Diagnosis

Systematic diagnostic interviews with parents and children provide opportunity for a thorough assessment of individual risk factors and family and societal dynamics. Such assessment should include parent-adolescent relationships; peer characteristics; school, home, and community environment; and overall health of the individual.

Various diagnostic instruments have been developed for evidence-based identification of antisocial behavior in children. The onset, frequency, and severity of antisocial behaviors such as stealing, lying, cheating, sneaking, peer rejection, low academic achievement, negative attitude, and aggressive behaviors are assessed to determine appropriate intervention and treatment.

Treatment

Enhanced parent-teacher communications and the availability of school psychologists and counselors trained in family intervention within the school setting are basic requirements for successful intervention and treatment of childhood antisocial behaviors.

School-based programs from early childhood onward that teach conflict resolution, emotional literacy, and anger management skills have been shown to interrupt the development of antisocial behavior in low-risk students. Students who may be at higher risk because of difficult family and environmental circumstances will benefit from more individualized prevention efforts, including counseling, academic support, social-skills training, and behavior contracting.

Academic settings with the capacity to deliver professional parental support and provide feedback in a motivating way can help parents to develop and hone effective parenting skills that may interrupt further progression of antisocial behavior patterns in their children.

Access to written and video information on parenting skills and information about community family resources, as well as promotion of parent-support groups, are effective intervention strategies for changing family dynamics that shape antisocial behavior in the children.

Older students who already exhibit a persistent pattern of antisocial behavior can be helped with intensive individualized services that may involve community mental health agencies and other outside intervention.

Community-based programs, including youth centers and recreational programs with trained therapists, can provide additional support for at-risk children.

Prognosis

The longer antisocial behavior patterns persist, the more intractable they become. Early-onset conduct problems left untreated are more likely to result in the development of chronic antisocial behavior than if the disruptive behavior begins in adolescence. Though it is never too late to intervene, researchers warn that if by age eight a child has not learned ways other than coercion to meet his social goals, he has a high chance of continuing with antisocial behavior throughout his lifetime.

Lex fori

Lex fori is a Latin term that means "the law of the forum." In legal terms, it refers to the laws of the place where a court case is being heard. This principle is often used in international or cross-border cases, where more than one country's legal systems might be involved. Simply put, *lex fori* means that the court will follow its own country's rules when handling a case, especially for procedural matters like how evidence is collected, how a trial is conducted, or deadlines for filing documents.

Why is Lex Fori Important?

When legal disputes involve multiple countries, it can be confusing to decide which laws should apply. For example, if someone from India has a contract dispute with someone in the United States, and the case is heard in an Indian court, the court will follow Indian procedural laws. Using *lex fori* makes it easier for courts because they are more familiar with their own laws than with foreign ones.

How Does It Work?

The principle of *lex fori* is mostly applied to procedural issues, such as:

- **Rules of evidence:** What kind of evidence can be presented in court.
- **Filing requirements:** How and when documents should be submitted.
- **Court procedures:** The way hearings or trials are conducted.

For example, if a case is heard in an Indian court, Indian law will decide these procedural aspects, even if the dispute involves parties from other countries.

Does Lex Fori Apply to Substantive Law?

Substantive law is about the actual rights and duties of the people involved in a case, like who is responsible for a breach of contract or how much compensation should be paid. In some cases, courts may apply the substantive law of another country if it is relevant. For example, if a contract was signed in the U.S., an Indian court might apply U.S. contract law

to decide who is right. But procedural matters will still be governed by Indian law under *lex fori*.

Advantages of Lex Fori

1. **Simplicity:** Courts don't have to figure out complicated foreign procedures.
2. **Efficiency:** The court can handle cases faster using familiar rules.
3. **Public Policy:** Courts can make sure decisions follow local values and legal principles. For instance, they won't apply foreign laws that conflict with their own laws or ethics.

Challenges of Lex Fori

1. **Jurisdictional Bias:** Courts may favor their own laws even when foreign laws are more appropriate for the case.
2. **Fairness Issues:** If parties involved in a case expect a different country's law to apply, they might feel the decision is unfair.
3. **Globalization Problems:** With increasing international trade and travel, relying solely on *lex fori* can create confusion in cross-border disputes.

Statutory Laws: A Simple Overview

Statutory laws are rules and regulations made by legislative bodies, such as Parliament or state legislatures. These laws are written down in official documents called statutes. Unlike customary laws or judicial decisions, statutory laws are clearly defined and formally enacted to govern various aspects of life, including public behavior, business activities, and government functions.

What Are Statutory Laws?

Statutory laws come from legislative acts. For example, in India, laws passed by the Parliament, like the Indian Penal Code (IPC) or the Right to Education Act, are statutory laws. Similarly, state legislatures can make laws that apply only to their states. These laws are designed to address specific needs or issues in society.

How Are Statutory Laws Made?

The process of creating statutory laws usually involves several steps:

1. **Drafting a Bill:** A proposed law is written down as a bill.
2. **Debate and Discussion:** The bill is discussed in the legislature to assess its pros and cons.
3. **Approval:** After debate, the bill is voted on. If a majority agrees, it moves forward.

4. **President's or Governor's Assent:** For the law to come into force, the President (for central laws) or the Governor (for state laws) must approve it.
5. **Notification:** Once approved, the law is officially published and becomes enforceable.

Examples of Statutory Laws

- **The Indian Penal Code (IPC), 1860:** Defines crimes and their punishments.
- **The Motor Vehicles Act, 1988:** Regulates road safety and vehicle registration.
- **The Right to Information Act, 2005:** Allows citizens to access information about government activities.

Importance of Statutory Laws

Statutory laws provide clarity and consistency in governing society. They define what is legal or illegal, ensuring fairness and justice. For instance, labor laws protect workers' rights, and environmental laws help safeguard nature.

Limitations of Statutory Laws

While statutory laws are essential, they may not always cover every situation. In such cases, courts may interpret the laws to address unique scenarios. Moreover, these laws might need regular updates to stay relevant with changing times.

UNIT-II: CRIMINAL JUSTICE PROCESSES

Structure of Criminal Justice System in India

The Indian Legal System is one of the oldest legal systems in the entire history of the world. It has altered as well as developed over the past few centuries to absorb inferences from the legal systems across the world. The Constitution of India is the fountainhead of the Indian Legal System. It demonstrates the Anglo-Saxon character of judiciary which is basically drawn from the British Legal System. India is a land of diversified culture, local customs and various conventions which are not in opposition to the statute or ethics. People of different religions as well as traditions are regulated by all the different sets of personal laws in order to relate to family affairs.

The Criminal Justice System in India is designed based on Anglo-Indian (British) pattern where in adversarial (Accusatorial System) is followed in Juvenile Justice System and Inquisitorial system is followed with reference to Adult justice where accused is presumed to be innocent until he/she is proved beyond reasonable doubt of his criminal intent to commit the act of crime. While juvenile is a person- any human aged less than 18 years accused of crime is presumed to be alleged committed the act of crime, onus of burden remains with the individual he/she should prove he is innocent. While in adult case the onus of proof remains with state (prosecution). This system is reverse in American criminal justice. In India, the justice dispensation is left with judiciary while making of the law is left with the legislator in state and centre.

Table 1 Structure of Criminal Justice System may simply represented by a Table

Criminal Justice System
Legislator in State and Centre
Judiciary Magistrate/ Judge/ Justice Prosecution Defense Counsel
Law Enforcement and related agencies
Victim/ Offender/ Witness
Evidence/ Expert
Prison/ Correctional Institutions
Probation

The common features, duties and functions of the Criminal Justice System in all the aforementioned procedures may be roughly broken into the following distinct stages:

1. Framing of charge or giving of notice

This is the beginning of a trial. At this stage, the judge is required to weigh the evidence for the purpose of finding out whether or not a prima facie case against the accused has been made out. In case the material placed before the court discloses grave suspicion against the accused that has not been properly explained, the court frames the charge and proceeds with the trial. If, on the contrary, upon consideration of the record of the case and documents submitted and after hearing the accused person and the prosecution in this behalf, the judge considers that there is not sufficient ground for proceeding, the judge discharges the accused and records reasons for doing so.

The words "not sufficient ground for proceeding against the accused" means that the judge is required to apply a judicial mind in order to determine whether a case for trial has been made out by the prosecution. It may be better understood by the proposition that whereas a strong suspicion may not take the place of proof at the trial stage, yet it may be sufficient for the satisfaction of the court in order to frame a charge against the accused person.

The charge is read over and explained to the accused. If pleading guilty, the judge shall record the plea and may, with discretion convict him however if the accused pleads not guilty and claims trial, then trial begins. Trial starts after the charge has been framed and the stage preceding it is called inquiry. After the inquiry, the charge is prepared and after the formulation of the charge the trial of the accused starts. A charge is nothing but formulation of the accusation made against a person who is to face trial for a specified offence. It sets out the offence that was allegedly committed.

2. Recording of prosecution evidence

After the charge is framed, the prosecution is asked to examine its witnesses before the court. The statement of witnesses is on oath. This is called examination-in-chief. The accused has a right to cross-examine all the witnesses presented by the prosecution.

Section 309 of the Crpc further provides that the proceeding shall be held as expeditiously as possible and in particular, when the examination of witnesses has once begun, the same shall be continued day-to-day until all the witnesses in attendance have been examined.

3. Statement of accused

The court has powers to examine the accused at any stage of inquiry or trial for the purpose of eliciting any explanation against incriminating circumstances appearing before it. However, it is mandatory for the court to question the accused after examining the evidence of the prosecution if it incriminates the accused. This examination is without oath and before the accused enters a defence. The purpose of this examination is to give the accused a reasonable opportunity to explain incriminating facts and circumstances in the case.

4. Defence evidence

If after taking the evidence for the prosecution, examining the accused and hearing the prosecution and defence, the judge considers that there is no evidence that the accused has committed the offence, the judge is required to record the order of acquittal. However, when the accused is not acquitted for absence of evidence, a defence must be entered and evidence adduced in its support. The accused may produce witnesses who may be willing to depose in support of the defence. The accused person is also a competent witness under the law. The accused may apply for the issue of process for compelling attendance of any witness or the production of any document or thing. The witnesses produced by him are cross-examined by the prosecution.

The accused person is entitled to present evidence in case he so desires after recording of his statement. The witnesses produced by him are cross-examined by the prosecution. Most accused persons do not lead defence evidence. One of the major reasons for this is that India follows the common law system where the burden of proof is on the prosecution, and the degree of proof required in a criminal trial is beyond reasonable doubt.

5. Final arguments

This is the final stage of the trial. The provisions of the Crpc provide that when examination of the witnesses for the defence, if any, is complete, the prosecutor shall sum up the prosecution case and the accused is entitled to reply. The same is provided for under section 234 of the code.

6. Judgment

After conclusion of arguments by the prosecutor and defence, the judge pronounces his judgment in the trial. Here it is relevant to mention that the Crpc also contains detailed provisions for compounding of offences. It lists various compoundable offences under table 1 of the Indian Penal Code which may be compounded by the specified aggrieved party without the permission of the court and certain offences under table 2 that can be compounded only

after securing the permission of the court compounding of offences also brings a trial to an end.

Under the CrPC an accused can also be withdrawn from prosecution at any stage of trial with the permission of the court. If the accused is allowed to be withdrawn from prosecution prior to framing of charge, this is a discharge, while in cases where such withdrawal is allowed after framing of charge, it is acquittal.

The above described is the process how a trial takes place for dispensation of a criminal case although this six stepped procedure looks plain and simple it suffers from many inherent lacunas which become the reasons for delay and hampers an expeditious trial and not to forget the option of appeal is again there where the state or the criminal has option to appeal to appellate court and as well as seek a permission to file a special leave petition to the supreme court where in again all this process is repeated except for the fact that the supreme court only deals with cases where there is a question of law involved.

The following are some of the problems of our trial procedure which pose as hurdles to speedy dispensation of cases;

Investigation though is the foundation of the Criminal Justice System but is unfortunate that it is not trusted by the laws and the courts themselves the same can be explained by a perusal of sections 161 and 162 of the Criminal Procedure Code which provides that the statements of the witnesses examined during investigation are not admissible and that they can only be used by the defence to contradict the maker of the statement, the confession made by accused is also not admissible in evidence. The statements recorded at the earliest stage normally have greater probative value but can't be used in evidence.

It is common knowledge that police often use third degree methods during investigation and there are also allegations that in some cases they try to suppress truth and put forward falsehood before court for reasons such as corruption or extraneous influences political or otherwise. Unless the basic problem of strengthening the foundation is solved the guilty continue to escape conviction and sometimes even innocent persons may get implicated and punished.

Secondly the police officers face excessive work load due to lack of manpower and the public at large is non co-operative because of the public image of the police officers and there is lack of coordination with other sub-system of the Criminal Justice System in crime prevention to add to the agony there is a lot of misuse of bail and anticipatory bail provisions,

more over due to Political and executive interference police is directed for other tasks which are not a part of police functions. It may be apt to point out that the rank of the IO investigating a case also has a bearing on the quality of investigation. The minimum rank of a station house officer (SHO) in the country is sub inspector (SI). However, some of the important police stations are headed by the officers of the rank of Inspector. It has been observed that investigations are mostly handled by lower level officers, namely, HC and ASI etc.

The senior officers of the police stations, particularly the SHOs generally do not conduct any investigations themselves. This results in deterioration of quality of investigations. It is therefore necessary to address ourselves to the problems and strengthen the investigation agency. Furthermore the common citizen is not aware of the distinction between cognizable and non- cognizable offences. There is a general feeling that if anyone is a victim of an offence the place he has to go for relief is the police station. It is very unreasonable and awkward if the police were to tell him that it is a non-cognizable offence and therefore he should approach the Magistrate as he cannot entertain such complaint.

Thirdly, the investigation of a criminal case, however good and painstaking it may be, will be rendered fruitless, if the prosecution machinery is indifferent or inefficient. One of the well- known causes for the failure of a large number of prosecutions is the poor performance of the prosecution. In practice, the accused on whom the burden is little engages a very competent lawyer, while, the prosecution, on whom the burden is heavy to prove the case beyond reasonable doubt, is very often represented by persons of poor competence, and the natural outcome is that the defence succeeds in creating the reasonable doubt on the mind of the court.

Fourthly, the most notorious problem in the functioning of the courts, particularly in the trial courts is the granting of frequent adjournments on most flimsy grounds. This malady has considerably eroded the confidence of the people in the judiciary. Adjournments contribute to delays in the disposal of cases. They also contribute to hardship, inconvenience and expense to the parties and the witnesses. The witness has no stake in the case and comes to assist the court to dispense justice. He sacrifices his time and convenience for this. If the case is adjourned he is required to go to the court repeatedly. He is bound to feel unhappy and frustrated. This also gives an opportunity to the opposite party to threaten or induce him not to speak the truth therefore the right to speedy trial is thwarted by repeated adjournments.

Fifthly, one of the major causes for delay even in the commencement of trial of a criminal case is service of summons on the accused. The Code of Criminal Procedure provides for various modes of service. Section 62 of the Code provides that summons shall be served by a Police Officer, or subject to such rules being framed by the State Government, by any officer of the Court or other public servant. Unfortunately rules have not been framed by many State Governments to enable service otherwise than through police officers. Since the Criminal Procedure Code itself provides for other means of service namely through registered post in the case of witnesses, it should also provide for service on accused through facilities of courier service, fax where available.

Lastly our country suffers from low judge population ratio because of which the pendency of work increases therefore the judges take a long time in delivering judgments this again adds to enlargement of the time frame of a case to be decided from its intuition point because of which the litigants feel that litigation is a time consuming and lengthy procedure the two areas which need special attention for improving the quality of justice are prescribing required qualifications for the judges and the quality of training being imparted in the judicial academics.

Role of Legislature

The legislature is a key part of a democratic government. It is the branch of government responsible for making laws, discussing public policies, and ensuring accountability in governance. The legislature represents the voice of the people, as its members are elected by citizens. Let's explore the roles and responsibilities of the legislature in simple terms.

1. Lawmaking

The primary role of the legislature is to make laws. These laws are essential for maintaining order, protecting rights, and guiding the government. The process involves:

- Proposing a **bill** (a draft of a law).
- Discussing and debating the bill to decide if it is necessary and fair.
- Voting on the bill to approve or reject it.
- Sending the approved bill for the President's or Governor's signature to make it a law.

For example, laws like the **Right to Education Act** or the **Motor Vehicles Act** were created by the legislature to address important social needs.

2. Representation

The legislature represents the people. Members of the legislature are chosen through elections, and they act on behalf of the citizens in their areas. They listen to public concerns, discuss issues, and bring them to the attention of the government. This ensures that the voices of the people are heard in decision-making processes.

3. Controlling the Executive

The legislature checks and controls the actions of the executive branch (the government). This ensures that the government acts according to the law and does not misuse its powers.

- **Question Hour:** Legislators can ask questions to ministers about their work and decisions.
- **Debates and Discussions:** Policies and programs of the government are discussed, and their effectiveness is analyzed.
- **Vote of No Confidence:** If the legislature believes that the government is not functioning well, it can pass a vote of no confidence, forcing the government to resign.

4. Budget Approval

The legislature plays a critical role in financial matters. It reviews and approves the government's budget, which outlines how public money will be spent. This ensures that funds are allocated to essential services like education, healthcare, and infrastructure.

5. Safeguarding Rights and Justice

The legislature ensures that laws protect the rights of citizens and promote justice. It can pass laws to address issues like discrimination, inequality, or exploitation. For example, the **Protection of Women from Domestic Violence Act** was enacted to safeguard women's rights.

6. Amendment of the Constitution

If changes are needed in the Constitution to address new challenges, the legislature is responsible for amending it. Amendments ensure that the laws stay relevant and effective in changing times.

7. Acting as a Forum for Public Debate

The legislature is a platform where national and state issues are discussed openly. This encourages transparency and keeps citizens informed about important decisions.

Police

The role, function, duties and their involvement in justice dispensation is enlisted in Criminal Procedure Code, while their rank, hierarchy and other mandates are enlisted in The Police Act and manual. Being enforcers of law they are very important part of the judiciary. More detail is available in the course material on Police Science and Crime Prevention.

Roles and responsibilities of police

Laws should state that the primary duties of police are to protect victims and potential victims and promote offender accountability by consistently enforcing laws and procedures so that all “honour” crimes and killings are investigated and addressed by the criminal justice system. To give effect to this goal, laws should authorize police, by judicial authorization where appropriate, to enter premises, conduct arrest of the primary aggressor(s), and confiscate weapons or dangerous substances in cases involving “honour”. Laws should charge police to work in coordination on the response to “honour”-based violence with advocates, health care providers, criminal justice actors, including prosecutors, child protection services, local businesses, the media, employers, religious leaders, health care providers, clergy and organizations working with victims and immigrant communities. (See: Coordinated Community Response, Stop VAW, The Advocates for Human Rights) In countries where “honour” crimes tend to be more prevalent in certain immigrant communities, law enforcement should collaborate with community leaders and women’s organizations in those communities to formulate an effective response to “honour” crimes.

Example: An example of intersectoral collaboration to assist domestic violence victims involves the municipality, police and NGOs in Bulgaria. In Sofia, these three bodies provide a consultation center. The purpose is to provide multiple resources for victims in one independent location. Interviewers reported that victims of domestic violence are using the center to seek help where a police officer, lawyer and social worker are available to meet with victims of domestic violence.

Drafters should require the appropriate ministerial branch or department to consult with police, prosecutors, judges, and health and education professionals to develop regulations, guidelines and other protocols for implementation of laws on “honour” crimes within a specified timeframe of the law’s entry into force. (See: UN Handbook for Legislation on Violence against Women, Section 3.2.6) The promulgating body should consult and work closely with non-governmental organizations and victims’ advocates. These policies should provide for a collaborative, coordinated response among the various relevant

sectors. For example, in the Netherlands, police, prosecutors, and a women's shelter have developed a joint protocol for combating "honour" crimes. (See: Combating Honour Crimes in Europe: Manual for Policy Makers, Institutions, and Civil Society, SURGIR Foundation, 2011-2012, p.25) Overall, these policies should seek to mainstream the police response, so that all law enforcement uses the same trainings, educational materials and risk assessment model. Laws should require police protocols, regulations and guidelines to include the following minimum elements:

A common definition of "honour" crimes and killings that comports with a national definition. Where there is no national definition, policies may define "honour" crimes and killings as "any form of violence against women and girls, in the name of traditional codes of so-called honour." (See: Section on Defining "Honour" Crimes and "Honour" Killings).

The establishment of a data collection, monitoring and information sharing system on violence against women, including "honour" crimes and killings. The system should include specific categories for "honour" crimes and killings, as well as a mechanism for local police to report "honour"-based violence statistics to a national umbrella authority. Information sharing systems should also provide information on issued protection and restraining orders so that police can determine whether such an order is in force.

Define the structural handling of cases involving "honour", ensuring that responsibility for "honour" crimes and killings lies at the senior rank. Policies should develop specialized expertise within police units and, if resources permit, police units solely dedicated to "honour" crimes should be established. Policies should also ensure that all police undergo appropriate trainings on violence against women and girls.

Policies should seek to increase the presence of women in the police forces, including operational rank, and provide victims of or at-risk of "honour"-based violence the option of speaking with a female officer. In some communities, victims may be reluctant to report "honour" crimes to male police officers. (See: A Long Way to Go: Implementation of the Elimination of Violence against Women Law in Afghanistan, UN Assistance Mission in Afghanistan and OHCHR, November 2011, p. 20) Drafters should consider providing for the establishment of all-female police units that specialize in violence against women, including "honour" crimes.

Facilitation of cross-communications among police units in different areas, particularly with regard to receiving victims who are transferred.

Trainings for police that provide information on women's human rights, violence

against women, cultural sensitivities, and “honour”-based violence, including its prevalence, defining characteristics, risk factors, and consequences. Trainings should seek to dispel harmful stereotypes about women and girls and emphasize that police are obligated to respond to cases involving “honour” with the same professionalism and effectiveness applied in other cases. Trainings should seek to improve police response at identifying, investigating and prosecuting cases involving “honour” and should educate police about laws applicable to “honour” crimes. (See: Improving Law Enforcement Investigation Techniques Training, Stop VAW, The Advocates for Human Rights)

Targeted outreach to communities with an elevated risk of “honour” crimes and killings. Collaboration between police and school officials to enable students to report “honour” crimes to law enforcement in a safe and comfortable setting. Development of a police response to “honour” crimes and killings that involves a comprehensive, multi-sectoral and coordinated response. Guidelines should state that the overall objective of effective police response is to promote the safety of the victim or person at-risk, accomplish the arrest, prosecution and conviction of the perpetrator, and prevent repetition of the crime. Police response should be guided by the need to incorporate the needs of “honour” crime victims, respect their dignity and personal integrity, minimize intrusion into their lives, and maintain high standards for collection of evidence. Law enforcement should contextualize their response to “honour” crimes and killings, and the police response should include:

- Responding in a language understood by the complainant/survivor;
- Conducting a coordinated risk assessment of the scene;
- Interviewing parties, witnesses, including children, separately;
- Using an authorized interpreter and not rely on family members, neighbors, friends or community members to act as an interpreter;
- Recording the complaint in detail and filing an official report;
- Informing the victim of her rights;
- Ensuring transport for the victim to obtain medical treatment if needed or requested;
- Providing protection to the person who reported the violence;
- Avoiding serving as a mediator between the victim and the offenders.

(See: UN Handbook, Section 3.8.1; Resolution Adopted by the General Assembly, Crime Prevention and Criminal Justice Measures to Eliminate Violence against Women, U.N.

Doc. A/Res/52/86, 1998; Text of the revised Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice, Report of the Intergovernmental Expert Group Meeting to review and update the Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice, Bangkok, 23 - 25 March 2009, Commission on Crime Prevention and Criminal Justice, 2010)

Laws should direct law enforcement authorities to review relevant policies to ensure their effective application to cases involving “honour”. Police authorities should review domestic violence policies to ensure they take into account the particular issues associated with “honour” crimes, including the following: “honour”-based violence often targets women and girls; it may particularly involve immigrant or ethnic populations; it often involves multiple perpetrators within or outside of the family; and it involves more subtle, coercive indicators, such as restrictions on freedom of movement, association and communications, that may not be reflected in a domestic violence law that focuses on physical harm. Law enforcement should develop procedures for identifying “honour” crimes and performing risk assessments in cases of threatened “honour”-related violence and should provide officers with regular training on such procedures. Police protocols also should mandate the investigation of all reported “honour” crimes or threats of such crimes.

Law enforcement authorities should also review witness and victim protection policies to ensure they are appropriately protecting victims in “honour” cases. Given the often communal nature of “honour” crimes, information about such crimes is often widely known within the community. Witness reports of threatened or committed “honour” crimes can be useful in preventing or prosecuting these crimes. Legislation therefore should include measures aimed at encouraging witnesses or those who have reasonable grounds to believe that an “honour” crime may be committed to report such information to the authorities. (See: Council of Europe Convention on preventing and combating violence against women and domestic violence, Art. 27) Laws should also recognize the risk of reprisals against those who report “honour” crimes, both victims and witnesses, and should provide for a long-term witness/victim protection program for those individuals. Further, relocation to another region or even another country is sometimes the only option available to a woman threatened with “honour”-based violence, and laws should provide resources and support to facilitate such relocation. (See: Combating Honour Crimes in Europe: Manual for Policy Makers, Institutions, and Civil Society, SURGIR Foundation, 2011-2012, pp. 9 & 30).

