THEORETICAL ORIENTATION
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The information in this chapter has been organised under the following subheads:

A. Crime, Criminal Behaviour, Criminology
B. Recidivism
C. Different Perspectives in Criminology
D. Theories of Crime and Punishment
E. Psychosocial Model of Criminal Behaviour and Recidivism

CRIME, CRIMINAL BEHAVIOUR, CRIMINOLOGY

Crime

Crime can be defined as the behaviour or an activity in violation of the legal code. Legally speaking, a criminal is one who is convicted by a court for violating the law of the land. A person who is arrested by the police but is let off by the court cannot be designated as a criminal because he is not convicted of a crime.
Criminal Behaviour

Criminal Behaviour is that intentional behaviour which violates a criminal code, intentional in that it did not occur accidentally or under duress. An individual must have known what he or she was doing during the criminal act. Further, this implies that he or she would have known the consequences of the act, which is committed against the laws of the society. The sanctions against unintentional violation of the socio-legal codes are virtually non-existent. However, researchers have to encounter problems while conducting research because the degree of awareness of intentions and consequences among different types of criminals varies.

Criminology

The origin of the term ‘criminology’ can be traced back to the French anthropologist Topinard (1899). In its narrower sense, criminology is defined, as the scientific study of crime as a social phenomenon. It can also be defined, as the science that deals with different aspects of behaviour that violates criminal law.
However, broadly speaking, criminology refers to the entire body of knowledge regarding the etiology, prevention, punishment, and operation of correctional institutions. It also studies the societal response to crime and managing crime. Criminology as a distinct discipline has grown vastly from its origin about a hundred years ago.

**RECIDIVISM**

**Meaning, Nature, and Incidence of Recidivism**

Recidivism is derived from the Latin word *Recidere* which means to fall back. A forerunner of the word recidivism was used as far back as 1609. A form of the, now obsolete, *recide*, which meant to fall back, appeared in a 1609 version of the Bible; “Recedivation into sin maketh the former repentance frustrate”

The word *recidivism* was first used in a German publication *Pall Mall* in 1886, “…*recidivism* is largely represented by low foreheads, the scowling brows and cunning eyes”. It seems
quite logical that the word progressed from describing relapse into sin to referring relapse into crime.

In the contemporary literature the term recidivism is used to imply a tendency towards chronic criminal behaviour leading to numerous arrests and re-imprisonment. “Recidivism is the habit of relapsing into crimes by the criminals” (National Crime Records Bureau, Ministry of Home Affairs, 1996). Sometimes the term ‘habitual offender’ and ‘career criminal’ is also used to describe a recidivist. A criminal career is a sequence of offences during some portion of an individual’s life. Other terms used are – persistent offenders, hardened criminals, incorrigible offenders, professional criminals, potential criminals, repeaters etc. As there is no standardized typology of repeaters, it is very difficult to identify and classify them.

A habitual offender is defined in section 2(3) of the Punjab Habitual Offenders (Control and Reforms) Act, 1952, as “(a) A person who during any continuous period of 5 years whether
before or after the commencement of this Act, has been convicted and sentenced to imprisonment more than twice on account of any one or more of the offences committed on different occasions and not constituting parts of the same transactions; and (b) Who has, as a result of such conviction suffered imprisonment at least for a total period of 12 months.” (Manual for the Superintendence and Management of Prisons, 1996).

The incidence of recidivism is given in the official records of Ministry of Home Affairs, Government of India. The percentage of recidivists among all offenders increased marginally to 8.6% during 1996 as compared to 8.3% in 1995. In absolute terms, the number of past offenders involved in repeating crimes violating the Indian Penal Code during 1996 was 2,22,831 as compared