Laws should prohibit police from requiring victims to submit to a virginity test and from transferring a victim to a detention facility for protection. Police should only transfer a victim to a shelter with her consent, and should advise but never force the victim into a decision. However, law enforcement protocols should require police to provide victims with information about how and where to obtain assistance if desired (including victim counseling, legal aid, and safe houses).

Prosecution

Prosecution in criminal case is entrusted with state, hence it becomes the responsibility of the state to recruit, train and equip them with the power, role, duties and functions in justice dispensation organised, maintained and funded by the state. In case where central government is involved government does the same to its prosecution department. More detail is available in the course on Police Science and Crime Prevention.

Duty of the Public Prosecutor In The Criminal Justice System

An ideal Prosecutor must consider herself/himself as an agent of justice. In India, we have a public prosecutor who acts in accordance with the directions of the judge. Normally, the control of entire trial is in the hands of the trial judge. Investigation is the prerogative of the police. However, it is generally believed that traditional right of *nolle prosequi* is available to the prosecutor. The public prosecutor in India does not seem to be an advocate of the state in the sense that the prosecutor has to seek conviction at any cost. The prosecutor must be impartial, fair and truthful, not only as a public executive but also because the prosecutor belongs to the honourable profession of law, the ethics of which demand these qualities.

In India, the criminal justice system should function within the framework of the Indian Constitution. Succinctly speaking, the principles enunciated in the Constitution are as follows:

- Presumption of innocence: Accused presumed to be innocent
- Deprivation of life / personal liberty only in accordance with procedure established by law (See Article 21 of the Indian Constitution)
- Equality: The guarantee of equality before the law.
- Equal Protection: Equal protection of the laws.
- Beyond all reasonable doubt: The guilt must be proved beyond all reasonable doubt
- Double jeopardy: Protection against double jeopardy

- Non-retrospective punishment
- Prohibition of discrimination: Prohibition of discrimination imposed upon the State
- The right of the accused to remain silent
- Arrest/detention must be in accordance with law and judicial guidelines.
- Speedy trial.

Directorate of Prosecution is concerned, the objective behind establishing the Directorate of Prosecutions was to exercise close supervision and scrutiny of work relating to various prosecuting agencies at Sessions and Assistant Sessions levels except at the High Court level. The Directorate of Prosecutions in the State of Andhra Pradesh was created vide G.O.Ms.No. 323, Home (Courts-C), Department, dated: 26-5-1986 wherein all the Prosecuting Officers were brought under the supervisory control of the Director of Prosecutions. This Directorate is headed by a Director assisted by other subordinate rank officials and ministerial staff. The major functions are:

Assistant Public Prosecutors - Assistant Public Prosecutor Officers scrutinise charge sheets prepared by the investigating agency and submit discharge/ acquittal. They evaluate the evidence in each case and make their recommendations for filing revision petitions or appeals against impugned orders and judgments, as well as conduct cases in Courts of Metropolitan Magistrates.

Additional Prosecutors - Additional Public Prosecutors conduct cases in Sessions Courts

Chief Prosecutors - Chief Prosecutors supervise the work of Assistant Public Prosecutors in the Courts of Metropolitan Magistrates

Public Prosecutor - Public Prosecutor is responsible for supervision of prosecution work conducted by Additional Public Prosecutors in the Sessions Courts

Director of Prosecution – The Director of Prosecution is the Head of Office. The Director of Prosecution looks after the Establishment and Accounts Branches and exercises overall control over officers of the Directorate.

The Role of the Prosecutor

The role of the Prosecutor is not to single-mindedly seek a conviction regardless of the evidence but his/her fundamental duty is to ensure that justice is delivered. The Indian judiciary interpreted role, responsibilities and duties of prosecution as follows:

- 1) The ideal Public Prosecutor is not concerned with securing convictions, or with satisfying departments of the State Governments with which she/he has been in contact. He must

consider herself/himself as an agent of justice. The Allahabad High Court had ruled that it is the duty of the Public Prosecutor to see that justice is vindicated and that he should not obtain an unrighteous conviction.

- 2) There should not be on part of a Public Prosecutor a seemly eagerness for, or grasping at a conviction” The purpose of a criminal trial being to determine the guilt or innocence of the accused person, the duty of a Public Prosecutor is not to represent any particular party, but the State. The prosecution of the accused persons has to be conducted with the utmost fairness. In undertaking the prosecution, the State is not actuated by any motives of revenge but seeks only to protect the community. There should not therefore be “a seemly eagerness for, or grasping at a conviction.
- 3) A Public Prosecutor should not by statement aggravate the case against the accused, or keep back a witness because her/his evidence may weaken the case for prosecution. The only aim of a Public Prosecutor should be to aid the court in discovering truth. A Public Prosecutor should avoid any proceedings likely to intimidate or unduly influence witnesses on either side.
- 4) A Public Prosecutor should place before the Court whatever evidence is in her/his possession. The duty of a public Prosecutor is not merely to secure the conviction of the accused at all costs but to place before the court whatever evidence is in the possession of the prosecution, whether it be in favour of or against the accused and to leave the court to decide upon all such evidence, whether the accused had or had not committed the offence with which he stood charged. It is as much the duty of the Prosecutor as of the court to ensure that full and material facts are brought on record so that there might not be miscarriage of justice.
- 5). The duty of the Public Prosecutor is to represent the State and not the police. A Public Prosecutor is an important officer of the State Government and is appointed by the State under the Code of Criminal Procedure, 1973. She/he is not a part of the investigating agency. She/he is an independent statutory authority. She/he is neither the post office of the investigating agency, nor its forwarding agency; but is charged with a statutory duty.
- 6). The purpose of a criminal trial is not to support at all cost a theory, but to investigate the offence and to determine the guilt or innocence of the accused and the duty of the Public Prosecutor is to represent not the police, but the State and her/his duty should be discharged by her/him fairly and fearlessly and with a full sense of responsibility that

attaches to her/his position. There can be no manner of doubt that Parliament intended that Public Prosecutors should be free from the control of the police department.

- 7). A Public Prosecutor should discharge her/his duties fairly and fearlessly and with full sense of responsibility that attaches to her/his position. The Patna High Court held that purpose of a criminal trial is not to support a given theory at all costs but to investigate the offence and to determine the fault or innocence of the accused and the duty of the Public Prosecutor is to represent not the police but the Crown and her/his duty should be discharged by her/him fairly and fearlessly and with full sense of responsibility that attaches to her/his position.
- 8). The Andhra Pradesh High Court had ruled that prosecution should not mean persecution and the Prosecutor should be scrupulously fair to the accused and should not strive for conviction in all these cases. It further stated that the courts should be zealous to see that the prosecution of an offender should not be given to a private party. The Court also said that if there is no one to control the situation when there was a possibility of things going wrong, it would amount to a legalised manner of causing vengeance.
- 9). A Public Prosecutor cannot appear on behalf of the accused. It is inconsistent with the ethics of legal profession and fair play in the administration of justice for the Public Prosecutor to appear on behalf of the accused.
- 10). No fair trial when the Prosecutor acts in a manner as if he was defending the accused, It is the Public Prosecutors duty to present the truth before the court. Fair trial means a trial before an impartial Judge, a fair Prosecutor and atmosphere of judicial calm. The Prosecutor who does not act fairly and acts more like a counsel for the defense is a liability to the fair judicial system.
- 11). The statutory responsibility for deciding upon withdrawal squarely vests unwavering with the Public Prosecutor and should be guided by the Criminal Procedure Code. The statutory responsibility for deciding upon withdrawal squarely vests on the Public Prosecutor and is entirely within the discretion of the Public Prosecutor. It is non-negotiable and cannot be bartered away in favour of those who may be above her/him on the administrative side. The Criminal Procedure Code is the only master of the Public Prosecutor and he has to guide herself/himself with reference to Criminal Procedure Code only. So guided, the consideration which must weigh with her/him is, whether the broader cause of public justice will be advanced or retarded by the withdrawal or continuance of the prosecution. The sole consideration for the Public Prosecutor when she/he

decides a withdrawal from a prosecution is the larger factor of administration of justice, not political favours nor party pressures nor like concerns.

- 12). District Magistrate or the Superintendent of Police cannot order the Public Prosecutor to move for the withdrawal. The District Magistrate or the Superintendent of Police cannot order the Public Prosecutor to move for the withdrawal, although it may be open to the District Magistrate to bring to the notice of the Public Prosecutor materials and suggest to her/him to consider whether the prosecution should be withdrawn or not. But, the District Magistrate cannot command and can only recommend.
- 13). If there is some issue that the defense could have raised, but has failed to do so, then that should be brought to the attention of the court by the Public Prosecutor. The Supreme Court stated that the duty of the Public Prosecutor is to ensure that justice is done. It stated that if there is some issue that the defense could have raised, but has failed to do so, then that should be brought to the attention of the court by the Public Prosecutor. Hence, she/he functions as an officer of the court and not as the counsel of the State, with the intention of obtaining a conviction. The District Magistrate or the Superintendent of Police cannot order the Public Prosecutor to move for the withdrawal, although it may be open to the District Magistrate to bring to the notice of the Public Prosecutor materials and suggest to her/him to consider whether the prosecution should be withdrawn or not. But, the District Magistrate cannot command and can only recommend. The Supreme Court stated that the duty of the Public Prosecutor is to ensure that justice is done. It stated that if there is some issue that the defense could have raised, but has failed to do so, then that should be brought to the attention of the court by the Public Prosecutor. Hence, she/he functions as an officer of the court and not as the counsel of the State, with the intention of obtaining a conviction.

Section 24 of Cr.P.C deals with ‘Public Prosecutors’

Section 24 of the CrPC says as to appointment of public prosecutors in the High Courts and the district by the central government or state government. Sub-section 3 says down that for every district, the state government shall appoint a public prosecutor and may also appoint one or more additional public prosecutors for the district. Sub-section 4 requires the district magistrate to prepare a panel of names of persons considered fit for such appointment, in consultation with the sessions judge. Sub-section 5 explains an embargo against appointment of any person as the public prosecutor or additional public prosecutor in

the district by the state government unless his name appears in the panel prepared under subsection 4. Sub-section 6 provides for such appointment wherein a state has a local cadre of prosecuting officers, but if no suitable person is available in such cadre, then the appointment has to be made from the panel prepared under subsection 4. Subsection 4 says that a person shall be eligible for such appointment only after he has been in practice as an advocate for not less than seven years.

Section 25 deals with the appointment of an assistant public prosecutor in the district for conducting prosecution in the courts of magistrate. In the case of a public prosecutor also known as district government counsel (criminal) there can be no doubt about the statutory element attached to such appointment by virtue of this provision in the CrPC 1973.

In this context, section 321 of the CrPC is also relevant. As already mentioned, it permits withdrawal from prosecution by the public prosecutor or assistant public prosecutor in charge of a case with the consent of the court at any time before the judgment is pronounced. This power of the public prosecutor in charge of case is derived from the statute and must be exercised in the interest of the administration of justice. There can be no doubt that this function of the public prosecutor relates to a public purpose entrusting the officer with the responsibility of so acting only in the interest of administration of justice.

Judicial response of role of prosecutors

Zahira Habibullah vs State of Gujarat, where the conduct of the “BEST BAKERY” case in the Hon’ble Gujrat High Court, involving the burning down of an establishment in Vadodara which caused the death of 14 persons, came up for consideration before the Hon’ble Supreme Court, leading to what Rajeeva Dhavan has described as ‘‘ The severest indictment evr of the Jusitce and governance system any State’’. The Hon’ble Supreme Court ordered retrial of the matter in The Hon’ble High Court of Maharashtra, and observed that in Gujarat, ‘‘ The Public Prpsecutor appears to have acted more as a defence counsel than one whose duty was to present the truth before the Court’’.

In R K Jain's case (AIR 1980 SC 1510), the Hon’ble Supreme Court held quoting Shamsher Singh v. State of Punjab [(1974) 2 SCC 831], as regards the meaning and content of executive powers tends to treat the public prosecutor’s office as executive. But the conclusions of some courts create doubt as to its exact nature. To the suggestion that the public prosecutor should be impartial (a judicial quality), the Kerala High Court equated the public prosecutor with any other counsel and responded thus: Every counsel appearing in a case before the court is expected to be fair and truthful. He must of course, champion the

cause of his client as efficiently and effectively as possible, but fairly truthfully. He is not expected to be impartial but only fair and truthful. [Aziz v. State of Kerala (1984) Cri. LJ 1060 (Ker)]

In *Thakur Ram vs. State of Bihar* AIR 1996 SC 911, the Hon'ble Apex Court held: "Barring a few exceptions, in criminal matters the party who is treated as aggrieved party is the State which is the custodian of the social interests of the community at large and so it is for the State to take all steps necessary for bringing the person who has acted against the social interests of the community to book" The rationale behind the State undertaking prosecutions appears to be that no private person uses the legal apparatus to wreak private vengeance on anyone.

In *Vineet Narain vs Union of India*, when the court focused that the CBI failed to investigate properly offence involving high political dignitaries. The Hon'ble Court emphasized the need to ensure that " there are no arbitrary restrictions to the initiation of Investigations or launching of prosecutions".

In *Jitendra Kumar@ Aju vs. State (NCT of Delhi)* Crl. W.P. 216/99, Delhi High Court, it was observed that In the Criminal Justice System this role is performed by the Public Prosecutor on behalf of the State. The Public Prosecutor has been described as a Minister of Justice who plays a critical role in maintaining purity and impartiality in the field of administration of criminal justice.

In The Malimath Committee Report (2003), it is acknowledged that there is a crisis in the Indian Criminal Justice System. But its analysis of the crisis is disturbing. Rather than focusing on key issues that plague the Criminal Justice System, the Committee recommended changes that amounted to a complete departure from jurisprudential norms.

In *R K Jain v. State* (AIR 1980 SC 1510), the Supreme Court sketched out the contours of the public prosecutor's power for withdrawal of cases. In *Shonandan Paswan v. State of Bihar* [(1987) 1 SCC 288] and in *Mohd. Mumtaz v. Nandini Satpathy* [1987 Cri. L.J. 778 (SC)], the Supreme Court ruled that the public prosecutor can withdraw a prosecution at any stage and that the only limitation is the requirement of the consent of the court.

The Punjab & Haryana High Court in *Krishan Singh Kundu v. State of Haryana* [1989 Cri. LJ 1309 (P&H)] has ruled that the very idea of appointing a police officer to be in charge of a prosecution agency is abhorrent to the letter and spirit of sections 24 and 25 of the Code. In the same vein the ruling from the Supreme Court in *SB Sahana v. State of Maharashtra* [(1995) SCC (Cri) 787] found that irrespective of the executive or judicial nature of the office

of the public prosecutor, it is certain that one expects impartiality and fairness from it in criminal prosecution. The Supreme Court in *Mukul Dalal v. Union of India* (1988 3 SCC 144) also categorically ruled that the office of the public prosecutor is a public one and the primacy given to the public prosecutor under the scheme of the court has a social purpose. But the malpractice of some public prosecutors has eroded this value and purpose.

Judiciary

Most **criminal justice** systems have five components-law enforcement, prosecution, defense attorneys, courts, and corrections, each playing a key **role** in the **criminal justice** process. Law Enforcement: Law enforcement officers take reports for **crimes** that happen in their areas. The final authority in justice dispensation is entrusted with the judiciary. Where these agencies are funded, facilitated and mostly under the home department of either state or central government. Judiciary is either accusatorial or inquisitorial justice system. Adult is trailed by the courts of India, juvenile cases are dealt by Juvenile Justice Board, cases pertaining to the women crimes by Mahila courts and Economic crime are dealt by special economic crimes court and many other special and more happening crimes are dealt by the specialized court set up by the state or central government as per the special requirements. More detail is available in the course on Police Science and Crime Prevention.

Drafters should seek to ensure that the criminal justice system effectively addresses all “honour” crimes and killings to ensure accountability for the perpetrator(s) and promote the safety of the victims. Laws should charge the court system to work in coordination with police, advocates, health care providers, criminal justice actors, child protection services, local businesses, the media, employers, religious leaders, health care providers, clergy and organizations working with victims and immigrant communities. See: Coordinated Community Response, StopVAW, The Advocates for Human Rights.

Judicial Discretion

Laws should limit judicial discretion to reduce sentences, reduce the charge or exculpate the defendant in “honour” crimes and killings. Specifically, laws should prohibit judges from using the following factors as mitigating evidence in cases involving “honour”:

Private settlements, reconciliation and forgiveness among the perpetrators and the victim or her family;

- The level of perceived dishonour to the family and perpetrator;
- The victim’s past behavior, including sexual behavior, that supposedly violated the

traditional code of “honour”;

- The morality or ethics of the victim’s behavior that motivated the perpetrator to commit the “honour” crime or killing;
- The perpetrator’s status as the household’s primary wage earner;
- Defenses in cases of “honour” crimes, “honour” killings, and domestic femicides, including:
 - Crimes of passion defense
 - Provocation or "fit of fury" defenses
 - Defenses of “honour”, morality or ethics
 - Defenses in cases of adultery, whether witnessed or not

Laws should require judges to undergo trainings on “honour” crimes and domestic violence to dispel misperceptions they may hold. Trainings for judges should provide information on women’s human rights, violence against women, cultural sensitivities, “honour”-based violence, including its prevalence, defining characteristics, risk factors, and consequences, the needs of victims, victim experiences in court, and the impact of judicial demeanour on perpetrators and should seek to dispel harmful stereotypes about women and girls. Where specific “honour” crimes legislation or violence against women legislation has been enacted, judges should be educated about such laws.. Drafters should work closely with civil society to ensure effective civilian and independent oversight of the court system and to ensure the availability of procedures complaints about judicial misconduct to an independent investigatory body. They should also instruct judges on evaluating safety risks in cases involving “honour” in sentencing.

The United Nations Handbook for legislation on violence against women recommends that laws require the appropriate ministerial branch to consult with police, prosecutors, judges and health and education professionals to develop regulations, guidelines and other protocols for implementation of laws on "honour" crimes within a specified timeframe of the law’s entry into force (p. 20-21). Guidelines should instruct judges to treat “honour” crimes and killings as a serious crime and advise them on the limits in applying the aforementioned defenses, mitigating factors, or considerations to “honour” crimes, “honour” killings and domestic femicides. Guidelines should also address sentencing and direct judges to impose penalties that are commensurate with other crimes of violence, promote accountability for the perpetrator and promote victim safety. Guidelines should direct judges to exercise caution or even prohibit them from suspending sentences, granting

bail or granting parole or probation in “honour” crimes and killings. A judicial decision on custodial sentencing and pretrial release should always prioritize the safety risk to the victim if the perpetrator is released, and guidelines should direct judges to deny release, impose conditions on the release that will ensure the victim’s safety, and/or impose a no contact order paired with a verbal warning about the consequences of breach. Guidelines should discourage, or even prohibit, judges from ordering mediation in cases involving “honour” because of the power imbalance within the “honour” context.

Prison System in Criminal Justice

The prisons in India are managed by the central government and are called central prisons. While state maintain these prisons under the auspices of the central funds. The state creates and maintains Sub-jails for imprisonment of punishment less or three years terms funded purely by the state. Juvenile institution and women prisons are created and maintained by the state.

Prison is an important and integral part of the criminal justice system in every country. Used appropriately it plays a crucial role in upholding the rule of law by helping to ensuring that alleged offenders are brought to justice and by providing a sanction for serious wrongdoing. At best prisons should be able to offer a humane experience with opportunities for prisoners to obtain assistance and help with rehabilitation.

At their worst prisons can be sites of appalling suffering, incubators of disease or mere warehouses from which prisoners return to society poorly equipped to lead a law abiding life.

There is enormous variation in the way the world’s ten million prisoners are treated. Some young men do drill in military style boot camps while others are counselled in therapeutic communities. Prisoners deemed dangerous may be held in almost total isolation in the highest “supermax” conditions of security; low risk prisoners approaching their date of release go out to work during the day from open establishments. Some convicted prisoners can spend years in remote labour colonies, pre trial detainees a few weeks in city centre lock ups or many years beyond legal guarantees and amongst sentenced prisoners.

The experience of very many prisoners- perhaps the majority – continues routinely to involve often gross violations of basic human rights and seemingly makes scant contribution to either the rule of law or to the creation of safer communities. The failings of prisons often reflect chronic problems of maladministration, chiefly under resourcing in terms of buildings

and staff, compounded by often severe overcrowding and weak management and accountability. In principle these are matters that can be put right. But there is an often unspoken question: How much are the obvious failings of imprisonment due to inherent flaws in the nature of institution itself rather than weaknesses in its practical elaboration?

While much more attention needs to be paid to finding new ways of preventing and responding to crime, in the short term priorities would seem to include ensuring prison is used as a last resort and for the shortest possible time; minimising the use of pre trial detention especially in Africa, South Asia and Latin America; modernising national prison laws and rules which sometimes date from colonial times; and while applying existing international standards and working towards an updated and comprehensive framework of norms across the globe.

For prison administrations, the collation, flow and analysis of information are key for policy development, budgeting and resource allocation, sentence management, ensuring access to justice and provision of appropriate specialised services. While there is much to be gained by the use of information management systems, these will only facilitate good practice based on the collation and use of valid, reliable data and work best in locations where there is suitable infrastructure and adequately trained staff.

Prison services and line ministries need to have a clear understanding of the 'stock and flow' of the prison population to enable them to plan and budget for their operations. Furthermore, sentence planning and the provision of appropriate services, educational, recreational, health and legal are very much more likely to happen where reception and record procedures are sound, confidential where necessary, sustained and used efficiently.

In southern Sudan the prison service operates with almost no reliable information on the prison population or its own staff. A priority for a UNODC Prison project there has been to enhance the ability of the Prison Service to collect, retain and use prison data to effectively manage the prison system.

Process of Law Making

The entire process of law making is left with the state and central laws as recommended by the supreme court of India. State makes law of their requirements. Some special recommendations are made by central government to the state on concurrence of the central and state governments. For a law to be recognized in India, it must first be introduced in the form of a "Bill" in either House of the Parliament, then passed by both houses and then

finally the President of India must assent to it before it becomes an "Act of Parliament".
Law Making Process in Indian Parliament

The Indian constitution gives the law making procedure in Indian Parliament. The primary function of the Indian Parliament is to make, fresh laws and to revise or abrogate existing laws. Bills passed by the Parliament falls into two categories:

- (a) money bills and
- (b) non-money or, ordinary or, public bills.

The procedures prescribed by the constitution for passing the two categories of bills are different. Procedure of passing ordinary or public bills-An ordinary bill has to pass through different stages before becoming an Act. An ordinary bill may be introduced in either House of the Parliament.

The first stage is the introduction or the firstly reading of the bill. Most such bills are introduced by ministers. They are drafted by technical experts and approved by the Council of Ministers.

Ordinary members of the Parliament may also introduce bills. One month's notice has to be given to the speaker or, the chairman of the Rajya Sabha before the introduction of the bill. Then on a date fixed by the speaker or the chairman, the mover rises on his seat to move the bill. This is the introduction or the first reading of the bill which is a formal affair. No debate usually takes place at this stage. But on an unusual bill, for example the bill on Preventive Detention in 1954 may be opposed by the opposition at its very introduction. After introduction, the bill is published in the Gazette of India. The speaker or, the chairman may allow some bills to be gazette even before the first reading. Such hills do not require formal introduction in the Parliament.

The next stage in the life of a bill is the Second Reading which usually takes place after an interval of two days after the first reading. At this stage, any of the four courses are adopted.

- The bill may be taken for consideration by the House at once.
- It may be sent to a select committee of the House.
- It may be sent to a joint select committee of the two Houses and
- It may be circulated for eliciting public opinion. Very rarely bills are taken up for consideration straight way.

When the 4th course is adopted, the secretariat of the House concerned request the State Governments to publish the bill in the State Gazettes inviting opinions from local

bodies and recognized associations. Such opinions are circulated among the members of the House.

Committee stage

If the bill is referred to a select committee, the mover selects the members of the committee, the Speaker or the Chairman appoints one member of the committee, the chairman of the committee. The committee makes a careful study of the bill and reports back to the House.

Report Stage

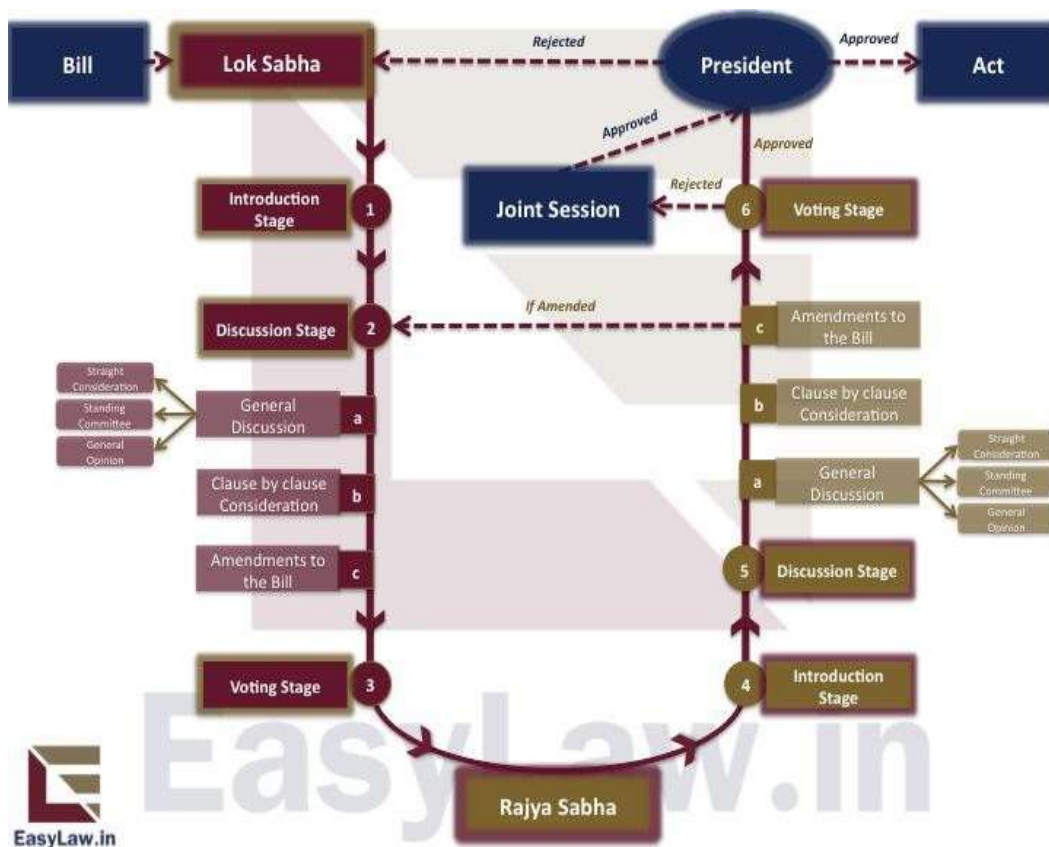
The original bill along with the report of the Select committee is circulated among the members. It is at this stage that the bill is debated clause by clause. At two stages in the career of a bill debates take place. In the Second Reading when the bill is debated in principle and at the report stage, when it is debated clause by clause. The Second Reading is most crucial in the life of the bill while the Report stage is most important as giving final shape to the bill. After the bill is passed by a majority vote, it is submitted for the Third Reading.

The Third Reading like the First Reading is only formal. No debate takes place and no bill is rejected at this stage.

After the bill is adopted at the Third Reading, it's transmitted to the other House where it goes through all the stages as in the originating House. The other House may accept the bill. In that case it is sent to the President for his assent. The other House also may reject the bill or, may introduce amendments not acceptable to the original House or, may not return the bill within six months. In any of such case, a constitutional deadlock develops between the two Houses. The President may call a joint session of the two Houses to resolve the deadlock. The Speaker or in his absence the Deputy Speaker presides over such joint sessions. The deadlock is dissolved by majority vote.

Finally the bill passed by both Houses goes to the President for his assent. If the President assents to the bill, it becomes a law. The President may return the bill for reconsideration. If the bill is sent back to the President with or, without amendments, the President cannot withhold his assent. This complicated and time consuming procedure is adopted to prevent hasty legislation.

Figure 1 Process of Law making in India



Rule of Law

The concept of the **rule of law** is fundamental to a democratic society. It means that everyone, whether a citizen, government official, or leader, is subject to the law. The rule of law ensures fairness, equality, and justice in society. It prevents arbitrary use of power and guarantees that no one is above the law.

Key Features of the Rule of Law

1. Supremacy of Law

- The law is the highest authority in society. Everyone must follow it, including government officials and lawmakers.
- For example, if a minister or high-ranking official breaks the law, they can be held accountable just like any ordinary citizen.

2. Equality Before the Law

- The rule of law guarantees that all individuals are treated equally in the eyes of the law.

- There should be no discrimination based on caste, religion, gender, or wealth. For instance, both rich and poor individuals face the same punishment for the same crime.

3. **Fair and Impartial Justice**

- The judiciary plays a crucial role in upholding the rule of law by ensuring justice is delivered fairly and without bias.
- Judges must make decisions based on evidence and legal principles, not personal opinions or political pressure.

4. **Accountability of Government**

- The government cannot act beyond its legal authority. It must function within the framework of the Constitution and laws passed by the legislature.
- Citizens can challenge unlawful actions of the government in courts.

5. **Protection of Fundamental Rights**

- The rule of law ensures that citizens' rights, such as the right to life, freedom, and equality, are protected.
- For example, Article 21 of the Indian Constitution safeguards the right to life and personal liberty.

6. **Legal Processes and Certainty**

- Laws must be clear, consistent, and accessible so that people understand what is expected of them.
- Arbitrary laws or sudden changes without notice violate the principles of the rule of law.

Importance of the Rule of Law

1. **Maintains Order and Stability**

- The rule of law ensures that society functions in an orderly manner by setting clear rules for behavior.
- It prevents chaos by resolving disputes through established legal procedures.

2. **Promotes Justice and Fairness**

- By treating everyone equally, the rule of law ensures fairness and justice in society.
- It protects individuals from exploitation and abuse of power.

3. **Safeguards Democracy**

- The rule of law upholds democratic principles by holding leaders and institutions accountable.
- It ensures that citizens' rights are respected and their voices are heard.

4. Encourages Economic Growth

- Stable legal systems promote confidence among investors and businesses, which is essential for economic development.
- Predictable laws reduce corruption and create a favorable environment for growth.

Rule of Law in India

In India, the **rule of law** is a cornerstone of the Constitution. It is embedded in several provisions:

1. **Equality Before the Law (Article 14):** Ensures no one is above the law.
2. **Fundamental Rights (Part III of the Constitution):** Protects citizens against misuse of power by the state.
3. **Independent Judiciary:** Ensures impartial enforcement of laws.
4. **Judicial Review:** Courts have the power to review and nullify unconstitutional laws or actions by the government.

Examples of the rule of law in action include landmark cases like:

- **Kesavananda Bharati v. State of Kerala (1973):** Affirmed that the Constitution's basic structure, including the rule of law, cannot be amended.
- **Maneka Gandhi v. Union of India (1978):** Strengthened the protection of personal liberty under Article 21.

Challenges to the Rule of Law

Despite its importance, the rule of law faces challenges such as:

1. **Corruption:** Weakens the impartiality and fairness of legal systems.
2. **Delays in Justice:** Overburdened courts lead to delays, which undermine trust in the legal process.
3. **Discrimination:** Social and economic inequalities sometimes affect the equal application of laws.
4. **Arbitrary Actions by Authorities:** Misuse of power by officials can erode public confidence in the rule of law.

Law Commission

The **Law Commission** is an advisory body established by the government to review, update, and recommend reforms in the legal system. Its purpose is to ensure that laws remain effective and relevant to society's changing needs. In India, the Law Commission has been instrumental in identifying outdated laws, addressing gaps in legislation, and proposing new laws to meet emerging challenges. Although it does not have legislative power, its

recommendations play a crucial role in guiding the government to make informed legal decisions.

The idea of a Law Commission in India dates back to British rule. The **First Law Commission of India**, chaired by Lord Macaulay in 1834, was responsible for drafting significant laws like the Indian Penal Code (IPC) and the Code of Criminal Procedure (CrPC). Post-independence, the **First Law Commission of Independent India** was established in 1955 under the chairmanship of M.C. Setalvad. Since then, as of 2024, there have been 22 Law Commissions, each contributing to legal reforms in areas such as social justice, technology, and governance.

The Law Commission's primary functions include reviewing existing laws to identify outdated or redundant ones, drafting new laws, simplifying complex legal procedures, and codifying uncodified laws to bring uniformity. It also focuses on promoting social justice by recommending measures to protect marginalized groups, improving legal education, and suggesting reforms for the judiciary and governance systems. For instance, the 14th Report of the Commission emphasized judicial reforms to enhance court efficiency, while the 262nd Report suggested abolishing the death penalty for most crimes except terrorism-related offenses.

Despite its significant contributions, the Law Commission faces challenges. Its recommendations are not binding, which means they may not always be implemented. Many reports and suggestions remain unaddressed due to political considerations or delays in action. Additionally, resource constraints often limit the Commission's ability to conduct in-depth research. However, its role remains critical in shaping India's legal framework, promoting justice, and strengthening democratic governance. By addressing societal needs and ensuring the relevance of laws, the Law Commission continues to be a cornerstone of legal reform in India.

Subsystems of Criminal justice systems

The criminal justice system (CJS) is a complex network of subsystems, including the **police, judiciary, prosecution, corrections, and legal aid services**, each performing distinct roles in maintaining law and order, delivering justice, and ensuring societal harmony. Cooperation and coordination among these subsystems are essential for the effective functioning of the CJS. Without collaboration, the system risks inefficiencies, delays, and injustices, undermining public trust in its ability to ensure justice.

The **police** act as the first point of contact in the criminal justice process. They are responsible for maintaining law and order, investigating crimes, and apprehending offenders. Their cooperation with the judiciary is crucial in ensuring that investigations meet legal standards, enabling smooth prosecution. For instance, police must provide accurate evidence, prepare charge sheets properly, and ensure timely submission to courts. Coordination with prosecution is equally important, as prosecutors guide police investigations to build strong cases, especially in complex crimes requiring specialized expertise.

The **judiciary**, as the arbiter of justice, relies on seamless cooperation with both the police and prosecution to ensure fair trials. Judges require accurate and admissible evidence presented by the police and clear arguments from the prosecution and defense. Effective communication and coordination among these entities reduce delays in court proceedings and enhance judicial efficiency. Similarly, coordination with corrections is essential for implementing judicial decisions, such as sentencing and parole.

The **correctional system**, including prisons and rehabilitation centers, plays a vital role in the reintegration of offenders into society. It must work closely with the judiciary to execute sentences appropriately and with the police to monitor parolees or probationers. Additionally, corrections need to collaborate with social services and non-governmental organizations (NGOs) to provide rehabilitative programs, education, and vocational training for offenders, helping reduce recidivism.

Another critical subsystem is **legal aid services**, which ensure access to justice for marginalized and economically disadvantaged groups. Legal aid providers must coordinate with the judiciary, police, and prosecution to protect the rights of the accused and victims, ensuring fair trials and adherence to constitutional principles.

Effective coordination also extends to technological and administrative areas. For example, the **Crime and Criminal Tracking Network and Systems (CCTNS)** facilitates information sharing between police, courts, and corrections, streamlining case management and reducing redundancies. Similarly, specialized training programs and inter-agency task forces enhance understanding and collaboration among these subsystems.

However, challenges to cooperation persist. **Lack of communication**, conflicting priorities, bureaucratic hurdles, and limited resources can hinder the functioning of the CJS. For example, delays in filing charge sheets or mismanagement of evidence can disrupt the judicial process, while overcrowding in prisons can strain correctional systems. Addressing

these challenges requires reforms such as regular inter-agency meetings, better resource allocation, and the use of advanced technology to streamline processes.

Role of Victims in the Criminal Justice Process

The victims need for justice put them on other side of the bar spend their vein in fighting for the justice in an adversarial justice system. Victim remains a spectator in the justice system looking for the justice. Although, victims are positioned the least in the criminal justice, while the fact remain that they are prime party to the crime still are given least importance by the justice system however they are simply in to system and make justice for them. In many cases they vanish after a sometime believing that justice is expensive troll for them. In democracy victims of crime and abuse of power are still not given due importance. More of it is they are abused in several ways. Coming to the role of victims in the Indian Criminal Justice System, we should understand the nature of the system. In India, though the criminal justice system is elaborate and expensive, it aims almost entirely to protect the accused but not the accuser/victim. The adoption by the General Assembly of the United Nations at its 96th plenary on 29 November 1985 of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power constituted an important recognition of the need to set norms and minimum standards in international law for the protection of victims of crime. The U.N. declaration recognized four major components of the rights of victims of crime i.e. access to justice and fair treatment, restitution, compensation and lastly assistance. The legislation concerning victims' rights are still insufficient and not in harmony with this declaration. However, the provisions enshrined in Indian Judicial System are supplemented by judicial decisions which take form of laws. The various provisions of Indian Legal system are a step in the direction of upliftment of victim rights.

Initially, the criminal justice system in India focused on punishment as part of the crime without much attention on the suffering of victims of crime. The rights of prisoners were protected even after their conviction whereas little concern was shown for the rights of the victim of crime. However, with the emergence of public interest litigation the higher courts attention was drawn to this lacunae in the existing criminal justice system by social activists, and the courts started granting compensatory relief to victims of crime, but a comprehensive legislation on this aspect of criminal justice system was still awaited.

Concern was expressed for the plight of the victims of crime by Justice V. R. Krishna Iyer

when he commented:

“The criminal law in India is not victim oriented and the suffering of the victim, often immeasurable is entirely overlooked in misplaced sympathy for the criminal. Though our modern criminal law is designed to punish as well as reform the criminals, yet it overlooks the by-product of crime i.e. the victims”.

Victim Protection and Access to Justice

Laws should grant judges the power to take measures to protect victims and witnesses from retaliation and intimidation, such as issuing protection or restraining orders in domestic violence and “honour” cases against the perpetrator(s). Laws should criminalize a violation of these orders and authorize judges to impose an immediate and direct criminal penalty for any such violation. Laws should facilitate information sharing among courts, police, prosecutors and other criminal justice actors through a registration system of these orders.

Laws should require courts to evaluate procedures and structures to enhance victim and witness safety and minimize perpetrators’ ability to intimidate or harass victims or witnesses at the court through measures such as:

- Establishing a separate waiting area for the victim and witnesses potentially at risk of retaliatory violence;
- Delaying the perpetrator’s departure so he cannot follow or attack the victim;
- Send a court personnel to accompany the victim to her transport;
- Use a metal detector or search procedures for weapons or harmful substances;
- Requiring issuance of a judicial order to notify the victim and witnesses potentially at risk of retaliatory violence upon the perpetrator’s release from prison;
- GPS monitoring.

Courts should take steps to increase victims’ access to justice, such as offering emergency hours, multiple locations such as police units for filing a complaint, authorized and trained interpreter services, disability access, and template forms and checklists. Courts should establish systems that enable a victim to testify in court proceedings in a way that protects her privacy and confidentiality, ensures her safety during and after proceedings, and prevents re-victimization. Victim refusal to testify should not be considered an offense. Courts should also make available to victims of “honour” crimes trained advocates who can provide victims with advocacy and support services throughout the proceedings and assist victims in navigating the criminal justice process. (See: UN Resolution Adopted by the

General Assembly, “Strengthening Crime Prevention and Criminal Justice Responses to Violence against Women,” U.N. Doc. A/Res/65/228, 2011, Annex: Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice, Art. VI)

Also, drafters should “ensure that all victims of violence are able to institute proceedings as well as, where appropriate, public or private organisations with legal personality acting in their defence, either together with the victims or on their behalf” in cases of "honour" crimes and killings. (See: Council of Europe, Recommendation Rec(2002)5 of the Committee of Ministers to member states on the protection of women against violence, 2002, Article 38) Legislation should provide for a registration or other system for organizations wishing to intervene on behalf of victims of honour killings to acquire the necessary legal standing. While Article 237(1) of the Turkish Criminal Procedure Code provides that victims, real persons and legal entities, that have been damaged by the crime, are entitled to intervene in the public prosecution during the prosecution phase, this has not been the case in Turkey. In cases where women’s NGOs have filed an application on behalf of a victim of "honour" crimes or killings to intervene in the public prosecution, the court has refused their application on the grounds that they are not directly affected by the crime.

Example: While Article 237(1) of the Turkish Criminal Procedure Code provides that “the victims, real persons and legal entities, who have been damaged by the crime, are entitled to intervene in the public prosecution during the prosecution phase,” this has not been the case in Turkey. In cases in Turkey where women’s NGOs have filed an application on behalf of a victim of an “honour” killings to intervene in the public prosecution, the court has refused their application on the grounds that they are not directly affected by the crime.

Latest developments in CJS

Recent developments in the criminal justice system (CJS) reflect a mix of advancements, challenges, and reform initiatives, addressing systemic gaps and leveraging new technologies. Below are some of the latest trends and efforts:

1. Technology Integration

Artificial Intelligence (AI) and predictive analytics are increasingly used for crime prediction and prevention. Tools like AI-driven surveillance and facial recognition systems aim to enhance law enforcement efficiency but raise concerns about privacy and potential

biases. Digital forensic tools are improving the ability to handle cybercrime cases. Enhanced training for law enforcement in digital crime detection and evidence collection is a focus area

2. Focus on Community Policing

Community-based policing is gaining traction to improve trust between law enforcement and communities. Initiatives focus on engagement, transparency, and addressing racial biases in policing.

3. Decarceration and Alternatives to Incarceration

Many jurisdictions are exploring alternatives to incarceration, such as restorative justice practices, diversion programs, and parole reforms. These aim to reduce prison populations and address systemic inequities in sentencing. The Council on Criminal Justice highlighted shifts toward reducing the "footprint" of the criminal justice system, including decreased arrest rates and increased emphasis on rehabilitation.

4. Addressing Racial and Social Inequalities

Programs are being implemented to reduce racial disparities in victimization and arrest rates. For instance, recent crime surveys reveal persistent inequalities that governments and agencies are working to mitigate.

5. Juvenile Justice Reform

Juvenile justice systems are being restructured to emphasize rehabilitation over punishment, incorporating family and community support mechanisms. Policies aim to provide age-appropriate interventions that reduce recidivism.

6. Policy Reforms and Legislative Updates

New laws are being passed to address emerging crimes like cyberstalking, data breaches, and environmental offenses. Policy recommendations from organizations like the American Bar Association are shaping these legislative efforts.

7. Victim-Centric Approaches

Increasing focus on victims' rights includes expanded support services, trauma-informed practices, and inclusive legal processes to ensure victims' voices are central to the justice system.

8. COVID-19 Impact and Recovery

The pandemic highlighted vulnerabilities in the CJS, including overcrowded prisons and procedural delays. Reforms are underway to build resilience, focusing on virtual trials, improved healthcare in prisons, and resource allocation.

National Crime Records Bureau (NCRB)

The **National Crime Records Bureau (NCRB)**, under the Ministry of Home Affairs, Government of India, is the central authority for the collection, compilation, and dissemination of crime-related data in India. Its flagship annual report, *Crimes in India*, is a comprehensive source of crime statistics, offering valuable insights into the patterns, prevalence, and trends of crimes across the country. The data serves as a critical resource for policymakers, law enforcement, researchers, and the public.

Objectives of NCRB and the Crimes in India Report

1. **Data Collection and Standardization:** The NCRB gathers crime data from State and Union Territory police organizations, ensuring standardization in reporting formats and classification of crimes.
2. **Analysis for Policy and Planning:** The detailed statistics help identify trends, enabling evidence-based policy decisions and targeted interventions.
3. **Transparency and Public Awareness:** By publishing this data, the NCRB ensures accountability and transparency in the criminal justice system.

Key Components of the Crimes in India Report

1. Crime Categories

The report categorizes crimes into broad heads, including:

- **Indian Penal Code (IPC) Crimes:** Cover traditional crimes such as murder, theft, and rape.
- **Special and Local Laws (SLL) Crimes:** Include violations of laws like the Narcotic Drugs and Psychotropic Substances Act and Dowry Prohibition Act.

2. Crime Trends and Patterns

- The NCRB analyzes year-on-year crime trends, comparing data across regions and time periods. For example, it highlights states with the highest and lowest crime rates, providing a spatial dimension to crime analysis.
- Specific focus areas include crimes against vulnerable groups like **women, children, Scheduled Castes, and Scheduled Tribes**, as well as emerging threats like **cybercrimes and environmental crimes**.

3. Gender-Based and Child Crimes

- Crimes against women are a critical focus, with subcategories like **domestic violence, sexual harassment, and dowry deaths**.

- The report also provides granular data on **child-related crimes**, emphasizing offenses like child labor, abuse, and trafficking.

4. Cybercrimes and Economic Offenses

- With the increasing digitization of society, cybercrime statistics are becoming a vital part of the report. Offenses include **online fraud, identity theft, and cyberstalking**.
- Economic crimes, such as financial frauds and counterfeit currency, are also documented.

5. Crime Clearance and Conviction Rates

The report evaluates the effectiveness of law enforcement by including data on:

- **Case registration and clearance rates.**
- **Conviction rates**, reflecting the judicial system's efficiency in delivering justice.

Recent Trends from the Latest Reports

1. **Increase in Cybercrimes:** The NCRB's latest reports indicate a sharp rise in cybercrimes, reflecting the need for improved digital policing.
2. **Crimes Against Women:** Despite efforts to curb gender-based violence, crimes against women, such as domestic violence and rape, remain high.
3. **Juvenile Crimes:** A steady pattern of juvenile offenses has been noted, emphasizing the need for preventive and rehabilitative measures.
4. **Improved Data Accuracy:** Initiatives to enhance the precision of crime reporting and data compilation, leveraging tools like **Crime and Criminal Tracking Network and Systems (CCTNS)**, are being implemented.

Use of NCRB Data in Criminal Justice Reforms

1. **Policy Formulation:** Insights from the report shape key policy decisions, such as amendments to criminal laws and targeted interventions for high-crime areas.
2. **Resource Allocation:** Identifying crime-prone zones helps allocate police personnel and infrastructure more effectively.
3. **Public Awareness and Advocacy:** NGOs and civil society use NCRB data to advocate for social reforms and better crime prevention strategies.

Challenges in NCRB Reporting

- **Underreporting of Crimes:** Social stigma and lack of awareness often result in underreporting, particularly in cases of domestic violence and sexual assault.
- **Data Reliability:** Variations in reporting standards across states can affect the uniformity of data.

- **Emerging Crime Areas:** The rapidly evolving nature of crimes, particularly in digital domains, demands continual updates to the reporting framework.

UNIT-III: SOCIOLOGICAL AND LEGAL PERSPECTIVES OF CRIME

Deviance: Normative and Reactive Perspectives

Deviance refers to behaviors, actions, or conditions that violate societal norms or expectations. Sociologists analyze deviance through different perspectives, two of which are the **normative perspective** and the **reactive perspective**.

From a **normative perspective**, deviance is understood as any action or behavior that breaches established norms, rules, or values of a society. These norms serve as standards for acceptable behavior, and actions that do not conform to these standards are labeled deviant. For example, theft, lying, or aggressive behavior typically contradict societal norms and are considered deviant regardless of whether others notice or react to them. This view emphasizes the role of established moral and social codes in defining deviance.

In contrast, the **reactive perspective** focuses on the societal reaction to a behavior rather than the behavior itself. Deviance in this view is not inherent in the act but is determined by how others respond to it. This perspective aligns closely with labeling theory, which suggests that behaviors become deviant only when labeled as such by society or authority figures. For instance, an act like consuming alcohol may not be inherently deviant but could be labeled as such in a society where alcohol consumption is prohibited or frowned upon.

While the normative perspective assumes a universal set of standards to judge deviance, the reactive perspective highlights the relativity of deviance, showing how social context, cultural norms, and power dynamics influence what is deemed deviant. Together, these perspectives provide a comprehensive understanding of how societies define and respond to deviance.

Sociological definitions: Deviance

Deviance is any behavior that violates social norms, and is usually of sufficient severity to warrant disapproval from the majority of society. Deviance can be criminal or non-criminal. The sociological discipline that deals with crime (behavior that violates laws) is criminology (also known as criminal justice). Deviance is any behavior that violates social norms, and is usually of sufficient severity to warrant disapproval from the majority of society. Deviance can be criminal or non-criminal. The sociological discipline that deals with crime (behavior that violates laws) is criminology (also known as criminal justice). Today,

Americans consider such activities as alcoholism, excessive gambling, being nude in public places, playing with fire, stealing, lying, refusing to bathe, purchasing the services of prostitutes, and cross-dressing—to name only a few—as deviant. People who engage in deviant behavior are referred to as deviants. The concept of deviance is complex because norms vary considerably across groups, times, and places. In other words, what one group may consider acceptable, another may consider deviant. For example, in some parts of Indonesia, Malaysia, and Muslim Africa, women are circumcised. Termed clitoridectomy and infibulations, this process involves cutting off the clitoris and/or sewing shut the labia — usually without any anesthesia. In America, the thought of female circumcision, or female genital mutilation as it is known in the United States, is unthinkable; female genital mutilation, usually done in unsanitary conditions that often lead to infections, is done as a blatantly oppressive tactic to prevent women from having sexual pleasure.

Sociological definitions of Crime

In Sociology, a normative definition views crime as deviant behavior that violates prevailing norms – cultural standards prescribing how humans ought to behave normally. Behaviour can be controlled and influenced by a society in many ways without having to resort to the criminal justice system.

Any discussion of deviance remains incomplete without a discussion of crime, which is any act that violates written criminal law. Society sees most crimes, such as robbery, assault, battery, rape, murder, burglary, and embezzlement, as deviant. But some crimes, such as those committed in violation of laws against selling merchandise on Sundays, are not deviant at all. Moreover, not all deviant acts are criminal. For example, a person who hears voices that are not there is deviant but not criminal. A society's criminal justice system punishes crimes. Punishment becomes necessary when criminal acts are so disruptive as to interfere with society's normal functioning.

Crime: Legal and Sociological Definitions

Crime is a multifaceted concept that can be understood through both legal and sociological perspectives. Each perspective offers unique insights into the nature of crime, its causes, and how society addresses it. While the legal definition focuses on the violation of formal laws, the sociological perspective delves into the broader social, cultural, and moral contexts within which behaviors are deemed deviant or criminal.

Legal Definition of Crime

The legal definition of crime is centered on actions or omissions that violate codified laws established by a governing body. Sir William Blackstone (1769) famously defined a crime as "an act committed or omitted in violation of a public law forbidding or commanding it." This view underscores the idea that crime is a breach of legal statutes designed to maintain order, protect rights, and ensure justice within a society. In this framework, the state plays a central role in defining and prosecuting crimes.

Laws are categorized into criminal and civil codes, with criminal law dealing specifically with offenses against society at large. For example, crimes such as murder, theft, and assault are outlined in legal codes like the Indian Penal Code (IPC) or the United States Code. Legal definitions provide clarity and uniformity, making them essential for law enforcement, the judiciary, and society.

Legal scholars like Jerome Hall have emphasized that the legal definition of crime ensures objectivity, as the law is a written standard that applies equally to all individuals within a jurisdiction. However, this perspective has limitations, as it focuses solely on actions explicitly prohibited by law, ignoring broader social or ethical considerations.

Sociological Definition of Crime

The sociological perspective of crime extends beyond formal legal frameworks, examining the social norms, values, and structures that influence what is considered criminal. Sociologists argue that crime is not just a legal violation but also a breach of societal norms, which may or may not align with legal definitions. Edwin H. Sutherland and Donald Cressey, in their seminal work *Principles of Criminology* (1934), describe crime as a behavior that violates significant societal norms and is subject to penalties.

Emile Durkheim, a founding figure in sociology, viewed crime as a normal and necessary part of society. In his work *The Division of Labor in Society* (1893), he argued that crime serves to reinforce social cohesion by delineating acceptable behavior. He also noted that societal reactions to crime reflect shared values and contribute to social order.

One key aspect of the sociological definition is its emphasis on the relativity of crime. What is considered criminal in one culture, era, or social group may be acceptable in another. For instance, practices like witchcraft were criminalized in medieval Europe but are no longer seen as crimes. Similarly, acts such as same-sex relationships were once outlawed in many societies but are now legally and socially accepted in numerous countries.

Differences Between Legal and Sociological Definitions

While the legal definition provides a standardized approach to identifying and addressing crime, it often lacks the nuance to capture the dynamic nature of societal norms. For example, legal systems may criminalize acts that are not inherently harmful but are deemed unacceptable due to cultural or political influences. Howard Becker, in his influential work *Outsiders* (1963), introduced the concept of labeling theory, emphasizing that acts are not inherently deviant or criminal but become so when labeled as such by society.

The sociological perspective, on the other hand, considers the broader context of crime, including power dynamics, cultural variations, and the role of social inequality. For instance, acts like corruption by powerful individuals may be underreported or overlooked in legal systems but are significant from a sociological standpoint.

The Intersection of Legal and Sociological Perspectives

Understanding crime requires integrating both legal and sociological definitions. Legal frameworks provide the structure for identifying and penalizing crime, while sociological insights reveal the underlying causes and social implications. For example:

- **Cybercrime:** Legally defined as crimes involving technology, cybercrime also has sociological dimensions, such as the role of anonymity in encouraging deviant behavior online.
- **Domestic Violence:** While legally punishable under acts like the Domestic Violence Act, sociological studies explore how cultural norms and gender inequality perpetuate such behavior.

Challenges in Defining Crime

1. **Cultural Relativity:** The sociological view highlights that crime is often culturally specific. Practices like polygamy or euthanasia are crimes in some societies but accepted or legal in others.
2. **Underreporting:** Many crimes, particularly those involving marginalized groups, go unreported due to stigma, fear, or lack of trust in legal systems.
3. **Emerging Crimes:** Rapid societal changes, such as technological advancements, create new forms of crime (e.g., cyberstalking), which may not yet be adequately addressed by legal systems.

Differences between Deviance and Crime

The biggest difference between deviant behaviour and a crime is that a crime is against the law, while deviance is only against social norms. A crime has an added

characteristic in that a law has been passed against it, making it a crime or criminal offence. Deviation is what is defined as not normal by norms, values, etc.

Man is a social animal and has been living in societies since the beginning of civilizations. Every society has its own culture made up of social norms and values that ensure peace and order among the people. Compliance to these norms by the people is a feature of a society. However, there have always been people who defy norms and exhibit behavior that is considered deviant or one that departs from the normal. To ensure compliance, there is also a written law to deal with criminal behavior that comes within deviance. However, despite similarities, there are differences between crime and deviance that will be highlighted in this article.

What is the difference between Crime and Deviance?

- Deviance is violation of social norms whereas crime is violation of laws of the land.
- Agents of control for deviance are societal pressure and fear of Gods whereas agents of control for crime are police and judiciary.
- Society has no coercive power to deal with deviance but governments have the power of punishment to tackle crime.
- Deviance can be criminal or non criminal, but crime is always criminal in nature.
- Many behaviors that were crimes earlier have today become deviant behaviors.
- Violation of law makes deviance a crime.
- Deviance is not considered as severe as a crime.

The Process of Criminalization: Sociological and Legal Perspectives

Criminalization is the process through which certain behaviors are defined as crimes and prohibited by law. It is a dynamic process shaped by legal frameworks and societal norms, reflecting both formal authority and evolving social values. This process determines which actions are labeled as unacceptable and subject to legal sanctions, and it varies across cultures, historical periods, and political systems. Understanding criminalization requires examining it through both sociological and legal perspectives, as these provide complementary insights into how behaviors are categorized and regulated.

The Legal Perspective on Criminalization

From a legal standpoint, criminalization is the formal act of defining specific behaviors as crimes through legislation or judicial interpretation. It involves the creation and enforcement of laws by governing bodies to maintain social order, protect individual rights, and uphold public safety. Legal theorists like Sir William Blackstone and H.L.A. Hart

emphasize the role of the state in establishing clear, codified standards of acceptable behavior. These laws provide a predictable framework for addressing violations and serve as a deterrent to potential offenders.

The legal process of criminalization typically follows these steps:

1. **Identification of Harmful Conduct:** Lawmakers identify behaviors that pose a threat to individuals or society, such as theft, assault, or fraud.
2. **Legislation:** Acts or omissions are formally defined as crimes through statutes, such as the Indian Penal Code or similar legal codes globally.
3. **Enforcement:** Police and judicial systems implement and interpret these laws, ensuring compliance and penalizing offenders.
4. **Judicial Review:** Courts may refine the scope of criminalized behaviors through case law, addressing ambiguities or emerging issues.

Legal criminalization is often influenced by political, economic, and cultural factors. For instance, laws against corruption may be stricter in countries with a strong commitment to transparency, while drug-related offenses may be handled differently depending on societal attitudes toward substance use.

The Sociological Perspective on Criminalization

Sociologically, criminalization is seen as a reflection of societal norms, power dynamics, and cultural values. It extends beyond the formalities of lawmaking to consider how behaviors come to be seen as deviant or unacceptable. Sociologists like Emile Durkheim, Howard Becker, and Michel Foucault have explored the social processes that influence criminalization.

1. **Social Norms and Values:** Crime is often defined by societal norms. Behaviors that violate these norms—such as public indecency or domestic violence—are likely to be criminalized. However, these norms are not static and evolve over time. For instance, acts like witchcraft or homosexuality were once criminalized but are no longer considered crimes in many societies.
2. **Labeling Theory:** Howard Becker's work in *Outsiders* (1963) highlights the role of societal reactions in the process of criminalization. According to this theory, behaviors become crimes when society labels them as such, often reflecting the interests of dominant social groups. For example, laws against vagrancy have historically been used to target marginalized populations rather than address the underlying causes of homelessness.

3. **Power and Inequality:** Michel Foucault and conflict theorists argue that criminalization often serves the interests of those in power. For instance, white-collar crimes committed by influential individuals may be under-criminalized compared to street-level offenses. Similarly, laws on drug use often disproportionately affect marginalized communities.
4. **Cultural and Historical Contexts:** The process of criminalization varies across cultures and time periods. For example, practices like polygamy or blasphemy may be criminalized in some societies but accepted or tolerated in others. These variations illustrate the influence of cultural values and historical circumstances on what is considered criminal.

The Interaction of Legal and Sociological Perspectives

While the legal process of criminalization focuses on formal statutes and enforcement, the sociological perspective provides a broader understanding of how laws reflect societal values and power structures. For instance, the criminalization of marital rape in many countries emerged not only through legal advocacy but also through shifts in societal attitudes toward gender equality.

The two perspectives also highlight the tension between universal principles and cultural specificity. Legal systems often aim to establish consistent standards, but sociological realities reveal the challenges of applying these standards across diverse social contexts. For example, international laws against human trafficking reflect universal norms, but their enforcement depends on local cultural and political conditions.

Challenges in the Process of Criminalization

1. **Over-criminalization:** The excessive reliance on criminal law to regulate behavior can lead to overburdened legal systems and the stigmatization of individuals for minor offenses.
2. **Under-criminalization:** Certain harmful behaviors, such as corporate fraud or environmental degradation, may be inadequately addressed due to political or economic interests.
3. **Cultural Sensitivity:** Laws that fail to consider cultural differences may face resistance or be ineffective. For example, imposing laws on child marriage without addressing underlying cultural practices may lead to non-compliance.

4. **Evolving Social Norms:** As societal values change, laws must adapt to reflect new norms. For instance, movements for decriminalizing same-sex relationships or legalizing cannabis demonstrate the dynamic nature of criminalization.

Theory and Development of Criminal Law

Criminal law serves as the foundation for maintaining social order and protecting individual and collective rights. It evolves over time through societal changes, philosophical influences, and legislative processes. Understanding the theory and development of criminal law requires examining its historical roots, philosophical underpinnings, and its adaptation to new challenges in modern society.

Theoretical Foundations of Criminal Law

1. **Retributive Theory:** Rooted in the principle of "just deserts," retributive theory emphasizes punishment proportional to the offense. Influenced by Immanuel Kant's philosophy, this theory views crime as a moral wrong that requires reparation through punishment.
2. **Deterrent Theory:** Deterrence aims to prevent crime by discouraging individuals through the threat or imposition of punishment. Cesare Beccaria, a key figure in the Classical School of Criminology, advocated for proportionate and certain punishments to deter criminal behavior effectively.
3. **Rehabilitative Theory:** This approach focuses on reforming offenders to prevent future crimes. It aligns with the positivist school, which views criminal behavior as influenced by social, psychological, or biological factors.
4. **Restorative Justice:** Emerging in recent decades, restorative justice seeks to repair the harm caused by criminal acts by involving victims, offenders, and the community in a process of healing and accountability.
5. **Utilitarian Theory:** Proposed by Jeremy Bentham, this theory suggests that laws and punishments should aim to maximize societal happiness by reducing harm and preventing future offenses.

Historical Development of Criminal Law

1. **Ancient Civilizations:**
 - Early criminal laws, such as the *Code of Hammurabi* (1754 BCE), established principles like "an eye for an eye," emphasizing retributive justice.
 - In ancient India, *Manu Smriti* provided rules on crimes, punishment, and social order.

2. **Roman Law:**

- Roman law introduced the concept of legal codification, as seen in the *Twelve Tables* (451-450 BCE) and later in the *Corpus Juris Civilis* under Emperor Justinian.
- Roman legal traditions heavily influenced European legal systems, emphasizing rationality and fairness.

3. **Medieval Period:**

- During feudal times, criminal law was localized, often relying on customary practices and religious doctrines.
- The emergence of canon law integrated moral and legal codes.

4. **Modern Era:**

- The Enlightenment brought significant changes, as philosophers like Beccaria and Montesquieu advocated for rational, humane, and proportionate laws.
- The French Penal Code of 1810 and the establishment of the *common law* system in England marked significant milestones in legal development.

Development of Criminal Law in India

1. **Pre-Colonial Period:**

- Criminal law during ancient India was influenced by religious texts like the *Manu Smriti* and the *Arthashastra*, focusing on duties and penance.
- Customary laws were prevalent and varied among communities.

2. **Colonial Period:**

- British colonial rule introduced the Indian Penal Code (IPC) in 1860, drafted by Thomas Babington Macaulay. The IPC became a comprehensive code addressing various crimes and their punishments.
- The colonial system emphasized uniformity and codification, replacing diverse customary practices.

3. **Post-Independence Era:**

- After 1947, India retained the IPC but amended it to reflect modern values and constitutional principles.
- Special laws addressing issues like corruption, cybercrime, and domestic violence were enacted to meet emerging societal needs.

Key Concepts in the Development of Criminal Law

1. **Codification:** The process of systematizing and documenting laws for clarity and uniformity. The IPC and the U.S. Model Penal Code are examples of codified criminal laws.
2. **Principle of Legality:** This principle asserts that no one can be punished for an act not defined as a crime by law at the time of commission. It ensures fairness and prevents arbitrary enforcement.
3. **Criminal Responsibility:** The concept of *mens rea* (guilty mind) and *actus reus* (guilty act) are foundational to criminal law, distinguishing intentional acts from accidents.
4. **Proportionality:** Punishments must correspond to the severity of the crime, ensuring justice and fairness.

Contemporary Developments

1. **Human Rights in Criminal Law:**
 - Modern criminal law incorporates human rights principles, emphasizing fair trials, humane treatment of offenders, and victims' rights.
 - International instruments like the Universal Declaration of Human Rights influence domestic criminal laws.
2. **Technological Advancements:**
 - Cybercrimes, digital fraud, and data breaches challenge traditional criminal law frameworks, necessitating new legal provisions.
3. **Victim-Centric Approaches:**
 - Recent trends highlight the importance of victim rights and restitution, moving beyond offender-centric models.
4. **Globalization:**
 - Transnational crimes, such as human trafficking and terrorism, have led to increased international cooperation in criminal justice.

Vice

Vice Crimes: Legal Definition- Activities that are made illegal because they offend the moral standards of the community banning them. Gambling, pornography, and prostitution are the big three of vice crimes in most states and communities. A vice squad is a police division whose focus is stopping public-order crimes like gambling, narcotics,

prostitution, and illegal sales of alcohol. Vice squad may also refer to: Vice Squad, an English punk band.

Sin

Sin is a moral definition used by the religions to describe a wide range of actions some of which are not illegal under most nation's legal systems. The word crime describes actions that are illegal under a nation's legal system. Since the two could be mutually exclusive, attempting to link the two terms in a conversation or in logical thought may not be a rational exercise.

Torts

A tort, in common law jurisdictions, is a civil wrong that unfairly causes someone else to suffer loss or harm resulting in legal liability for the person who commits the tortuous act. The person who commits the act is called a tortfeasor. Tort Law: Three Types of Torts- Torts are wrongdoings that are done by one party against another. As a result of the wrongdoing, the injured person may take civil action against the other party. To simplify this, let's say while walking down the aisle of a grocery store, you slip on a banana that had fallen from a shelf. You become the plaintiff, or injured party, and the grocery store is considered the tortfeasor or defendant, the negligent party.

Simply said, you would probably take civil action against the grocery store to recoup compensation for pain, suffering, medical bills and expenses incurred as a result of the fall. Negligence is just one tort category. There are three general categories of torts. Regardless of the tort action, three elements must be present:

- Tortfeasor, or defendant, had a duty to act or behave in a certain way.
- Plaintiff must prove that the behavior demonstrated by the tortfeasor did not conform to the duty owed to the plaintiff.
- The plaintiff suffered an injury or loss as a result.

Because torts are a civil action involving private parties, punishment does not include a fine or incarceration. The punishment for tortious acts usually involves restoring the injured party monetarily. Sometimes a court order may force the tortfeasor to either do or not do something. Think trespassing, defamation or slander. Let's explore the three types of torts:

- **Intentional torts**
- **Negligence torts**
- **Strict liability torts Elements of Crime**

Crimes can be broken down into elements, which the prosecution must prove beyond

a reasonable doubt. Criminal elements are set forth in criminal statutes, or cases in jurisdictions that allow for common-law crimes. With exceptions, *every* crime has at least three elements: a criminal act, also called actus reus; a criminal **intent**, also called mens rea; and **concurrence** of the two. The term conduct is often used to reflect the criminal act and intent elements. Following are the common included elements of crime, absence of one would not constitute an act of Crime.

- **Mens Rea**
- **Actus Reus**
- **Law**
- **Offender/ Victim.**

Basic principles – Mens Rea and Actus Reus Mens Rea

The term *mens rea* refers to the mental element in the definition of a crime. This is not some abstract mental process; it refers to specific words in the charge or indictment.

The physical act represents one element in the commission of a criminal act while the guilty mind represents the second key element. The guilty mind refers to the intention, knowledge or recklessness of the accused. Essentially the law states that we must mean to cause a wrongful consequence.

Intention is commonly used in the *Criminal Code* to establish a type of guilty mind. Words like “willfully,” “mean to” or “intentionally” are used to describe a state of mind. There are two basic types of intention-specific and general. Specific intent offences frequently use the phrase ‘with intent’ or ‘for the purpose of’ to demonstrate a specific purpose behind the crime. General intent crimes are those that do not require a further purpose or intention and are often crimes committed in moments of uncontrolled passion or aggression.

The knowledge form of a guilty mind means that the accused must have knowledge of the specific circumstances of the crime. The phrases “knowingly” or “knowing” are commonly used here to indicate a specific type of knowledge. For example, to knowingly lie to a judge or jury is called perjury and is a criminal offence but to give false evidence unknowingly is not a criminal offence.

The third kind of intent is recklessness. This is type of intent is found in crimes like dangerous driving causing death. It means that the accused has been unduly careless in their actions by not exercising good judgment and foresight. If one drives 100km/h through a school zone in the daytime, with no intention of killing or harming a child, and hits a child

crossing the street and that child dies, the law would use recklessness to establish the guilty mind. Contrary to TV law, it is not necessary for the Crown to establish why an accused has committed an offence (the motive). Motive may be used to establish intention and can be used in sentencing to mitigate or aggravate the sentence depending on the reason for committing the crime.

Actus Reus

There is no punishment for thinking about a criminal act. A crime must have an *actus reus*, Latin literally for a bad act. A defendant has committed the *actus reus* of an offense if he has done some act that is an action prohibited by law. Most crimes consist of a defined set of actions that together are prohibited.

It is not a crime to carry an item around a store. It is not a crime to walk out of a store. It may be a crime to walk out of a store, with an item, and not pay for it. The act of walking out of the store without paying for an item is the *actus reus*. For it to be a crime, it must be done knowingly. The *actus reus* and the *mens rea* must take place together.

The physical act of committing an offence (*actus reus*) is more than an act, it can be an omission to act or a "state of being." For example if one is in possession of an illegal narcotic, one is not acting or failing to act but merely in possession. This is a state of being. Omissions to act can also be crimes (a failure to act when required to do so by law). If a parent fails to provide the basic necessities for children's survival the failure to provide is an omission and a crime. The majority of crimes are acts or kinds of misconduct. Proof of the physical element requires more than simply determining an act, omission or state of being exists. It is necessary to consider the four C's-conduct, consequences, circumstances and causation. The conduct must be as described earlier an act, omission to act or a state of being as outlined in a specific section of the criminal charge. Of particular importance to the concept of conduct is that it be voluntary. The law will not hold someone criminally responsible for an involuntary act. Consequences refer to the outcome of a specific act. For a homicide the consequence would be the death of a human being.

The circumstances aspect of the *actus reus* refers to the relevant circumstances under which an act must occur to be criminal. In the case of the crime of trespassing at night the relevant circumstances would be that the act occurred at night, on someone's property other than your own and that you entered the property without consent or lawful excuse.

What is Criminal Responsibility?

Concept of Criminal Responsibility: A term in medical jurisprudence where an accuser's mental capacity to understand the charges against him and may have no knowledge of the crime.

For an illustration, Ravi is driving down a busy street when he strikes and kills a pedestrian. Is Carl guilty of a crime? The answer is: it depends. In order to convict Ravi of a crime, Ravi's state of mind at the time of the accident must be evaluated. The concept of criminal responsibility concerns the different mental states related to crimes, the ways in which those mental states are evaluated, and the variety of associated defenses. The term criminal responsibility refers to a person's ability to understand his or her conduct at the time a crime is committed. In other words, what a person is thinking when he commits a crime, or what result is anticipated or expected when a crime is committed. Laws define crimes in terms of an act or omission (*actus reas*) and a mental state (*mens reas*). Criminal responsibility relates to the mental state element of a crime.

Mental States

A culpable (guilty) mental state is a necessary element of every crime. In order to be convicted of a particular crime, there must be proof that the actor (the person engaged in the alleged criminal conduct) possessed the requisite state of mind when the crime was committed. The mental states covered in this lesson are: intentional, knowing, wanton (or reckless), and negligent. Keep in mind that these are general definitions that may vary slightly depending on the jurisdiction.

An **intentional** mental state means that the actor consciously engages in the conduct, or that the actor's conscious objective is to bring about a particular result. For example, if Ravi Criminal uses a hammer to break the window of Vinny Victim's home so that he can enter and take Vinny's valuables, Ravi has acted intentionally with respect to burglary. Intentional crimes are usually punished more severely than other crimes.

A **knowing** mental state means that the actor is aware that his or her conduct is criminal, or is aware that his or her conduct will bring about a particular result. So, if Ravi Criminal is aware that the tools he bought from Timothy Thief were stolen from the hardware store, Ravi has acted knowingly in respect to receiving stolen property.

A **wanton or reckless** mental state means that the actor consciously disregards a substantial risk that his or her conduct will bring about a particular result. For example, if Ravi Criminal, in a rush of excitement after his favorite football team kicks a winning field

goal, fires a gun into a crowd of people and injures or kills someone, he has acted wantonly. Ravi never intended to hurt anyone, but he was aware that firing a gun into a crowd of people presented a substantial risk of injury or death, and yet he consciously disregarded that risk.

A **negligent** mental state means that the actor is unaware that his or her conduct is risky or dangerous, but a reasonable person in the same situation would appreciate the risk. An example of a negligent mental state is when Ravi Criminal, in a hurry to get to work, drives his car through the red light at a busy intersection and strikes another car. Ravi certainly didn't mean to hurt anyone; in fact, he didn't even see the light change from yellow to red! But nevertheless, his conduct was dangerous, and a reasonable person would have been aware of the risk.

1. Strict Liability

Strict liability refers to situations where an individual or entity is held legally responsible for harm or damage caused by their actions, irrespective of intent or negligence. The doctrine emphasizes the nature of the activity or product involved rather than the actor's mindset.

Key Principles:

- The plaintiff only needs to prove that harm occurred and that the defendant's activity caused it.
- Strict liability is often applied in cases involving inherently dangerous activities or defective products.

Examples:

- **Hazardous Activities:** Entities handling explosives, toxic chemicals, or operating nuclear plants are strictly liable for any harm caused, even if they took precautions.
- **Defective Products:** Manufacturers or sellers are held strictly liable if their products cause injury due to defects, regardless of whether they were negligent.

Landmark Case:

- *Rylands v. Fletcher (1868)*: This case established the principle of strict liability in English law. The defendant was held liable when a reservoir on their land flooded a neighboring property due to negligence.

2. Joint Liability

Joint liability arises when two or more parties are collectively held responsible for causing harm or damage. Each party is equally accountable, and the injured party can recover the full amount of compensation from any of the liable parties.

Key Principles:

- Joint liability is often applied in scenarios where multiple defendants act together to cause harm or their independent actions contribute to the same harm.
- The liability can be proportionally divided based on each party's contribution or can be enforced entirely against one party.

Examples:

- **Contractual Disputes:** In partnerships, all partners may be jointly liable for debts or breaches of contract.
- **Negligence Cases:** If two drivers simultaneously act negligently and cause an accident, both may be jointly liable for damages.

Landmark Case:

- *K.M. Basheer v. N.I. Insurance Co. (1991)*: This Indian case addressed joint liability in motor vehicle accidents, emphasizing proportionality in liability when multiple parties were involved.

3. Vicarious Liability

Vicarious liability occurs when one party is held legally responsible for the actions of another, typically in an employer-employee relationship. The doctrine is based on the principle of "respondeat superior" (let the master answer).

Key Principles:

- Vicarious liability requires the wrongful act to be committed within the scope of the subordinate's employment or duties.
- It applies even if the employer was not directly involved or negligent.

Examples:

- **Employment Context:** An employer may be vicariously liable if an employee causes harm to a third party while performing their job duties.
- **Parental Responsibility:** In some jurisdictions, parents may be held vicariously liable for the actions of their minor children.

Landmark Case:

- *State of Rajasthan v. Vidyawati (1962)*: This Indian case highlighted the vicarious liability of the state for negligence by its employees during the course of their employment.

Comparison of the Liabilities

Aspect	Strict Liability	Joint Liability	Vicarious Liability
Basis of Liability	Nature of activity, no intent required	Shared responsibility	Relationship (e.g., employer-employee)
Fault/Negligence	Not required	May or may not involve fault	No direct fault of the liable party
Legal Scope	High-risk activities, defective products	Group actions, partnerships	Employment, agency relationships

UNIT-IV: TYPOLOGY OF OFFENCES AND LEGISLATION

The offences under any law (mostly the Indian Penal Code) are classified as cognizable and non- cognizable, as bailable or non-bailable and by the lowest courts which can try them. These are given and defined in the First Schedule of the Code of Criminal Procedure, 1973.

EXPLANATORY NOTES

(1)	In regard to offences under the Indian Penal Code, the entries in the second and third columns against a section the number of which is given in the first column are not intended as the definition of, and the punishment prescribed for, the offence in the Indian penal Code, but merely as indication of the substance of the section.
(2)	In this Schedule,
(i)	the expression "Magistrate of the first class" and "Any Magistrate" include Metropolitan Magistrates but not Executive Magistrates;
(ii)	the word "cognizable" stands for a "a police officer may arrest without warrant"; and
(iii)	the word "non-cognizable" stands for "a police officer shall not arrest without warrant".
(3)	Herein
(i)	"bailable" means the person shall be offered to be released on suitable bail upon his arrest [by the police or the court] {informing about his right to be so released} and
(ii)	"non-bailable" means shall not be automatically entitled to be released on bail [but does not mean that the court may not order him to be released on a suitable bail - with or without any conditions]

Offences against Human Body

The offences under any law (mostly the Indian Penal Code) are classified as cognizable and non- cognizable, as bailable or non-bailable and by the lowest courts which can try them. These are given and defined in the First Schedule of the Code of Criminal Procedure, 1973.

Culpable Homicide (Section 299)

Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

Illustrations

(a) *A* lays sticks and turf over a pit, with the intention of thereby causing death, or with the knowledge that death is likely to be thereby caused. *Z* believing the ground to be firm, treads on it, falls in and is killed. *A* has committed the offence of culpable homicide.

(b) *A* knows *Z* to be behind a bush. *B* does not know it *A*, intending to cause, or knowing it to be likely to cause *Z*'s death, induces *B* to fire at the bush. *B* fires and kills *Z*. Here *B* may be guilty of no offence; but *A* has committed the offence of culpable homicide.

(c) *A*, by shooting at a fowl with intent to kill and steal it, kills *B* who is behind a bush; *A* not knowing that he was there. Here, although *A* was doing an unlawful act, he was not guilty of culpable homicide, as he did not intend to kill *B*, or to cause death by doing an act that he knew was likely to cause death.

Explanation 1 — A person who causes bodily injury to another who is laboring under a disorder, disease or bodily infirmity, and thereby accelerates the death of that other, shall be deemed to have caused his death.

Explanation 2 — Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented.

Explanation 3 — The causing of the death of child in the mother's womb is not homicide. But it may amount to culpable homicide to cause the death of a living child, if any part of that child has been brought forth, though the child may not have breathed or been completely born.

COMMENTS

(i) "**Culpable homicide**" is genus, and "murder" is the specie. All "murder" is culpable homicide but not *vice-versa*; *Narasingh Challan v. State of Orissa*, (1997) 2 Crimes 78 (Ori).

(ii) The assault for murder cannot be said to be sudden and without meditation as the deceased was not armed; *State of Maharashtra v. Krishna Murti Lazmipatti Naidu*, AIR 1981 SC 617 : (1981) SC Cr R 398 (1981) Cr LJ 9 : (1981) SCC (Cr) 354.

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Murder (Section 300)

Firstly- Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or—

Secondly- If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or—

Thirdly- If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or—

Fourthly- If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

Illustrations

(a) *A* shoots *Z* with the intention of killing him. *Z* dies in consequence. *A* commits murder.

(b) *A*, knowing that *Z* is labouring under such a disease that a blow is likely to cause his death, strikes him with the intention of causing bodily injury. *Z* dies in consequence of the blow. *A* is guilty of murder, although the blow might not have been sufficient in the ordinary course of nature to cause the death of a person in a sound state of health. But if *A*, not knowing that *Z* is labouring under any disease, gives him such a blow as would not in the ordinary course of nature kill a person in a sound state of health, here *A*, although he may intend to cause bodily injury, is not guilty of murder, if he did not intend to cause death, or such bodily injury as in the ordinary course of nature would cause death.

(c) *A* intentionally gives *Z* a sword-cut or club-wound sufficient to cause the death of a man in the ordinary course of nature. *Z* dies in consequence. Here, *A* is guilty of murder, although he may not have intended to cause *Z*'s death.

(d) *A* without any excuse fires a loaded cannon into a crowd of persons and kills one of them. *A* is guilty of murder, although he may not have had a premeditated design to kill any particular individual.

Exception 1 —When culpable homicide is not murder.—Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation or causes the death of any other person by mistake or accident.

The above exception is subject to the following provisos:

First — That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.

Secondly — That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant.

Thirdly — That the provocation is not given by anything done in the lawful exercise of the right of private defence.

Explanation — Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder is a question of fact.

Illustrations

(a) *A*, under the influence of passion excited by a provocation given by *Z*, intentionally kills *Y*, *Z*'s child. This is murder, in as much as the provocation was not given by the child, and the death of the child was not caused by accident or misfortune in doing an act caused by the provocation.

(b) *Y* gives grave and sudden provocation to *A*. *A*, on this provocation, fires a pistol at *Y*, neither intending nor knowing himself to be likely to kill *Z*, who is near him, but out of sight. *A* kills *Z*. Here *A* has not committed murder, but merely culpable homicide.

(c) *A* is lawfully arrested by *Z*, a bailiff. *A* is excited to sudden and violent passion by the arrest, and kills *Z*. This is murder, in as much as the provocation was given by a thing done by a public servant in the exercise of his powers.

(d) *A* appears as witness before *Z*, a Magistrate, *Z* says that he does not believe a word of *A*'s deposition, and that *A* has perjured himself. *A* is moved to sudden passion by these words, and kills *Z*. This is murder.

(e) *A* attempts to pull *Z*'s nose, *Z*, in the exercise of the right of private defence, lays hold of *A* to prevent him from doing so. *A* is moved to sudden and violent passion in consequence, and kills *Z*. This is murder, in as much as the provocation was given by a thing done in the exercise of the right of private defence.

(f) *Z* strikes *B*. *B* is by this provocation excited to violent rage. *A*, a bystander, intending to take advantage of *B*'s rage, and to cause him to kill *Z*, puts a knife into *B*'s hand for that purpose. *B* kills *Z* with the knife. Here *B* may have committed only culpable homicide, but *A* is guilty of murder.

Exception 2 — Culpable homicide is not murder if the offender, in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law and causes the death of the person against whom he is exercising such right of defence

without premeditation, and without any intention of doing more harm than is necessary for the purpose of such defence.

Illustration

Z attempts to horsewhip *A*, not in such a manner as to cause grievous hurt to *A*. *A* draws out a pistol. *Z* persists in the assault. *A* believing in good faith that he can by no other means prevent himself from being horsewhipped, shoots *Z* dead. *A* has not committed murder, but only culpable homicide.

Exception 3 — Culpable homicide is not murder if the offender, being a public servant or aiding a public servant acting for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the due discharge of his duty as such public servant and without ill-will towards the person whose death is caused

Exception 4 — Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender having taken undue advantage or acted in a cruel or unusual manner.

Explanation — It is immaterial in such cases which party offers the provocation or commits the first assault.

Exception 5 — Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death or takes the risk of death with his own consent.

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

If a person, by doing anything which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person, whose death he neither intends nor knows himself to be likely to cause, the culpable homicide committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself to be likely to cause.

COMMENTS

Accused is punishable for murder under doctrine of transfer of malice under section 301 of the Code when he aimed at one and killed another person;

Jagpal Singh v. State of Punjab, (1991) Cr LJ 597 (SC).

Section 302. Punishment for Murder

Whoever commits murder shall be punished with death, or imprisonment for life, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Death, or imprisonment for life, and fine—Cognizable—Nonbailable— Triable by Court of Session—Non-compoundable.

COMMENTS

- (i) When ocular evidence in murder case is unreliable benefit of doubt to be given to all accused; *Chandu Bhai Shana Bhai Parmar v. State of Gujarat*, AIR 1982 SC 1022 : (1981) SCC (Cr) 682.
- (ii) The facts taken cumulatively form a chain so complete that there is no escape from the conclusion that within all human probability the murder was committed by the appellant and none else; *Daya Ram v. The State (Delhi Administration)*, (1988) Cr LJ 865: AIR 1988 SC 615.
- (iii) Provisions of death sentence being an alternative punishment for murder is not unreasonable;
Bachhan Singh v. State of Punjab, AIR 1980 SC 898: (1980) 2 SCC 864: (1980) Cr LJ 636 : (1980) Cr LR (SC) 388: 1980 (2) SCJ 475.
- (iv) In case where facts and circumstances from which conclusion of guilt was sought to be drawn by prosecution was not established beyond reasonable doubt the conviction under section 302 read with section 34 and under section 392 had to be quashed; *Hardyal and Prem v. State of Rajasthan*, (1991) Cr LJ 345 (SC).
- (v) Accused committed murder in professional manner with planned motivation, accused deserved no sympathy even when the accused had no personal motive; *Kuljeet Singh v. Union of India*, AIR 1981 SC 1572: (1981) Cr LJ 1045: (1981) Cr LR (SC) 328.
- (vi) In dowry deaths motive for murder exists and what is required of Courts is to examine as to who translated it into action as motive *viz.*, whether individual or family; *Ashok Kumar v. State of Rajasthan*, (1991) 1 Crimes 116 (SC).
- (vii) Crime of murder committed against public servant doing official duties must be discouraged and dealt with firm hand; *Gayasi v. State of Uttar Pradesh*, AIR 1981 SC 1160: (1981) ALJ 441: (1981) Cr LJ 883: (1981) SCC (Cr) 590: (1981) Cr App. R (SC) 385: (1981) 2 SCC 713.
- (viii) Fatal injury caused by the accused in broad day light, evidence of the eye witness and

medical evidence being corroborative, conviction under section 302, held, sustainable; *Wazir Singh v. State of Haryana*, AIR 1992 SC 1429.

- (ix) It is well settled that if the evidence of the eye-witnesses are held to be reliable and inspire confidence then the accused cannot be acquitted solely on the ground that some superficial injuries found on the person of the accused concerned, had not been explained by the prosecution;
A.M. Kunnikoya v. State of Kerala, 1993 (1) Crimes 1192 (SC).
- (x) Conviction can be based on testimony of a single eye witness provided his testimony is found reliable and inspires confidence; *Anil Phukan v. State of Assam*, 1993 (1) Crimes 1180 (SC).
- (xi) When the appellant dealt a severe knife blow on the stomach of deceased without provocation and when deceased was unarmed and had already been injured by co-accused the appellant cannot be held that he had no intention to cause a murderous assault by mere fact that only one blow was inflicted; *Nashik v. State of Maharashtra*, 1993(1) Crimes 1197 (SC).

Section 303. Punishment for murder by life-convict

Whoever, being under sentence of imprisonment for life, commits murder, shall be punished with death.

CLASSIFICATION OF OFFENCE

Punishment—Death—Cognizable—Non-bailable—Triable by Court of Session—Non-compoundable.

Section 304. Punishment for culpable homicide not amounting to murder

Whoever commits culpable homicide not amounting to murder shall be punished with imprisonment for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death, or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.

CLASSIFICATION OF OFFENCE

Para I: Punishment—Imprisonment for life, or imprisonment for 10 years and fine—Cognizable—Non-bailable—Triable by Court of Session—Non-compoundable.

Para II: Punishment—Imprisonment for 10 years, or fine, or both—Cognizable—Non-bailable—Triable by Court of Session—Non-compoundable.

Section 304B. Dowry death

(1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.

Explanation —For the purpose of this sub-section, "dowry" shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

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

Rape and other unnatural sexual offences (Section 375-377) Section 375. Rape

A man is said to commit "**rape**" who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the six following descriptions:

First — Against her will.

Secondly — Without her consent.

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

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

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

Sixthly — With or without her consent, when she is under sixteen years of age.

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

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

STATE AMENDMENT

Union Territory of Manipur:

- (a) in clause sixthly, for the word "sixteen" substitute the word "fourteen"; and
- (b) in the Exception, for the word "fifteen" substitute the word "thirteen". *Vide* Act 30 of 1950.

COMMENTS

Mere absence of spermatozoa cannot cast a doubt on the correctness of the prosecution case; *Prithi Chand v. State of Himachal Pradesh*, (1989) Cr LJ 841: AIR 1989 SC 702.

Section 376. Punishment for rape

Whoever, except in the cases provided for by sub-section (2), commits rape shall be punished with imprisonment of either description for a term which shall not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine unless the woman raped is his own wife and is not under twelve years of age, in which cases, he shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both: Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than seven years.

- (1) Whoever,
 - (a) being a police officer commits rape—
 - (i) within the limits of the police station to which he is appointed; or
 - (ii) in the premises of any station house whether or not situated in the police station to which he is appointed; or
 - (iii) on a woman in his custody or in the custody of a police officer subordinate to him; or
 - (b) being a public servant, takes advantage of his official position and commits rape on a woman in his custody as such public servant or in the custody of a public servant subordinate to him; or
 - (c) being on the management or on the staff of a jail, remand home or other place of

custody established by or under any law for the time being in force or of a woman's or children's institution takes advantage of his official position and commits rape on any inmate of such jail, remand home, place or institution; or

- (d) being on the management or on the staff of a hospital, takes advantage of his official position and commits rape on a woman in that hospital; or
- (e) commits rape on a woman knowing her to be pregnant; or
- (f) commits rape on a woman when she is under twelve years of age; or
- (g) commits gang rape, shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may be for life and shall also be liable to fine: Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment of either description for a term of less than ten years.

Explanation 1 — Where a woman is raped by one or more in a group of persons acting in furtherance of their common intention, each of the persons shall be deemed to have committed gang rape within the meaning of this sub-section.

Explanation 2 — "**Women's or children's institution**" means an institution, whether called an orphanage or a home for neglected woman or children or a widows' home or by any other name, which is established and maintained for the reception and care of woman or children.

Explanation 3 — "**Hospital**" means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation.

Hurt and Grievous Hurt (Sec.319-320)

Punishment—Imprisonment for 2 years, or fine, or both—Cognizable—Bailable—
Triable by Magistrate of the first class—Non-compoundable.

Section 319. Hurt

Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.

Section 320. Grievous hurt

The following kinds of hurt only are designated as "**grievous**":

First — Emasculation.

Secondly — Permanent privation of the sight of either eye. **Thirdly** — Permanent privation of the hearing of either ear, **Fourthly** — Privation of any member or joint.

Fifthly — Destruction or permanent impairing of the powers of any member or joint.

Sixthly — Permanent disfiguration of the head or face.

Seventhly — Fracture or dislocation of a bone or tooth.

Eighthly — Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.

Force, Criminal Force and Assault (Sec.349-351)

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 3 years and fine—Cognizable—Bailable—Triable by any Magistrate—Non-compoundable.

Section 349. Force — A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion, or change of motion, or cessation of motion as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other's sense of feeling: Provided that the person causing the motion, or change of motion, or cessation of motion, causes that motion, change of motion, or cessation of motion in one of the three ways hereinafter described.

First — By his own bodily power.

Secondly — By disposing any substance in such a manner that the motion or change or cessation of motion takes place without any further act on his part, or on the part of any other person.

Thirdly — By inducing any animal to move, to change its motion, or to cease to move.

Section 350. Criminal force

Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear or annoyance to the person to whom the force is used, is said to use criminal force to that other.

Section 351. Assault

Whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

Explanation — Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or

preparations amount to an assault.

Illustrations

(a) *A* shakes his fist at *Z*, intending or knowing it to be likely that he may thereby cause *Z* to believe that *A* is about to strike *Z*, *A* has committed an assault.

(b) *A* begins to unloose the muzzle of a ferocious dog, intending or knowing it to be likely that he may thereby cause *Z* to believe that he is about to cause the dog to attack *Z*. *A* has committed an assault upon *Z*.

(c) *A* takes up a stick, saying to *Z*, "I will give you a beating". Here, though the words used by *A* could in no case amount to an assault, and though the mere gesture, unaccompanied by any other circumstances, might not amount to an assault, the gesture explained by the words may amount to an assault.

OFFENCES AGAINST PROPERTY OF THEFT

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for life, or imprisonment for 10 years and fine—
Cognizable—Non-Bailable—Triable by Magistrate of the first class—Non-compoundable.

Section 378. Theft

Whoever, intending to take dishonestly any moveable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft.

Explanation 1 — A thing so long as it is attached to the earth, not being movable property, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is severed from the earth.

Explanation 2 — A moving effected by the same act which affects the severance may be a theft.

Explanation 3 — A person is said to cause a thing to move by removing an obstacle which prevented it from moving or by separating it from any other thing, as well as by actually moving it.

Explanation 4 — A person, who by any means causes an animal to move, is said to move that animal, and to move everything which, in consequence of the motion so caused, is moved by that animal.

Explanation 5 —The consent mentioned in the definition may be express or implied, and may be given either by the person in possession, or by any person having for the purpose authority either express or implied.

Illustrations

- (a) *A* cuts down a tree on *Z*'s ground, with the intention of dishonestly taking the tree out of *Z*'s possession without *Z*'s consent. Here, as soon as *A* has severed the tree in order to such taking, he has committed theft.
- (b) *A* puts a bait for dogs in his pocket, and thus induces *Z*'s dog to follow it. Here, if *A*'s intention be dishonestly to take the dog out of *Z*'s possession without *Z*'s consent. *A* has committed theft as soon as *Z*'s dog has begun to follow *A*.
- (c) *A* meets a bullock carrying a box of treasure. He drives the bullock in a certain direction, in order that he may dishonestly take the treasure. As soon as the bullock begins to move, *A* has committed theft of the treasure.
- (d) *A*, being *Z*'s servant, and entrusted by *Z* with the care of *Z*'s plate, dishonestly runs away with the plate, without *Z*'s consent. *A* has committed theft.
- (e) *Z*, going on a journey, entrusts his plate to *A*, the keeper of the warehouse, till *Z* shall return. *A* carries the plate to a goldsmith and sells it. Here the plate was not in *Z*'s possession. It could not therefore be taken out of *Z*'s possession, and *A* has not committed theft, though he may have committed criminal breach of trust.
- (f) *A* finds a ring belonging to *Z* on a table in the house which *Z* occupies. Here the ring is in *Z*'s possession, and if *A* dishonestly removes it, *A* commits theft.
- (g) *A* finds a ring lying on the highroad, not in the possession of any person. *A* by taking it, commits no theft, though he may commit criminal misappropriation of property.
- (h) *A* sees a ring belonging to *Z* lying on a table in *Z*'s house. Not venturing to misappropriate the ring immediately for fear of search and detection, *A* hides the ring in a place where it is highly improbable that it will ever be found by *Z*, with the intention of taking the ring from the hiding place and selling it when the loss is forgotten. Here *A*, at the time of first moving the ring, commits theft.
- (i) *A* delivers his watch to *Z*, a jeweller, to be regulated. *Z* carries it to his shop. *A*, not owing to the jeweller any debt for which the jeweller might lawfully detain the watch as a security, enters the shop openly, takes his watch by force out of *Z*'s hand, and carries it away. Here *A*, though he may have committed criminal trespass and assault, has not committed theft, in as much as what he did was not done dishonestly.
- (j) If *A* owes money to *Z* for repairing the watch, and if *Z* retains the watch lawfully as a security for the debt, and *A* takes the watch out of *Z*'s possession, with the intention of depriving *Z* of the property as a security for his debt, he commits theft, in as much as he takes

it dishonestly.

(k) Again, if *A*, having pawned his watch to *Z*, takes it out of *Z*'s possession without *Z*'s consent, not having paid what he borrowed on the watch, he commits theft, though the watch is his own property in as much as he takes it dishonestly.

(l) *A* takes an article belonging to *Z* out of *Z*'s possession, without *Z*'s consent, with the intention of keeping it until he obtains money from *Z* as a reward for its restoration. Here *A* takes dishonestly; *A* has therefore committed theft.

(m) *A*, being on friendly terms with *Z*, goes into *Z*'s library in *Z*'s absence, and takes away a book without *Z*'s express consent for the purpose merely of reading it, and with the intention of returning it. Here, it is probable that *A* may have conceived that he had *Z*'s implied consent to use *Z*'s book. If this was *A*'s impression, *A* has not committed theft.

(n) *A* asks charity from *Z*'s wife. She gives *A* money, food and clothes, which *A* knows to belong to *Z* her husband. Here it is probable that *A* may conceive that *Z*'s wife is authorised to give away alms. If this was *A*'s impression, *A* has not committed theft.

(o) *A* is the paramour of *Z*'s wife. She gives a valuable property, which *A* knows to belong to her husband *Z*, and to be such property as she has no authority from *Z* to give. If *A* takes the property dishonestly, he commits theft.

(p) *A*, in good faith, believing property belonging to *Z* to be *A*'s own property, takes that property out of *B*'s possession. Here, as *A* does not take dishonestly, he does not commit theft.

Section 379. Punishment for theft

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

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 3 years, or fine, or both—Cognizable—Non-bailable—Triable by any Magistrate—Compoundable by the owner of the property stolen with the permission of the court.

Section 380. Theft in dwelling house, etc.

Whoever commits theft in any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or used for the custody of property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 7 years and fine—Cognizable—Non-bailable—
Triable by any Magistrate—Non-compoundable.

STATE AMENDMENTS

State of Tamil Nadu:

Section 380 of the Indian Penal Code (Central Act XLV of 1860) (hereinafter in this Part referred to as the principal Act), shall be renumbered as sub-section (1) of that section and after sub-section.

(1) as so renumbered, the following sub-section shall be added, namely:

“(2) Whoever commits theft in respect of any idol or icon in any building used as a place of worship shall be punished with rigorous imprisonment for a term which shall not be less than two years but which may extend to three years and with fine which shall not be less than two

thousand rupees: Provided that the court may, for adequate and special reasons to be mentioned in the judgment impose a sentence of imprisonment for a term of less than two years.” *Vide* Tamil Nadu Act 28 of 1993, sec. 2.

Section 381. Theft by clerk or servant of property in possession of master

Whoever, being a clerk or servant, or being employed in the capacity of a clerk or servant, commits theft in respect of any property in the possession of his master or employer, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 7 years and fine—Cognizable—Non-bailable—
Triable by any Magistrate—Compounded by the owner of the property stolen with the permission of the court.

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

Whoever commits theft, having made preparation for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, to any person, in order to the committing of such theft, or in order to the effecting of his escape after the committing of such theft, or in order to the retaining of property taken by such theft, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Illustrations

(a) *A* commits theft on property in *Z*'s possession; and, while committing this theft, he has a loaded pistol under his garment, having provided this pistol for the purpose of hurting *Z* in case *Z* should resist. *A* has committed the offence defined in this section.

(b) *A* picks *Z*'s pocket, having posted several of his companions near him, in order that they may restrain *Z*, if *Z* should perceive what is passing and should resist, or should attempt to apprehend

A. *A* has committed the offence defined in this section.

Cheating (Section 420)

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 3 years, or fine, or both—Cognizable—Bailable—Triable by any Magistrate—Compoundable by the person cheated with the permission of the court.

Section 420. Cheating and dishonestly inducing delivery of property

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

Robbery and Dacoity (Section 390-402)

CLASSIFICATION OF OFFENCE

Para I: Punishment—Imprisonment for 10 years and fine—Cognizable—Non-bailable—Triable by Magistrate of the first class—Non-compoundable.

Para II: Punishment—Imprisonment for life—Cognizable—Bailable—Triable by Magistrate of the first class—Non-compoundable.

Section 390. Robbery

In all robbery there is either theft or extortion.

When theft is robbery —Theft is "**robbery**" if, in order to the committing of the theft, or in committing the theft, or in carving away or attempting to carry away property obtained by the theft, the offender, for that end, voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt, or of instant wrongful restraint.

When extortion is robbery —Extortion is "**robbery**" if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.

Explanation —The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt, or of instant wrongful restraint.

Illustrations

(a) *A* holds *Z* down and fraudulently takes *Z*'s money and jewels from *Z*'s clothes without *Z*'s consent. Here *A* has committed theft, and in order to the committing of that theft, has voluntarily caused wrongful restraint to *Z*. *A* has therefore committed robbery.

(b) *A* meets *Z* on the high roads, shows a pistol, and demands *Z*'s purse. *Z* in consequence, surrenders his purse. Here *A* has extorted the purse from *Z* by putting him in fear of instant hurt, and being at the time of committing the extortion in his presence. *A* has therefore committed robbery.

(c) *A* meets *Z* and *Z*'s child on the high road. *A* takes the child and threatens to fling it down a precipice, unless *Z* delivers his purse. *Z*, in consequence delivers his purse. Here *A* has extorted the purse from *Z*, by causing *Z* to be in fear of instant hurt to the child who is there present. *A* has therefore committed robbery on *Z*.

(d) *A* obtains property from *Z* by saying— "Your child is in the hands of my gang, and will be put to death unless you send us ten thousand rupees". This is extortion, and punishable as such; but it is not robbery, unless *Z* is put in fear of the instant death of his child.

COMMENTS

In order that theft may constitute robbery, prosecution has to establish—

- (a) if in order to the committing of theft; or
- (b) in committing the theft; or
- (c) in carrying away or attempting to carry away property obtained by theft;
- (d) the offender for that end *i.e.* any of the ends contemplated by (a) to (c).
- (e) voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint or fear of instant death or of instant hurt or instant wrongful restraint In other words, theft would only be robbery if for any of the ends mentioned in (a) to (c) the offender voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint or fear of instant death or of instant hurt or instant wrongful

restraint. If the ends does not fall within (a) to (c) but, the offender still causes or attempts to cause to any person death or hurt or wrongful restraint or fear of instant death or of instant hurt or instant wrongful restraint, the offence would not be robbery. That (a) or (b) or (c) have to be read conjunctively with (d) and (e). It is only when (a) or (b) or (c) co-exist with (d) and (e) or there is a nexus between any of them and (d), (e) would amount to robbery; *State of Maharashtra vs Joseph Mingel Koli*, (1997) 2 Crimes 228 (Bom).

Section 391. Dacoity

When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery, and persons present and aiding such commission or attempt, amount to five or more, every person so committing, attempting or aiding, is said to commit "**dacoity**".

COMMENTS

When robbery is either committed or an attempt to commit it is made by five or more persons then all such persons, who are present or aiding in its commission or in an attempt to commit it, would commit the offence of dacoity; *State of Maharashtra v. Joseph Mingel Koli*, (1997) 2 Crimes 228 (Bom).

Section 392. Punishment for Robbery

Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and, if the robbery be committed on the highway between sunset and sunrise, the imprisonment may be extended to fourteen years.

CLASSIFICATION OF OFFENCE

Para I: Punishment—Rigorous imprisonment for 10 years and fine—Cognizable—Non-bailable—Triable by Magistrate of the first class—Non-compoundable.

Para II: Punishment—Rigorous imprisonment for 14 years, and fine—Cognizable—Non-bailable—Triable by Magistrate of the first class—Non-compoundable.

Section 393. Attempt to Commit Robbery

Whoever attempts to commit robbery shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Rigorous imprisonment for 7 years and fine—Cognizable—Non-bailable—Triable by Magistrate of the first class—Non-compoundable.

Section 394. Voluntarily Causing Hurt in Committing Robbery

If any person, in committing or in attempting to commit robbery, voluntarily causes hurt, such person, and any other person jointly concerned in committing or attempting to commit such robbery, shall be punished with imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for life, or rigorous imprisonment for 10 years and fine—
Cognizable—Non-bailable—Triable by Magistrate of the first class—Non-compoundable.

Comments

Not only the person who actually causes hurt but an associate of his/her would equally be liable for the mischief contemplated by this section; *Shravan Dashrath Darange v. State of Maharashtra*, (1997) 2 Crimes 47 (Bom).

Section 395. Punishment for Dacoity

Whoever commits dacoity shall be punished with imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for life, or rigorous imprisonment for 10 years and fine—
Cognizable—Non-bailable—Triable by Court of Session—Non-compoundable.

Section 396. Dacoity with Murder

If any one of five or more persons, who are conjointly committing dacoity, commits murder in so committing dacoity, every one of those persons shall be punished with death, or imprisonment for life, or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Death, imprisonment for life, or rigorous imprisonment for 10 years and fine—
Cognizable—Non-bailable—Triable by Court of Session—Non-compoundable.

COMMENTS

When prosecution failed to establish any nexus between death and commission of dacoity charge under section 396 will fail; *Wakil Singh v. State of Bihar*, (1981) BLJ 462.

Section 397. Robbery, or Dacoity, with Attempt to Cause Death or Grievous Hurt

If, at the time of committing robbery or dacoity, the offender uses any deadly weapon, or causes grievous hurt to any person, or attempts to cause death or grievous hurt to any

person, the imprisonment with which such offender shall be punished shall not be less than seven years.

CLASSIFICATION OF OFFENCE

Punishment—Rigorous imprisonment for not less than 7 years—Cognizable— Non-bailable— Triable by Court of Session—Non-compoundable.

COMMENTS

(i) An act would only fall within the mischief of this section if at the time of committing robbery or dacoity the offender—

(a) uses any deadly weapon; or

(b) causes grievous hurt to any person; or

(c) attempts to cause death or grievous hurt to any person; *Shravan Dashrath Datranga v. State of Maharashtra*, (1997) 2 Crimes 47 (Bom).

(ii) There can be no quarrel that knife is a deadly weapon within the meaning of section 397;

State of Maharashtra v. Vinayak Tukaram Utekar, (1997) 2 Crimes 615 (Bom).

(iii) When identification of articles alleged to have been recovered from accused is not properly proved nor victim could identify accused in identification parade or in court accused cannot be convicted under section 397; *Bhurekhan v. State of Madhya Pradesh*, AIR 1982 SC 948 : (1982) Cr LJ 818: (1982) 1 SCC 174 : (1982) SCC (Cr) 128.

Section 398. Attempt to Commit Robbery or Dacoity when Armed with Deadly Weapon

If, at the time of attempting to commit robbery or dacoity, the offender is armed with any deadly weapon, the imprisonment with which such offender shall be punished shall not be less than seven years.

CLASSIFICATION OF OFFENCE

Punishment—Rigorous imprisonment for not less than 7 years—Cognizable— Non-bailable— Triable by Court of Session—Non-compoundable.

Section 399. Making Preparation to Commit Dacoity

Whoever makes, any preparation for committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Rigorous imprisonment for 10 years and fine—Cognizable— non-bailable— Triable by Court of Session—Non-compoundable.

Section 400. Punishment for Belonging to Gang of Dacoits

Whoever, at any time after the passing of this Act, shall belong to a gang of persons associated for the purpose of habitually committing dacoity, shall be punished with imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for life, or rigorous imprisonment for 10 years and fine—Cognizable—Non-bailable—Triable by Court of Session—Non-compoundable.

Section 401. Punishment for Belonging to Gang of Thieves

Whoever, at any time after the passing of this Act, shall belong to any wandering or other gang of persons associated for the purpose of habitually committing theft or robbery, and not being a gang of *thugs* or dacoits, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Rigorous imprisonment for 7 years and fine—Cognizable—Non-bailable—Triable by Magistrate of the first class—Non-compoundable.

Section 402. Assembling for Purpose of Committing Dacoity

Whoever, at any time after the passing of this Act, shall be one of five or more persons assembled for the purpose of committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Criminal Misappropriation and Criminal Breach of Trust (Section 403, 405,409)

CLASSIFICATION OF OFFENCE

Punishment—Rigorous imprisonment for 7 years and fine—Cognizable—Non-bailable— Triable by Court of Session—Non-compoundable.

Section 403. Dishonest Misappropriation of Property

Whoever dishonestly misappropriates or converts to his own use any movable property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustrations

(a) *A* takes property belonging to *Z* out of *Z*'s possession, in good faith, believing, at any

time when he takes it, that the property belongs to himself. *A* is not guilty of theft; but if *A*, after discovering his mistake, dishonestly appropriates the property to his own use, he is guilty of an offence under this section.

(b) *A*, being on friendly terms with *Z*, goes into *Z*'s library in *Z*'s absence, and takes away a book without *Z*'s express consent. Here, if *A* was under the impression that he had *Z*'s implied consent to take the book for the purpose of reading it, *A* has not committed theft. But, if *A* afterwards sells the book for his own benefit, he is guilty of an offence under this section.

(c) *A* and *B*, being joint owners of a horse, *A* takes the horse out of *B*'s possession, intending to use it. Here, as *A* has a right to use the horse, he does not dishonestly misappropriate it. But, if *A* sells the horse and appropriates the whole proceeds to his own use, he is guilty of an offence under this section.

Explanation I — A dishonest misappropriation for a time only is a misappropriation with the meaning of this section.

Illustration

A finds a Government promissory note belonging to *Z*, bearing a blank endorsement. *A*, knowing that the note belongs to *Z*, pledges it with a banker as a security for a loan, intending at a future time to restore it to *Z*. *A* has committed an offence under this section.

Explanation 2 — A person who finds property not in the possession of any other person, and takes such property for the purpose of protecting it for, or of restoring it to, the owner does not take or misappropriate it dishonestly, and is not guilty of an offence; but he is guilty of the offence above defined, if he appropriates it to his own use, when he knows or has the means of discovering the owner, or before he has used reasonable means to discover and give notice to the owner and has kept the property a reasonable time to enable the owner to claim it. What are reasonable means or what is a reasonable time in such a case, is a question of fact. It is not necessary that the finder should know who is the owner of the property, or that any particular person is the owner of it; it is sufficient if, at the time of appropriating it, he does not believe it to be his own property, or in good faith believe that the real owner cannot be found.

Illustrations

(a) *A* finds a rupee on the high road, not knowing to whom the rupee belongs. *A* picks up the rupee. Here *A* has not committed the offence defined in this section.

(b) *A* finds a letter on the road, containing a bank note. From the direction and contents of

the letter he learns to whom the note belongs. He appropriates the note. He is guilty of an offence under this section.

(c) *A* finds a cheque payable to bearer. He can form no conjecture as to the person who has lost the cheque. But the name of the person, who has drawn the cheque, appears. *A* knows that this person can direct him to the person in whose favour the cheque was drawn. *A* appropriates the cheque without attempting to discover the owner. He is guilty of an offence under this section.

(d) *A* sees *Z* drop his purse with money in it. *A* picks up the purse with the intention of restoring it to *Z*, but afterwards appropriates it to his own use. *A* has committed an offence under this section.

(e) *A* finds a purse with money, not knowing to whom it belongs; he afterwards discovers that it belongs to *Z*, and appropriates it to his own use. *A* is guilty of an offence under this section.

(f) *A* finds a valuable ring, not knowing to whom it belongs. *A* sells it immediately without attempting to discover the owner. *A* is guilty of an offence under this section.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 2 years, or fine, or both—Non-cognizable—Bailable—Triable by any Magistrate—Compoundable by the owner of the property misappropriated with the permission of the court.

Section 405. Criminal Breach of Trust

Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits "**criminal breach of trust**".

Explanation 1 —A person, being an employer of an establishment whether exempted under section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), or not who deducts the employee's contribution from the wages payable to the employee for credit to a Provident Fund or Family Pension Fund established by any law for the time being in force, shall be deemed to have been entrusted with the amount of the contribution so deducted by him and if he makes default in the payment of such contribution

to the said Fund in violation of the said law, shall be deemed to have dishonestly used the amount of the said contribution in violation of a direction of law as aforesaid.

Explanation 2 — A person, being an employer, who deducts the employees' contribution from the wages payable to the employee for credit to the Employees' State Insurance Fund held and administered by the Employees' State Insurance Corporation established under the Employees' State Insurance Act, 1948 (34 of 1948), shall be deemed to have been entrusted with the amount of the contribution so deducted by him and if he makes default in the payment of such contribution to the said Fund in violation of the said Act, shall be deemed to have dishonestly used the amount of the said contribution in violation of a direction of law as aforesaid.

Illustrations

(a) *A*, being executor to the will of a deceased person, dishonestly disobeys the law which directs him to divide the effects according to the will, and appropriate them to his own use. *A* has committed criminal breach of trust.

(b) *A* is a warehouse-keeper. *Z* going on a journey, entrusts his furniture to *A*, under a contract that it shall be returned on payment of a stipulated sum for warehouse room. *A* dishonestly sells the goods. *A* has committed criminal breach of trust.

(c) *A*, residing in Calcutta, is agent for *Z*, residing at Delhi. There is an express or implied contract between *A* and *Z*, that all sums remitted by *Z* to *A* shall be invested by *A*, according to *Z*'s direction. *Z* remits a lakh of rupees to *A*, with directions to *A* to invest the same in Company's paper. *A* dishonestly disobeys the direction and employs the money in his own business. *A* has committed criminal breach of trust.

(d) But if *A*, in the last illustration, not dishonestly but in good faith, believing that it will be more for *Z*'s advantage to hold shares in the Bank of Bengal, disobeys *Z*'s directions, and buys shares in the Bank of Bengal, for *Z*, instead of buying Company's paper, here, though *Z* should suffer loss, and should be entitled to bring a civil action against *A*, on account of that loss, yet *A*, not having acted dishonestly, has not committed criminal breach of trust.

(e) *A*, a revenue-officer, is entrusted with public money and is either directed by law, or bound by a contract, express or implied, with the Government, to pay into a certain treasury all the public money which he holds. *A* dishonestly appropriates the money. *A* has committed criminal breach of trust.

(f) *A*, a carrier, is entrusted by *Z* with property to be carried by land or by water. *A* dishonestly misappropriates the property. *A* has committed criminal breach of trust.

Section 409. Criminal Breach of Trust by Public Servant, or by Banker, Merchant or Agent

Whoever, being in any manner entrusted with property, or with any dominion over property in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney or agent, commits criminal breach of trust in respect of that property, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

CLASSIFICATION OF OFFENCE

Punishment—Imprisonment for 5 years and fine—Cognizable—Bailable—Triable by Magistrate of the first class—Non-compoundable.

Section 441. Criminal Trespass

441. Criminal Trespass

Whoever enters into or upon property in possession of another with intent to commit an offence or to intimidate, insult or annoy and person in possession of such property, or having lawfully entered into or upon such property, unlawfully remains therewith intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence, or, having entered into or upon such property, whether before or after the coming into force of the Criminal Law (U.P. Amendment) Act, 1961, with the intention of taking unauthorized possession or making unauthorised use of such property fails to withdraw from such property or its possession or use, when called upon to do so by that another person by notice in writing, duly served upon him, by the date specified in the notice, is said to commit "**criminal trespass**". *Vide* U.P. Act No. 31 of 1961, section 2.

Section 442. House trespass

Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling or any building used as a place for worship, or as a place for the custody of property, is said to commit "**house trespass**".

Explanation— The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass.

Section 443. Lurking house-trespass

Whoever commits house-trespass having taken precautions to conceal such house-trespass from some person who has a right to exclude or eject the trespasser from the building, tent or vessel which is the subject of the trespass, is said to commit "**lurking house-trespass**".

Section 444. Lurking house-trespass by night

Whoever commits lurking house-trespass after sunset and before sunrise is said to commit "**lurking house-trespass by night**".

Section 445. House Breaking

A person is said to commit "**house-breaking**" who commits house-trespass if he effects his entrance into the house or any part of it in any of the six ways hereinafter described; or if, being in the house or any part of it for the purpose of committing an offence, or, having committed an offence therein, he quits the house or any part of it in any of such six ways, that is to say: —

First—If he enters or quits through a passage by himself, or by any abettor of the house-trespass, in order to the committing of the house-trespass.

Secondly—If he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance; or through any passage to which he has obtained access by scaling or climbing over any wall or building.

Thirdly —If he enters or quits through any passage which he or any abettor of the house-trespass has opened, in order to the committing of the house trespass by any means by which that passage was not intended by the occupier of the house to be opened.

Fourthly —If he enters or quits by opening any lock in order to the committing of the house-trespass, or in order to the quitting of the house after a house-trespass.

Fifthly —If he effects his entrance or departure by using criminal force or committing an assault or by threatening any person with assault.

Sixthly —If he enters or quits by any passage which he knows to have been fastened against such entrance or departure, and to have been unfastened by himself or by an abettor of the house-trespass.

Explanation—Any out-house or building occupied with a house, and between which and such house there is an immediate internal communication, is part of the house within the meaning of this section.

Illustrations

(a) *A* commits house-trespass by making a hole through the wall of *Z*'s house, and putting his hand through the aperture. This is house-breaking.

(b) *A* commits house-trespass by creeping into a ship at a port-hole between decks. This is house- breaking.

- (c) *A* commits house-trespass by entering *Z*'s house through a window. This is house-breaking.
- (d) *A* commits house-trespass by entering *Z*'s house through the door, having opened a door which was fastened. This is house-breaking.
- (e) *A* commits house-trespass by entering *Z*'s house through the door, having lifted a latch by putting a wire through a hole in the door. This is house-breaking.
- (f) *A* finds the key of *Z*'s house door, which *Z* had lost, and commits house trespass by entering *Z*'s house, having opened the door with that key. This is house-breaking.
- (g) *Z* is standing in his doorway. *A* forces a passage by knocking *Z* down, and commits house-trespass by entering the house. This is house-breaking.
- (h) *Z*, the door-keeper of *Y*, is standing in *Y*'s doorway. *A* commits house-trespass by entering the house, having deterred *Z* from opposing him by threatening to beat him. This is house-breaking.

Section 446. House-Breaking by Night

Whoever commits house-breaking after sunset and before sunrise, is said to commit "house-breaking by night".

447. Punishment for Criminal Trespass

Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, with fine or which may extend to five hundred rupees, or with both

Crimes Against the State Under the Indian Penal Code (IPC) Crimes against the state refer to acts that directly threaten the stability, sovereignty, or security of the nation. The Indian Penal Code (IPC) categorizes such crimes under various sections to address threats to the state's integrity. These provisions target activities such as sedition, waging war against the government, and other subversive actions.

1. Waging War Against the State (Sections 121-123)

- **Section 121: Waging war against the Government of India**

This section is one of the most serious crimes, punishing anyone who wages war against the Indian government. If a person engages in an armed rebellion or insurgency with the intent to overthrow the government, they are guilty under this section.

- **Illustration:** A group of armed insurgents attacking a military base with the aim of destabilizing the government could be charged under Section 121.

- **Section 121A: Conspiracy to wage war against the Government**

Conspiring with others to wage war or plotting an attack on the state is also punishable under this section.

- **Illustration:** If a person organizes or provides financial support to insurgent groups planning an attack, they could be held accountable for conspiring to wage war.

- **Section 122: Collecting funds or preparing for war**

This section criminalizes the act of assembling resources or participating in activities designed to wage war against the government.

- **Illustration:** A person who aids in procuring weapons or recruits individuals for a terrorist group planning an attack on the state could be arrested under this provision.

- **Section 123: Concealing intentions of waging war**

This provision targets individuals who knowingly conceal or fail to inform the authorities about a planned attack against the government.

- **Illustration:** If an individual is aware of a terrorist plot to attack government officials and does not report it, they could face punishment under Section 123.

2. Seditious (Section 124A)

Section 124A defines seditious as acts that bring hatred, contempt, or disaffection toward the government. This includes writing or speaking in ways that challenge the authority or loyalty to the Indian government.

- **Illustration:** A newspaper editor publishing inflammatory content against the government, aiming to provoke violence or insurrection, could be charged with seditious under Section 124A.

3. Assaulting High Officials (Section 124)

This section deals with using force or criminal assault on high-ranking officials like the President, Governors, or foreign diplomats. Assaulting such officials is a serious offense that can destabilize the functioning of the government.

- **Illustration:** A person attacking a state official during a public event would be charged under Section 124 for assaulting a high official with intent to cause harm.

4. Unlawful Assembly with Intent Against the State (Sections 128-130)

- **Section 128:** Involves harboring or assisting individuals involved in treasonous activities, like aiding insurgents or helping those preparing to wage war against the government.
 - **Illustration:** If a person hides a fugitive involved in planning an attack on the government, they could face charges under Section 128.
- **Section 129:** This section criminalizes the act of resisting or disobeying lawful authority when involved in a situation where the state is trying to suppress unlawful assemblies or insurgency.
 - **Illustration:** A group resisting law enforcement officers trying to dismantle a terrorist cell would be charged under Section 129.
- **Section 130:** This section punishes anyone who refuses to assist authorities in suppressing war, rebellion, or unlawful assemblies.
 - **Illustration:** If a person, upon being ordered by authorities, refuses to help in controlling a riot or insurgency, they may be held liable under Section 130.

5. Terrorism and National Security (Sections 153A, 153B)

- **Section 153A:** This section penalizes promoting enmity between different groups, particularly based on religion, race, or language, which can destabilize the country.
 - **Illustration:** A leader inciting violence between religious communities through inflammatory speeches could be charged under Section 153A.
- **Section 153B:** Imputations or assertions prejudicial to national integration are punishable under this section.
 - **Illustration:** A politician making statements that question India's territorial integrity or sovereignty could face legal consequences under Section 153B.

6. Offenses Related to Insurgency and Terrorism (Sections 120B, 505)

- **Section 120B:** Criminal conspiracy involving acts of terrorism or rebellion against the state falls under this section.
 - **Illustration:** If individuals meet secretly to plan a bombing in a government building, they could be charged under Section 120B for conspiring to commit terrorism.
- **Section 505(1):** This section penalizes individuals who spread rumors or false information that could incite violence, promote unrest, or disrupt public peace, particularly when directed against the state.

- **Illustration:** A person spreading fake news about the government's corruption, leading to violent protests, could be prosecuted under Section 505(1).

7. Treasonous Acts by Citizens (Sections 125-126)

- **Section 125:** Deals with waging war against a friendly nation, i.e., India being involved in hostilities against another nation that is a friend.
- **Illustration:** If an individual assists a foreign enemy by sharing sensitive information about India's military strategy, they may be prosecuted under Section 125.
- **Section 126:** Deals with committing depredations against friendly nations, such as sabotaging their resources to damage diplomatic ties.
- **Illustration:** Engaging in acts of espionage or sabotage against a friendly country on behalf of India's enemies would be punished under Section 126.

Process of Decriminalization

Decriminalization refers to the legal process of removing or reducing criminal penalties for certain actions or behaviors that were previously classified as crimes. The aim of decriminalization is often to shift focus from punitive measures to regulatory or civil sanctions, especially for behaviors that are seen as less harmful or more effectively managed through alternative measures. The process involves several stages and requires careful evaluation of the social, legal, and economic implications.

1. Identification of Offenses for Decriminalization

The first step in the decriminalization process is identifying which offenses should be decriminalized. These are usually non-violent actions that, in the view of lawmakers and society, do not pose significant harm to individuals or the public. In many cases, these behaviors were criminalized at a time when social attitudes were more punitive or conservative. Examples of offenses that have been subject to decriminalization include:

- **Homosexuality:** Many countries have decriminalized same-sex relationships, recognizing that criminalizing consensual adult behavior does not protect public morals or safety.
- **Drug Use:** The possession or use of certain drugs, particularly marijuana, has been decriminalized or depenalized in several countries, with some opting for harm-reduction strategies over criminal sanctions.

- **Sex Work:** In some jurisdictions, sex work has been decriminalized to improve the safety and health of sex workers, recognizing that criminal penalties exacerbate their vulnerability.

2. Legal Reform and Drafting of Legislation

Once an offense is identified for decriminalization, the next step is the reform of laws. This involves drafting new legislation or amending existing laws to remove the criminal penalties associated with the offense. In some cases, this may involve declassifying an offense entirely, while in other cases, it may involve reducing the severity of the penalties from criminal sanctions (such as jail time) to civil penalties (such as fines or warnings).

For example, the **decriminalization of homosexuality** in India occurred through a judicial decision in **2018**, when the Supreme Court decriminalized Section 377 of the Indian Penal Code, which criminalized consensual same-sex relations. The court ruled that the law violated the fundamental rights of individuals under the Constitution, specifically the right to equality and freedom of expression.

3. Public Debate and Advocacy

Before any changes are made, public discussion and advocacy often play a crucial role in the decriminalization process. Activists, researchers, and civil society groups typically mobilize to raise awareness about the issues and advocate for the change in legal status. This phase can include media campaigns, public hearings, and lobbying of lawmakers.

For example, **drug decriminalization** often involves a strong advocacy component, particularly when activists point out the harms of criminalizing individuals who use certain substances. They argue that criminal penalties do not deter drug use but instead push users into the criminal justice system, where they face further marginalization.

4. Transition to Regulatory Measures

In cases where decriminalization occurs, the behavior may still be regulated, but outside the criminal justice system. For example, instead of being punished with jail time, individuals may face fines, mandatory education, or rehabilitation programs. This approach is often used when the state wants to continue to control or manage the behavior but does not view it as warranting criminal prosecution.

For example, after the **decriminalization of marijuana** in certain U.S. states, the sale and use of marijuana are heavily regulated by state authorities, including restrictions on sales, age limits, and taxation. Though the act of using marijuana is no longer a crime, its regulation ensures that its use is controlled within a legal framework.

5. Implementation of New Legal Framework

Once the legislation is passed, the new framework must be implemented effectively. This involves training law enforcement officials, judiciary members, and public health workers to apply the new regulations properly. It may also include the development of new infrastructure, such as rehabilitation programs, public health initiatives, or support systems for individuals affected by the decriminalized activity.

For instance, when **same-sex relationships were decriminalized in India**, implementation required that police officers and judges be educated on the new legal standards, and there was a push to remove societal stigma from the LGBTQ+ community. In many cases, legal recognition of decriminalization is only the first step, and sustained efforts to change societal attitudes are necessary for meaningful progress.

6. Monitoring and Evaluation

After decriminalization, continuous monitoring and evaluation of the policy are essential. This phase involves assessing the impact of the legal change on society, crime rates, and public health. It is crucial to examine whether decriminalization achieves its intended goals, such as reducing harm or improving individual well-being, without leading to negative unintended consequences.

For example, in countries like **Portugal**, where drug use was decriminalized, the government continues to monitor the effects on public health and crime rates. Over time, they found that decriminalization resulted in fewer drug-related deaths and a decrease in drug-related crimes.

Purpose of the Criminal Justice System

The **criminal justice system (CJS)** is designed to maintain law and order, protect society, deter crime, and deliver justice. It involves a complex network of institutions, including legislative bodies, law enforcement agencies, executive authorities, correctional institutions, and social legislation. Each subsystem plays a crucial role in ensuring that justice is served fairly and efficiently. Understanding the functions of these subsystems is essential for a comprehensive view of how the criminal justice system operates.

1. Legislature

The legislature plays a fundamental role in the criminal justice system by creating, amending, and repealing laws. The **purpose of the legislature** is to establish the legal framework within which the criminal justice system operates. Legislators draft laws that

define criminal offenses, the penalties associated with those offenses, and the processes involved in prosecuting crimes.

- **Role of the Legislature:**

- Enacts **criminal laws**: This includes laws related to various crimes such as theft, murder, assault, and drug offenses.
- Defines **punishments**: Legislators set out the types of punishments for criminal offenses (e.g., imprisonment, fines, community service).
- **Reforms**: As society evolves, legislators amend and update laws to reflect new societal values and norms. For example, laws regarding sexual assault and domestic violence have evolved significantly over the years.
- **Ensures justice**: Legislators provide for laws that ensure fairness, equality, and the protection of rights within the criminal justice system.

The criminal law framework is a product of legislative bodies, which can be national, regional, or local governments, depending on the jurisdiction.

2. Law Enforcement

Law enforcement agencies, such as the **police**, are tasked with enforcing the laws created by the legislature. Their primary purpose is to protect citizens, maintain public order, and prevent crime. Law enforcement is also responsible for investigating crimes and apprehending suspects.

- **Purpose of Law Enforcement:**

- **Prevention of crime**: Law enforcement agencies engage in patrols, surveillance, and community policing to deter criminal activities.
- **Investigation**: Police and other agencies conduct investigations into criminal activities, gather evidence, and identify perpetrators.
- **Apprehension of criminals**: Law enforcement is responsible for arresting individuals suspected of committing crimes.
- **Ensuring public safety**: By maintaining public order and responding to emergencies, law enforcement agencies play a vital role in ensuring the safety of society.

3. Executive

The **executive branch** of the criminal justice system carries out the laws passed by the legislature. It is responsible for ensuring that the justice system functions smoothly, including overseeing the police, prosecuting cases, and managing corrections. The executive

branch includes both **government officials** and **administrative bodies** responsible for executing policies related to criminal justice.

- **Role of the Executive:**

- **Prosecution:** Prosecutors, as part of the executive branch, play a key role in charging and prosecuting criminal cases in courts.
- **Prison management:** The executive oversees the operation of correctional facilities, ensuring that convicted offenders are sentenced appropriately and their rights are protected.
- **Community programs:** The executive can also initiate and manage programs such as probation or parole that help reintegrate offenders into society after serving their sentences.

4. Corrections

The **corrections system** is responsible for carrying out the punishment and rehabilitation of those convicted of crimes. This system encompasses various forms of punishment, including **incarceration, probation, and parole**. The goal of corrections is not only to punish offenders but also to rehabilitate them and prevent recidivism (re-offending).

- **Purpose of Corrections:**

- **Punishment and deterrence:** Corrections ensure that offenders serve their sentences and that the punishment serves as a deterrent to others.
- **Rehabilitation:** Many correctional facilities offer programs that focus on rehabilitating offenders, such as educational programs, vocational training, or therapy.
- **Reintegration:** Through parole, probation, or halfway houses, the corrections system assists offenders in reintegrating into society.

5. Special Laws

In addition to the general criminal laws, there are **special laws** that address specific areas of criminal activity or particular groups within society. These laws often focus on more sensitive or specialized issues, such as **terrorism, corruption, and cybercrimes**.

- **Examples of Special Laws:**

- **The Unlawful Activities (Prevention) Act (UAPA)**, which deals with terrorism-related activities.
- **The Prevention of Corruption Act**, which addresses corruption among public servants.

- **The Information Technology Act**, which tackles cybercrimes, including hacking, identity theft, and online fraud.

6. Local Laws and Social Legislation

Local laws refer to criminal laws that are specific to certain areas or regions. These laws are often enacted by local governing bodies to address issues unique to their community or jurisdiction. For instance, certain cities or states may have local ordinances regulating alcohol consumption, street-level offenses, or public safety concerns.

Social legislation refers to laws designed to protect vulnerable sections of society, such as women, children, the elderly, and minorities. These laws focus on ensuring equality, social justice, and human rights.

- **Examples of Social Legislation:**

- **The Protection of Women from Domestic Violence Act (2005)**, which aims to protect women from domestic abuse.
- **The Juvenile Justice (Care and Protection of Children) Act (2015)**, which provides for the care, protection, and rehabilitation of children in conflict with the law.
- **The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (1989)**, which seeks to prevent discrimination and violence against marginalized groups.

Unit-V: CRIME OF TIMES

Organized crimes: Forms and Nature

Organized crime is a non-ideological enterprise involving a number of persons in close social interaction, organized on a hierarchical basis, with at least three levels/ranks, for the purpose of securing profit and power by engaging in illegal and legal activities. Positions in the hierarchy and positions involving functional specialization may be assigned on the basis of kinship or friendship, or rationally assigned according to skill. The positions are not dependent on the individuals occupying them at any particular time. Permanency is assumed by the members who strive to keep the enterprise integral and active in pursuit of its goals. It eschews competition and strives for monopoly on an industry or territorial basis. There is a willingness to use violence and/or bribery to achieve ends or to maintain discipline. Membership is restricted, although nonmembers may be involved on a contingency basis. There are explicit rules, oral or written, which are enforced by sanctions that include murder.

Although there is no generally accepted definition of organized crime- indeed, the federal Organized Crime Control Act of 1970 fails to define organized crime- a number of attributes have been identified by law enforcement agencies and researchers as indicative of the phenomenon. Offering these attributes has a practical dimension: the attributes provide a basis for determining if a particular group of criminals constitutes organized crime and, therefore, needs to be approached in a way different from the way one would approach terrorists or groups of conventional criminals. Organized crime:

- Has no political goals
- Is hierarchical
- Has a limited or exclusive membership
- Constitutes a unique subculture
- Perpetuates itself
- Exhibits a willingness to use illegal violence
- Is monopolistic
- Is governed by explicit rules and regulations

Terrorism

Terrorism is as old as mankind. It has been part of mankind's evolution. But cultural perceptions of different periods gave it different labels. Terrorism is probably the most defined word –there are over 109 definitions for it. That should indicate what a misunderstood word it is. The religious persecutions of 15th and 16th centuries, the Jewish holocaust during Hitler's regime, the mindless violence of 9/11 and its aftermath may be called by different names. But all of them have one common feature that defines terrorism – most of the victims are innocent, unarmed civilians well away from the battlefields. Those who revel in precisely defining the word may dispute this point of view, but terrorism is no more a semantic exercise. It has become a life threatening feature of ordinary people's lives in more nations than ever before in human history. Terrorist acts or the threat of such action have been in existence for millennia. Despite having a history longer than the modern nation-state, the use of terror by governments and those that contest their power remains poorly understood. While the meaning of the word terror itself is clear, when it is applied to acts and actors in the real world it becomes confused. Part of this is due to the use of terror tactics by actors at all levels in the social and political environment. Is the Unabomber, with his solo campaign of terror, a criminal, terrorist, or revolutionary?

The very flexibility and adaptability of terror throughout the years has contributed to the confusion. Those seeking to disrupt, reorder or destroy the status quo have continuously sought new and creative ways to achieve their goals. Changes in the tactics and techniques of terrorists have been significant, but even more significant are the growth in the number of causes and social contexts where terrorism is used.

Over the past 20 years, terrorists have committed extremely violent acts for alleged political or religious reasons. Political ideology ranges from the far left to the far right. For example, the far left can consist of groups such as Marxists and Leninists who propose a revolution of workers led by revolutionary elite. On the far right, we find dictatorships that typically believe in a merging of state and business leadership.

Nationalism is the devotion to the interests or culture of a group of people or a nation. Typically, nationalists share a common ethnic background and wish to establish or regain a homeland. Religious extremists often reject the authority of secular governments and view legal systems that are not based on their religious beliefs as illegitimate. They often view modernization efforts as corrupting influences on traditional culture.

Special interest groups include people on the radical fringe of many legitimate causes; e.g., people who use terrorism to uphold antiabortion views, animal rights, radical environmentalism. These groups believe that violence is morally justifiable to achieve their goals.

Early History of Terrorism

The earliest known organization that exhibited aspects of a modern terrorist organization was the Zealots of Judea. Known to the Romans as sicarii, or daggersmen, they carried on an underground campaign of assassination of Roman occupation forces, as well as any Jews they felt had collaborated with the Romans. Their motive was an uncompromising belief that they could not remain faithful to the dictates of Judaism while living as Roman subjects. Eventually, the Zealot revolt became open, and they were finally besieged and committed mass suicide at the fortification of Masada.

The Assassins were the next group to show recognizable characteristics of terrorism, as we know it today. A breakaway faction of Shia Islam called the Nizari Ismalis adopted the tactic of assassination of enemy leaders because the cult's limited manpower prevented open combat. Their leader, Hassam-I Sabbah, based the cult in the mountains of Northern Iran. Their tactic of sending a lone assassin to successfully kill a key enemy leader at the certain sacrifice of his own life (the killers waited next to their victims to be killed or captured) inspired fearful awe in their enemies. Even though both the Zealots and the Assassins operated in antiquity, they are relevant today: First as forerunners of modern terrorists in aspects of motivation, organization, targeting, and goals. Secondly, although both were ultimate failures, the fact that they are remembered hundreds of years later, demonstrates the deep psychological impact they caused.

What is Terrorism?

- Is an unlawful act of violence
- Intimidates governments or societies
- Its goal is to achieve political, religious or ideological objectives
- Uses Asymmetric Warfare - unexpected, unconventional destructive tactics as leverage against society.

Types of Terrorism

You will need to be familiar with the five types of terrorism.

- **State-Sponsored terrorism**, which consists of terrorist acts on a state or government by a state or government.

- **Dissent terrorism**, which are terrorist groups which have rebelled against their government.
- **Terrorists and the Left and Right**, which are groups rooted in political ideology.
- **Religious terrorism**, which are terrorist groups which are extremely religiously motivated and
- **Criminal Terrorism**, which are terrorists acts used to aid in crime and criminal profit.

Causes/ Ingredients are/were:

- Persecution and the killing of the unbelievers
- Plunder and ethnic cleansing
- Political assassination and revenge killing
- Gratuitous murder and unabated genocide
- Property grab and extreme lasciviousness
- Forced conversion/*Jizya*
- Sectarian persecution (destruction of Work ship places)
- Nationalism on the Rise
- Damaged Legitimacy
- Cold War Developments
- The Internationalization of Terror

Globalization and increasing international commerce supported by communication networks spanning national boundaries have created new paradigms in the very concept of national security. India is no exception to this sea change taking place the world over. So the traditional concept of national security as exercising military option only has given way to multilateral operations as exhibited by the global war on terrorism culminating in the attack on Afghanistan based on a UN resolution. Gen. V.P. Malik, former COAS, has described the diverse and multi- dimensional security challenge faced by countries as under:

Different forms of terrorism

- Economic under-development.
- Trade imbalances and disputes.
- Illegal migration of people.
- Uncontrolled population growth
- Human rights abuses.
- Drug trafficking.
- Environmental degradation

- Religious Fundamentalism

Cyber Crimes: Overview

In the information age the rapid development of computers, telecommunications and other technologies has led to the evolution of new forms of trans-national crimes known as “cyber crimes”. Cyber crimes have virtually no boundaries and may affect every country in the world. They may be vaguely defined as “any crime with the help of computer and telecommunication technology”, with the purpose of influencing the functioning of computer or the computer systems.

A generalized definition of cyber crime may be “unlawful acts wherein the computer is either a tool or target or both”. Is one form White Collar Crime.

Forms of Cyber Crimes

The subject of cyber crime may be broadly classified under the following three groups.

1. Against Individuals the person & property of an individual
2. Against Organization Firm, Company, Group of Individuals
3. Against Society at large- Government

Prevention, detection and prosecution of cyber criminals Detection and Investigation of Cyber Crimes

Crime Scene Techniques: Frequently, computer crime evidence will be seized by the execution of a search warrant- This warrant should include information about the computer, data storage devices and any peripherals that may be of concern to investigators, such as scanners- Digital Forensic Analysis- Digital forensic analysis is the science of acquiring, preserving, retrieving, and presenting data that has been processed electronically and stored on computer media

Preventing Cyber Crimes

- Protecting information, largely by making it inaccessible to unauthorized users, is a key element of preventing computer crimes
- Back-Ups and Redundant File Storage
- Backups are the single most important security measure a company or individual can take
- Install Original Anti-Virus

- Firewalls
- A firewall is a device or software that acts as a checkpoint between a network or stand-alone computer and the Internet

Information Technology Act 2000

In May 2000, both the houses of the Indian Parliament passed the Information Technology Bill. The Bill received the assent of the President in August 2000 and came to be known as the Information Technology Act, 2000. Cyber laws are contained in the IT Act, 2000. This Act aims to provide the legal infrastructure for e-commerce in India. And the cyber laws have a major impact for e-businesses and the new economy in India. The Information Technology Act, 2000 also aims to provide for the legal framework so that legal sanctity is accorded to all electronic records and other activities carried out by electronic means. The Act states that unless otherwise agreed, an acceptance of contract may be expressed by electronic means of communication and the same shall have legal validity and enforceability. Some highlights of the Act are listed below:

- Chapter-II of the Act specifically stipulates that any subscriber may authenticate an electronic record by affixing his digital signature. It further states that any person can verify an electronic record by use of a public key of the subscriber.
- Chapter-III of the Act details about Electronic Governance and provides inter alia amongst others that where any law provides that information or any other matter shall be in writing or in the typewritten or printed form, then, notwithstanding anything contained in such law, such requirement shall be deemed to have been satisfied if such information or matter is - rendered or made available in an electronic form; and accessible so as to be usable for a subsequent reference.
- The said chapter also details the legal recognition of Digital Signatures.
- Chapter-IV of the said Act gives a scheme for Regulation of Certifying Authorities. The Act envisages a Controller of Certifying Authorities who shall perform the function of exercising supervision over the activities of the Certifying Authorities as also laying down standards and conditions governing the Certifying Authorities as also specifying the various forms and content of Digital Signature Certificates. The Act recognizes the need for recognizing foreign Certifying Authorities and it further details the various provisions for the issue of license to issue Digital Signature Certificates.
- Chapter-VII of the Act details about the scheme of things relating to Digital Signature

Certificates. The duties of subscribers are also enshrined in the said Act.

- Chapter-IX of the said Act talks about penalties and adjudication for various offences. The penalties for damage to computer, computer systems etc. has been fixed as damages by way of compensation not exceeding Rs. 1,00,00,000 to affected persons. The Act talks of appointment of any officers not below the rank of a Director to the Government of India or an equivalent officer of state government as an Adjudicating Officer who shall adjudicate whether any person has made a contravention of any of the provisions of the said Act or rules framed there under. The said Adjudicating Officer has been given the powers of a Civil Court.
- Chapter-X of the Act talks of the establishment of the Cyber Regulations Appellate Tribunal, which shall be an appellate body where appeals against the orders passed by the Adjudicating Officers, shall be preferred.
- Chapter-XI of the Act talks about various offences and the said offences shall be investigated only by a Police Officer not below the rank of the Deputy Superintendent of Police. These offences include tampering with computer source documents, publishing of information, which is obscene in electronic form, and hacking.
- The Act also provides for the constitution of the Cyber Regulations Advisory Committee, which shall advise the government as regards any rules, or for any other purpose connected with the said act. The said Act also proposes to amend the Indian Penal Code, 1860, the Indian Evidence Act, 1872, The Bankers' Books Evidence Act, 1891, The Reserve Bank of India Act, 1934 to make them in tune with the provisions of the IT Act.
- As discussed in the first chapter, the Government of India enacted the Information Technology (I.T.) Act with some major objectives to deliver and facilitate lawful electronic, digital, and online transactions, and mitigate cyber-crimes.

Salient Features of I.T Act

The salient features of the I.T Act are as follows

- Digital signature has been replaced with electronic signature to make it a more technology neutral act.
- It elaborates on offenses, penalties, and breaches.
- It outlines the Justice Dispensation Systems for cyber-crimes.
- It defines in a new section that *cyber café* is any facility from where the access to the

internet is offered by any person in the ordinary course of business to the members of the public.

- It provides for the constitution of the Cyber Regulations Advisory Committee.
- It is based on The Indian Penal Code, 1860, The Indian Evidence Act, 1872, The Bankers' Books Evidence Act, 1891, The Reserve Bank of India Act, 1934, etc.
- It adds a provision to Section 81, which states that the provisions of the Act shall have overriding effect. The provision states that *nothing contained in the Act shall restrict any person from exercising any right conferred under the Copyright Act, 1957.*

Advantages of Cyber Laws

The IT Act 2000 attempts to change outdated laws and provides ways to deal with cyber crimes. We need such laws so that people can perform purchase transactions over the Net through credit cards without fear of misuse. The Act offers the much-needed legal framework so that information is not denied legal effect, validity or enforceability, solely on the ground that it is in the form of electronic records.

- In view of the growth in transactions and communications carried out through electronic records, the Act seeks to empower government departments to accept filing, creating and retention of official documents in the digital format. The Act has also proposed a legal framework for the authentication and origin of electronic records / communications through digital signature.
- From the perspective of e-commerce in India, the IT Act 2000 and its provisions contain many positive aspects. Firstly, the implications of these provisions for the e-businesses would be that email would now be a valid and legal form of communication in our country that can be duly produced and approved in a court of law.
- Companies shall now be able to carry out electronic commerce using the legal infrastructure provided by the Act.
- Digital signatures have been given legal validity and sanction in the Act.
- The Act throws open the doors for the entry of corporate companies in the business of being Certifying Authorities for issuing Digital Signatures Certificates.
- The Act now allows Government to issue notification on the web thus heralding e-governance.
- The Act enables the companies to file any form, application or any other document

with any office, authority, body or agency owned or controlled by the appropriate Government in electronic form by means of such electronic form as may be prescribed by the appropriate Government.

- The IT Act also addresses the important issues of security, which are so critical to the success of electronic transactions. The Act has given a legal definition to the concept of secure digital signatures that would be required to have been passed through a system of a security procedure, as stipulated by the Government at a later date.
- Under the IT Act, 2000, it shall now be possible for corporates to have a statutory remedy in case if anyone breaks into their computer systems or network and causes damages or copies data. The remedy provided by the Act is in the form of monetary damages, not exceeding Rs. 1 crore.

Women and Child Trafficking

Human trafficking is growing regional, national, and global problems. This complex, webbed system of global crime violate fundamental human rights (Kofi Annan, 2007); threaten the security and welfare of national and international civil societies; and undermine the authority and capacity of national governments to protect their populations. This illicit activity damage and destroy millions of lives. Most vulnerable victims are women and children. Trafficking is more widespread than most people realize. Efforts to eradicate this blight appear to be losing ground to criminal elements. Statistics show that current trafficking efforts have increased steadily over the last 15 years, but the incidence of trafficked persons has also continued to increase, so that the traffickers have prevented counter-trafficking workers from bringing a decrease in human trafficking related statistics. Hence, author argues the continued increase results from the non- comprehensive strategy that has been employed by the international

Definition- Human trafficking

According to the protocol to prevent, suppress and punish trafficking in persons, especially women and children, who supplement the United Nations convention against transnational organized crime, trafficking in persons is defined as follows (UNGIFT, 2007, pp 7)

How are victims trafficked?

Basically, when we take any case were a human is trafficked they are likely to have experienced one of the following force, fraud and coercion are methods used by traffickers to

press victims into lives of servitude or abused.

Force: Rape, kidnaping and abduction, beatings and confinement.

Fraud: Includes false and deceptive offers/ promise of employment, marriage & better life.

Coercion: Threats of serious harm to, or physical restraint of, any person; any scheme, plan or pattern intended to cause victims to believe that failure to perform an act would result in restraint against them; or the abuse or threatened abuse of the legal process.

Law Preventing: Immoral Traffic (Prevention) Act, 1956

[Act No. 104 of 1956 dated 30th. December, 1956]

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	Footnotes

An Act to provide in pursuance of the International Convention signed at New York on the 9th day of May, 1950, for [the prevention of immoral traffic]. Be it enacted by Parliament in the Seventh Year of the Republic of India as follows:

Comment: It would, therefore, be meaningful if rehabilitation programmes are launched and implementation machinery is set not only to eradicate the fertile source of prostitution but also for successful rehabilitation of the fallen women who are the victims of circumstances to regain their lost respect to the dignity of person to sustain equality of status, economic and their social empowerment. Gaurav Jain, Petitioner v. Union of India AIR 1997 SUPREME COURT 3021.

Drug-Related Crimes: Drug Use, Abuse, and Misuse

Drug-related crimes are a significant concern globally, particularly in countries like India, where the illegal drug trade and substance abuse have a profound impact on social, economic, and health systems. To understand drug-related crimes, it is essential to explore the concepts of drug use, abuse, and misuse, as well as their links to criminal behavior. This section will define these terms, examine the causes and consequences of drug abuse, and discuss the legal implications of drug-related offenses.

1. Drug Use

Drug use refers to the consumption of psychoactive substances, whether legal or illegal, for their intended purpose. This can include over-the-counter medications, prescription drugs, and substances that are used recreationally or medicinally. In the context of illegal drugs, drug use involves the consumption of substances like marijuana, heroin, cocaine, or synthetic drugs.

The legal framework in many countries, including India, distinguishes between drug use and drug abuse. While occasional use of certain drugs may be considered harmless or medically necessary (e.g., painkillers or sedatives), regular or recreational use of illegal substances often leads to serious health, psychological, and social consequences.

2. Drug Misuse

Drug misuse occurs when a substance is used in a manner that deviates from the prescribed or intended use. This can include the recreational use of prescription medications

(e.g., painkillers or benzodiazepines), which were originally intended for medical purposes, but are used by individuals without a prescription or in higher doses than recommended.

Misuse of prescription drugs is particularly problematic because it can lead to dependence, overdose, and other health complications. Common examples of drug misuse include:

- **Taking medication prescribed for someone else.**
- **Using prescribed medication to achieve a feeling of euphoria.**
- **Exceeding the recommended dose for therapeutic reasons.**

Drug misuse is often a precursor to drug abuse, which may escalate if not addressed through intervention.

3. Drug Abuse

Drug abuse refers to the habitual and often harmful use of substances to achieve psychological or physical effects. It goes beyond the occasional or recreational use of a substance and involves an ongoing, compulsive desire for the drug despite its detrimental consequences. Drug abuse leads to physical, emotional, and social harm and is often associated with addiction or substance dependence.

Drug abuse can occur with both legal (e.g., alcohol, tobacco) and illegal (e.g., heroin, cocaine) substances. Common symptoms of drug abuse include:

- **Inability to control the amount or frequency of drug use.**
- **Continued use despite harmful consequences to health, relationships, or employment.**
- **Development of tolerance, requiring larger amounts of the substance to achieve the same effect.**
- **Physical dependence or withdrawal symptoms when not using the drug.**

The line between misuse and abuse can be blurred, but the key difference lies in the persistent and damaging patterns of behavior associated with abuse.

4. Drug-Related Crimes

Drug-related crimes are offenses that are directly linked to the use, distribution, or manufacturing of illegal drugs. These crimes can range from possession to trafficking and can also involve activities related to drug use, such as theft, assault, and murder. Drug-related crimes have social, legal, and economic consequences, as they contribute to public health problems, crime rates, and social instability.

Some key categories of drug-related crimes include:

- **Possession:** The act of having illegal drugs in one's possession. In many jurisdictions, even small amounts of drugs can result in criminal charges.
- **Drug Trafficking:** The illegal production, distribution, and sale of controlled substances. Drug trafficking is a serious offense and can involve organized criminal syndicates.
- **Drug Manufacturing:** The illegal production of drugs, particularly synthetic substances like methamphetamine or ecstasy.
- **Drug Abuse and Public Disorder:** This includes crimes committed by individuals who are under the influence of drugs, such as public intoxication, driving under the influence (DUI), and violent offenses like assault or domestic abuse.

Drug-related crimes not only affect individuals directly involved but also put communities and economies at risk. Drug trafficking networks often operate transnationally, involving the smuggling of drugs across borders and contributing to global criminal syndicates.

5. Consequences of Drug Abuse and Misuse

The consequences of drug abuse and misuse are multifaceted, affecting the individual, the family, the community, and the society at large. These consequences can be physical, psychological, social, and economic.

- **Health Risks:** Prolonged drug use and abuse can lead to serious health conditions, including addiction, organ damage (e.g., liver, lungs, heart), mental health disorders (e.g., anxiety, depression, psychosis), and overdose.
- **Legal Consequences:** Drug abuse often leads to legal troubles, such as arrests, imprisonment, and criminal records. In some countries, drug trafficking and manufacturing carry severe penalties, including long-term prison sentences.
- **Social Consequences:** Drug abuse can lead to broken relationships, family dysfunction, and social exclusion. It often contributes to criminal activities like theft, violence, and other offenses, as individuals may resort to illegal means to fund their addiction.
- **Economic Consequences:** The economic costs of drug abuse are high. These include healthcare costs, loss of productivity in the workforce, law enforcement and judicial expenses, and the broader impact on economic development.

6. Legal Framework and Response to Drug-Related Crimes

In India, drug-related crimes are governed by the **Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act)**, which criminalizes the production, manufacture,

distribution, and possession of illegal drugs. The law lays down stringent penalties for drug-related offenses, including imprisonment and fines, with more severe punishments for drug trafficking.

The **Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988** was also enacted to prevent the smuggling of narcotics and psychotropic substances into India from other countries. Law enforcement agencies, such as the **Narcotics Control Bureau (NCB)**, the **Central Bureau of Narcotics (CBN)**, and state police forces, are tasked with enforcing these laws and combating drug-related crimes.

India also has various rehabilitation and treatment centers for individuals struggling with drug addiction. These centers focus on the medical, psychological, and social aspects of addiction recovery, providing support to those who wish to break free from the cycle of drug abuse.

7. Prevention and Education

Preventing drug-related crimes requires a multifaceted approach that includes education, social interventions, and community support. Schools, colleges, and community organizations can play a crucial role in educating individuals about the dangers of drug misuse and abuse. Prevention programs should focus on:

- **Raising awareness about the risks of drug abuse.**
- **Encouraging healthy lifestyle choices.**
- **Providing early interventions for at-risk individuals.**

Communal Violence in India: A Historical Perspective

Communal violence in India has deep historical roots, shaped by centuries of religious, cultural, and political tensions. These tensions have evolved over time, with various historical incidents exacerbating divisions between different religious and social groups. Understanding communal violence from a historical perspective requires examining key events, the role of colonialism, and the post-independence challenges India faced in reconciling its diverse population.

The Roots of Communalism: Pre-Colonial India

Historically, India has been a land of **religious pluralism**, with Hindus, Muslims, Sikhs, Buddhists, and other communities coexisting for centuries. Though religious and cultural differences existed, there were periods of peaceful coexistence, particularly in earlier periods such as during the **Delhi Sultanate** (1206–1526) and **Mughal Empire** (1526–1857). The Mughals, for instance, adopted policies of relative tolerance toward non-Muslim

subjects, especially under rulers like Akbar, who promoted policies of religious integration and dialogue.

However, the arrival of European colonial powers in the 17th century, and particularly the **British Raj** from the 18th century onward, significantly changed the dynamics. The British implemented a **divide-and-rule** strategy, which exacerbated religious and social divides to maintain control over the Indian subcontinent. They often relied on existing religious and caste distinctions to secure their rule, fostering suspicion between communities.

The Role of British Colonialism

British colonialism played a significant role in the emergence and consolidation of communal violence. The **divide-and-rule** policies of the British intensified religious, ethnic, and social divisions in India, particularly during the 19th and early 20th centuries. The introduction of policies like the **census** helped categorize populations along religious lines, which, in turn, reinforced the idea of communal identities. British administrators often favored one group over another, creating imbalances in political and social power.

The **Macaulay Minute** in the early 19th century also led to a rise in educated elites who were more aware of their religious and cultural differences. As a result, political movements started to emerge based on religious identity, most notably the **Indian National Congress (INC)** and the **All India Muslim League (AIML)**, which, over time, became more religiously oriented. This period marked the start of organized religious politics in India, a development that would later play a major role in the rise of communal violence.

The Partition of India and its Aftermath

The most significant event that gave rise to communal violence was the **partition of India in 1947**, which created the separate states of **India** and **Pakistan**. The partition was primarily based on religious lines, with Pakistan becoming a Muslim-majority nation and India retaining its Hindu-majority status. The division of the subcontinent was accompanied by one of the bloodiest episodes of communal violence in history.

The migration of millions of people between the newly created borders led to widespread violence, as Hindus, Sikhs, and Muslims targeted each other in brutal massacres. The partition of India is often viewed as the beginning of large-scale communal violence, and the scars from this period still resonate in the socio-political dynamics of modern India. The violence resulted in the deaths of an estimated **one to two million** people and the displacement of **over 10 million**. The effects of the partition sowed the seeds of distrust and animosity between the two communities, which manifested in later years in numerous riots.

Post-Independence Communal Violence

After India gained independence, communal violence did not cease, and several incidents marked the post-independence period. In the years following independence, the fragile new nation struggled to establish a sense of national unity. While the **Indian Constitution** enshrined secularism and equal rights for all, communal violence continued to affect the country, and political movements often used religion as a tool to rally support.

One of the first major post-independence communal conflicts was the **1950s anti-Muslim riots** in the city of **Delhi**, triggered by the refugee crisis following the partition. These riots highlighted the fragile nature of Hindu-Muslim relations even after independence. The **1961 anti-Sikh riots** and the violence in **Nagaland** during the 1950s further demonstrated how ethnic and religious identities were still central to political mobilization and were prone to manipulation for electoral gains.

Major Incidents of Communal Violence in Post-Independence India

1. **The 1984 Anti-Sikh Riots:** After the assassination of Prime Minister **Indira Gandhi** by her Sikh bodyguards, violent mobs went on a rampage against the Sikh community, killing thousands and destroying homes and businesses. The violence, considered one of the most tragic events in post-independence India, was viewed by many as an act of **state-sponsored violence**, with politicians allegedly playing a role in inciting the rioting.
2. **The 1992 Babri Masjid Demolition:** On December 6, 1992, the **Babri Masjid**, a 16th-century mosque in Ayodhya, was demolished by Hindu nationalist groups. This incident, which was linked to the demand for the construction of a **Ram Temple** on the site, triggered a wave of communal violence across India. The demolition not only resulted in numerous deaths and property destruction but also intensified Hindu-Muslim polarization and gave rise to a new wave of **Hindu nationalism**.
3. **The 2002 Gujarat Riots:** The **2002 Gujarat riots** are one of the most devastating examples of communal violence in recent decades. Following the burning of a train carrying Hindu pilgrims in Godhra, violence broke out across Gujarat, particularly targeting Muslims. More than 1,000 people, predominantly Muslims, were killed in the violence. The role of the state government, led by **Narendra Modi**, was widely criticized, with accusations that the authorities either failed to act or actively encouraged the violence.

Political and Social Dimensions of Communal Violence

Communal violence in India is often exacerbated by **political manipulation**. Political parties, especially those with religious affiliations, have been known to inflame tensions for electoral gains. The rise of **Hindu nationalist politics**, led by parties like the **BJP**, has contributed significantly to the growing communal divide. The **Hindu-Muslim divide** remains a key point of political contestation, with both communities often pitted against each other during elections and political movements.

The **economic marginalization** of religious minorities also plays a crucial role in perpetuating communal violence. Discriminatory practices, coupled with limited access to education, healthcare, and employment opportunities, have pushed certain communities into vulnerable positions, making them easy targets for exploitation by political forces.

Killings in the Name of Honour: Understanding the Phenomenon

Killings in the name of honour, also known as **honour killings**, refer to the murder of individuals, typically women, by family members or community members who believe the victim has brought shame or dishonour upon their family or community. These killings are deeply rooted in cultural, social, and patriarchal norms that value **family reputation**, **social standing**, and **gender roles** above the lives and rights of individuals, particularly women.

Definition and Scope

Honour killings occur when a family or community member kills someone, typically a woman, for actions perceived as dishonouring their family. These actions can include marrying someone without the family's consent, engaging in sexual activity outside of marriage, seeking a divorce, or even behaving in a way considered inappropriate by cultural standards. Although the practice is most often associated with **South Asian**, **Middle Eastern**, and **African** communities, it occurs worldwide. In some countries, the legal systems may even offer leniency for honour killings, or family members may receive lighter sentences due to the cultural beliefs surrounding the act.

Sociocultural Factors

The roots of honour killings lie deeply embedded in **patriarchal societies**, where women's autonomy is severely restricted. In many cultures, the concept of **family honour** is tightly linked to the perceived purity and behaviour of women. Women are often seen as the bearers of family honour, and their actions are interpreted as a reflection of the entire family's reputation. Honour in these contexts is usually tied to **sexual morality**, **obedience**, and

marital compliance. Any deviation from these traditional roles, such as choosing a partner against family wishes or leaving an abusive marriage, is seen as an affront to family pride, leading to violent retribution.

In **India, Pakistan,** and other South Asian countries, the practice of honour killings is rooted in a history of **caste, religion,** and **tribal loyalty,** where strict social codes dictate acceptable behavior. For example, in some regions of India, an inter-caste marriage can result in the murder of one or both partners by their families, as this is seen as a violation of traditional norms that maintain social order. Similarly, in **Pakistan** and **Afghanistan,** family honour is often tied to women's control over their sexuality, and violations may lead to deadly consequences.

Psychological and Legal Dimensions

Psychologically, the perpetrators of honour killings are often driven by **shame** and **embarrassment** over perceived social transgressions. These emotions are amplified by the belief that the family's reputation is permanently damaged, leading them to resort to drastic actions to "restore" honour. The individuals involved in these killings often view their actions as a form of **justice** or **retribution,** which can be reinforced by their community's approval or indifference.

Legally, honour killings are a serious violation of human rights. However, in certain cultures or legal systems, **leniency** towards such killings has existed. In some countries, perpetrators of honour killings have been acquitted or given minimal sentences due to the belief that they were defending their family's honour. For example, in **Jordan, Pakistan,** and **Egypt,** some honour killings have been justified by laws that offer reduced sentences for crimes committed in the name of honour. This has sparked international outcry and calls for reform of laws that indirectly condone such acts of violence.

In contrast, international human rights organizations such as **Amnesty International** and **Human Rights Watch** have been at the forefront of advocating for legal reform to end the impunity associated with honour killings. These organizations argue that the state's obligation is to **protect human rights,** irrespective of cultural norms or practices. Several countries have amended their laws to impose stricter punishments for perpetrators of honour killings and to recognize the rights of women in family matters, particularly regarding marriage and divorce.

Efforts to Combat Honour Killings

Efforts to combat honour killings involve both **legal reforms** and **educational campaigns** to change societal attitudes. Many countries have enacted stronger laws

criminalizing honour-based violence. For example, in **Turkey**, where honour killings have been prevalent in some regions, the government has introduced legislation that imposes harsher penalties for such crimes and recognizes them as a violation of human rights.

Moreover, **NGOs** and **activists** play a crucial role in raising awareness about honour killings and advocating for survivors. Organizations like **The Honour Network** in the UK and **Musawah** in Malaysia work to support victims and raise awareness about the issue. These groups not only help survivors but also engage in grassroots activism to challenge the societal norms that perpetuate honour-based violence.

In addition to legal measures, **education** and **awareness-building campaigns** are essential in changing deeply ingrained cultural attitudes. Awareness programs in schools and communities, along with media campaigns, can help shift public perception about the role of women in society and challenge traditional beliefs about family honour. The involvement of **men and boys** in these campaigns is also critical in changing attitudes toward gender equality and respect for individual rights.

Mob Violence: Understanding the Phenomenon

Mob violence refers to the violent actions carried out by a large group of people, often triggered by collective emotions such as anger, fear, or hatred, and typically occurring in a spontaneous or uncontrolled manner. This form of violence can involve physical harm to individuals, property damage, or both, and it often stems from a breakdown of social norms and a lack of individual accountability. Mob violence can take various forms, such as riots, lynchings, and collective assaults, and is usually fueled by political, social, or religious tensions.

Sociological Causes of Mob Violence

Mob violence is often seen as a collective phenomenon where individuals lose their sense of personal responsibility, feeling empowered by the anonymity of the crowd. Sociologists have suggested that **deindividuation**, a psychological state where individuals in a crowd behave in ways they normally wouldn't, plays a key role in mob behavior. The anonymity of a crowd reduces the fear of punishment and increases the likelihood of violent acts. According to **Crowd Psychology** theories, such behavior is driven by emotional contagion—when emotions like anger or fear spread rapidly throughout a crowd, leading to an escalation in aggression.

Research by **Le Bon (1895)** in his work *The Crowd: A Study of the Popular Mind* explains that individuals within a mob lose their rational thinking and act based on group

dynamics rather than personal conviction. This psychological transformation helps to explain the extreme actions that often accompany mob violence.

Political and Economic Factors

Mob violence often occurs in situations where there are deep political, economic, or social divisions. Historical examples include race riots in the United States, political riots in various parts of the world, or religiously motivated mob actions. For instance, **communal riots** in India, like the ones that took place after the Babri Masjid demolition in 1992, were rooted in political manipulation and deep religious divides. Such events often become volatile when **political leaders** or other influential figures exploit these divisions for personal or group gain, inciting the mob to violence.

In economically disadvantaged areas, people may feel that the system is unjust or has failed them, which increases the likelihood of violent collective actions. When individuals face economic hardship or discrimination, they may resort to mob violence as a means of expressing frustration or retaliation.

The Role of Media in Mob Violence

In the age of social media, the spread of information—or misinformation—can also play a significant role in instigating mob violence. Events such as false rumors, hate speech, or provocative content shared on social media platforms can quickly escalate into real-world violence. For example, **WhatsApp rumors** have been blamed for triggering mob lynchings in India, where messages about child kidnappers or alleged criminals spread rapidly and without verification, leading to mob action against the alleged offenders.

The rapid spread of information and emotions through social media has made it easier for groups to organize and act in moments of crisis. According to **Anderson and McFadden (2019)**, this amplification of emotions in the digital space increases the likelihood of people taking to the streets in large groups to act on their collective anger or fear.

Legal and Societal Responses

The legal responses to mob violence vary across different legal systems, but they often involve stringent penalties for those involved in the violence. **Laws against mob lynching**, such as those in India or the United States, seek to deter public acts of violence and hold individuals accountable for their actions in the crowd. In some jurisdictions, **anti-mob legislation** is used to prevent large groups from gathering in situations that may turn violent.

However, the effectiveness of legal frameworks in preventing or controlling mob violence is often undermined by factors like lack of enforcement, political influence, or the complexity of managing large crowds during unrest. For instance, the **failure of law**

enforcement to intervene promptly during riots or protests often exacerbates the situation, allowing mob violence to escalate further.

Preventing Mob Violence

Preventing mob violence requires a multifaceted approach that addresses the underlying social, political, and psychological causes. Some approaches include:

- **Education and awareness campaigns** to reduce prejudice, misinformation, and social division.
- **Strengthening law enforcement and judicial systems** to respond quickly to potential threats of mob violence, ensuring swift action to disperse crowds before violence erupts.
- **Community engagement programs** aimed at reducing tensions and fostering dialogue between different social, ethnic, or religious groups.

Crime against Marginalized Society

Crime against marginalized societies is a significant issue that highlights the intersection of social inequality, discrimination, and criminal behavior. Marginalized groups, including racial minorities, lower socioeconomic classes, women, LGBTQ+ communities, persons with disabilities, and indigenous populations, often face systemic discrimination and social exclusion, making them vulnerable to various forms of crime. These crimes can be physical, psychological, or structural, and they are typically characterized by the perpetration of violence, harassment, exploitation, or neglect against individuals or communities who are already disadvantaged in society.

One of the most pervasive forms of crime against marginalized societies is **discriminatory violence**, which includes hate crimes, caste-based violence, racial violence, and gender-based violence. In countries like India, caste-based violence remains a significant issue where individuals from lower castes, particularly Dalits, face brutality and oppression, both at the hands of state actors and private individuals. The **National Crime Records Bureau (NCRB)** in India regularly reports high incidents of crimes against Dalits, including violence, exploitation, and forced labor. Similarly, in the United States, racial minorities, particularly Black individuals, experience higher rates of police violence, discrimination, and racial profiling. These acts of violence not only cause direct harm but also perpetuate a cycle of marginalization and disadvantage, reinforcing the vulnerability of these communities.

Another critical form of crime against marginalized groups is **economic exploitation**. Individuals from marginalized communities often find themselves at the mercy of

exploitative practices due to their limited access to resources, education, and employment opportunities. For instance, **child labor** and **human trafficking** disproportionately affect marginalized children and women in impoverished regions. Exploiters target these individuals, often because they lack the support systems to escape exploitation, and are more likely to be ignored or dismissed by authorities. Structural inequality and systemic barriers prevent them from accessing legal protection or social services.

Sexual violence is another grave crime that disproportionately affects marginalized women and girls. In many societies, women from marginalized communities are more likely to suffer from sexual harassment, rape, and domestic violence, often in silence, due to factors such as social stigma, lack of access to justice, and cultural normalization of violence. In India, for example, women from economically disadvantaged and lower-caste backgrounds are particularly vulnerable to sexual violence, with fewer avenues to report or seek justice due to societal pressures and a lack of trust in the justice system. The absence of adequate representation in law enforcement and judicial systems further exacerbates this vulnerability.

The **criminalization of poverty** also contributes to the marginalization of vulnerable groups. Poverty often leads to higher involvement in petty crimes, such as theft, loitering, or vagrancy, but individuals from marginalized communities are disproportionately arrested, convicted, and imprisoned for such offenses. Their social standing and lack of legal support often result in harsher sentences and an increased likelihood of reoffending. This creates a cycle of criminalization, where individuals in poverty are more likely to experience legal consequences, further pushing them into the margins of society.

LGBTQ+ individuals also face a high risk of crime and violence, particularly in societies where sexual orientation and gender identity are criminalized or stigmatized. In countries like Uganda or Russia, where laws and social norms discriminate against LGBTQ+ people, individuals face the threat of physical violence, harassment, and legal persecution. Even in more liberal societies, LGBTQ+ individuals often experience hate crimes and discrimination, leading to higher rates of mental health issues, substance abuse, and social alienation. The lack of legal protections and societal acceptance further increases their vulnerability to victimization.

Lastly, **systemic discrimination** within law enforcement and judicial systems also perpetuates crimes against marginalized societies. Discriminatory policing practices, racial profiling, and unequal treatment of marginalized communities in legal proceedings often lead to a lack of accountability for those who perpetrate crimes against these groups. Marginalized individuals are often denied access to legal remedies due to the biased behavior of police

officers, prosecutors, and judges, and this creates a culture of impunity for those who commit crimes against them.

Addressing crimes against marginalized societies requires a multi-faceted approach. Legal reforms, enhanced protection mechanisms, and stronger enforcement of anti-discrimination laws are essential to reducing vulnerability and ensuring justice. There must also be a focus on **awareness-building** and **advocacy**, empowering marginalized communities to seek justice and stand up against crimes that disproportionately affect them. Education on human rights, legal literacy, and creating supportive environments for victims of crime can help break the cycle of violence and discrimination. Furthermore, ensuring **representation** of marginalized groups in positions of power within the criminal justice system can help promote fairness and prevent bias in the handling of crimes.

Crime Data resources

Crime data resources are essential for understanding the trends, patterns, and causes of criminal behavior within a society. These resources provide valuable insights to policymakers, law enforcement agencies, researchers, and the general public. The collection, analysis, and dissemination of crime data contribute to the development of informed criminal justice policies and help allocate resources more effectively to combat crime. These resources include national crime databases, governmental reports, and specialized surveys aimed at providing a comprehensive picture of criminal activities.

In India, the **National Crime Records Bureau (NCRB)** is the primary agency responsible for collecting, analyzing, and disseminating crime data. Established in 1986, the NCRB publishes annual reports like **Crime in India**, which provide detailed information on a wide range of crimes such as murder, theft, rape, and cybercrime. These reports also include data on crime rates, the number of arrests made, and the performance of law enforcement agencies. The NCRB data is essential for understanding national crime trends, including regional variations and emerging patterns. The bureau also conducts research and creates databases on issues like missing persons, suicides, and human trafficking.

In addition to the NCRB, other key national crime data resources include various state-level reports and databases. Each Indian state has its own law enforcement agencies that contribute data to the NCRB, but local reports may also highlight issues specific to particular regions, such as communal violence or drug trafficking. These state-level resources help local authorities tailor crime prevention strategies to the unique needs of their communities.

Globally, crime data resources take many forms, including law enforcement agencies, independent organizations, and victim surveys. For example, in the United States, the

Federal Bureau of Investigation (FBI) is responsible for compiling national crime data through its **Uniform Crime Reporting (UCR)** program. The UCR tracks crime trends and arrests across the country, providing a comprehensive snapshot of criminal activity. The **National Incident-Based Reporting System (NIBRS)**, also managed by the FBI, offers a more detailed and nuanced view of crime incidents by categorizing them according to specific details like location, time, and victim-offender relationships.

Another important resource in the U.S. is the **National Crime Victimization Survey (NCVS)**, which collects data directly from individuals about their experiences as victims of crime. The NCVS is particularly valuable because it captures crimes that are not reported to law enforcement, thus providing a more accurate representation of the crime rate. This survey also collects information on the circumstances of the crime and the victims' experiences with the criminal justice system.

Internationally, organizations such as the **United Nations Office on Drugs and Crime (UNODC)** play a significant role in compiling and sharing global crime data. The UNODC's **Crime and Criminal Justice** statistics provide comparative data on various forms of crime, such as human trafficking, organized crime, and corruption, helping policymakers worldwide address transnational criminal activities.

In addition to government and law enforcement data, private organizations, academic institutions, and non-governmental organizations (NGOs) also contribute to crime data resources. These sources often focus on specific types of crime or marginalized populations. For instance, **the Bureau of Justice Statistics (BJS)** in the U.S. conducts studies on issues like juvenile delinquency, domestic violence, and the effectiveness of different crime prevention programs. Similarly, NGOs often collect data on crimes such as domestic abuse or sexual violence, offering insights that might not be fully captured by law enforcement agencies.

The importance of these diverse crime data resources cannot be overstated. They not only inform policy but also support academic research, social initiatives, and law enforcement strategies. By analyzing crime data, experts can identify patterns and emerging trends, predict future crime risks, and suggest evidence-based strategies for preventing crime and ensuring justice. However, it is essential that these resources are used critically, considering issues of data accuracy, reporting bias, and the limitations of official records in capturing the full extent of criminal activity. For example, crimes such as domestic violence and sexual assault are often underreported, meaning that official crime data may not fully reflect the extent of such offenses.

Handling Crime data

Handling crime data involves the collection, management, analysis, and dissemination of crime-related statistics to ensure that law enforcement agencies, researchers, policymakers, and the public can access reliable and accurate information. Proper handling of crime data is crucial for making informed decisions in criminal justice and crime prevention strategies. It requires attention to detail, accuracy, confidentiality, and a clear process for managing sensitive information. Below is an overview of the processes involved in handling crime data effectively.

1. Collection of Crime Data

Crime data is typically collected from a variety of sources, including law enforcement agencies, government bodies, and independent organizations. The main methods of data collection include:

- **Official Crime Reports:** Law enforcement agencies submit data to national databases like the **National Crime Records Bureau (NCRB)** in India, or the **Federal Bureau of Investigation (FBI)** in the U.S. These reports provide data on crime rates, arrests, and law enforcement activities, categorized by type of crime, demographics, and geographic location.
- **Victimization Surveys:** Surveys like the **National Crime Victimization Survey (NCVS)** in the U.S. provide information directly from victims about crimes they experienced, including those not reported to the police.
- **Specialized Data:** Some agencies, such as the **United Nations Office on Drugs and Crime (UNODC)**, collect international crime data, especially related to transnational issues like drug trafficking and human trafficking.

2. Data Management and Organization

Once crime data is collected, it needs to be properly organized and stored to ensure it can be analyzed efficiently. Effective data management involves:

- **Data Classification:** Crime data is often categorized by type (e.g., violent crime, property crime, drug offenses), geographic location, time, and demographic factors (e.g., age, gender). This classification allows for meaningful analysis and helps identify patterns and trends in crime.
- **Database Systems:** Modern crime data is often stored in specialized database systems that allow for easy access and retrieval. These systems ensure that data is properly indexed and secured to prevent unauthorized access and data corruption.

- **Data Standardization:** Different agencies may use varying definitions and categorizations for crimes, so it is important to standardize the data to ensure consistency. For example, the **Uniform Crime Reporting (UCR)** program in the U.S. provides standardized definitions and reporting guidelines to ensure consistency across states.

3. Data Analysis

Analyzing crime data is essential for understanding crime trends, the effectiveness of law enforcement, and public safety issues. The analysis can be performed at various levels:

- **Trend Analysis:** By examining crime data over time, analysts can identify patterns, spikes, or declines in specific types of crime. This information helps policymakers and law enforcement agencies allocate resources effectively and adjust strategies accordingly.
- **Geospatial Analysis:** Mapping crime data geographically allows analysts to identify high-crime areas (often called "hot spots") and design targeted interventions. **Geographic Information Systems (GIS)** are commonly used tools for this type of analysis.
- **Demographic Analysis:** Understanding the demographic characteristics of offenders and victims (such as age, gender, socioeconomic status, and race) can reveal important information about the social and economic factors contributing to crime. This type of analysis can guide the development of targeted prevention programs.
- **Predictive Analysis:** With advancements in technology, some agencies use predictive analytics to forecast crime trends. By analyzing historical data, machine learning algorithms can predict where and when crimes are likely to occur, enabling proactive policing.

4. Data Interpretation

Interpreting crime data requires understanding the limitations and potential biases in the data. Factors such as underreporting, changes in law enforcement practices, and shifts in public awareness can influence crime statistics. It is important to contextualize data and recognize that increases in crime rates might reflect better reporting or improved detection capabilities, rather than actual increases in criminal behavior.

- **Challenges in Interpretation:** Data interpretation can be difficult due to underreporting (especially in cases like domestic violence or sexual assault), differing definitions of crimes, and variances in how data is collected across different

jurisdictions. Researchers and policymakers need to be aware of these factors when drawing conclusions.

5. Data Dissemination

Disseminating crime data is essential for transparency and accountability in the criminal justice system. Public access to crime data allows communities to stay informed about safety issues in their areas and can help in the formulation of community-based crime prevention strategies. However, privacy and confidentiality must be carefully maintained to avoid stigmatization or harm to individuals involved in criminal cases.

- **Public Reports:** Crime data is often published in annual reports or online dashboards. For example, the **Crime in India** report published by NCRB provides detailed statistics on crime in the country, breaking down data by type of crime, state, and year. Similarly, the FBI's **Crime in the United States** report provides comprehensive crime statistics at the national and state levels.
- **Research Publications:** Academic researchers and think tanks often use crime data to publish studies on criminal justice issues, contributing to a broader understanding of crime and its societal impacts.
- **Policy Briefs:** Crime data is also used to inform policy decisions. Government agencies and NGOs may produce policy briefs based on crime data to recommend changes in laws, policing strategies, or social programs aimed at reducing crime.

6. Ensuring Accuracy and Integrity

To ensure that crime data remains accurate, reliable, and valid, it is essential to maintain the integrity of the data throughout the collection, management, and analysis process. This includes preventing manipulation, ensuring consistency in data entry, and conducting regular audits to verify the accuracy of the data.

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OTHER RELATED WEBSITES

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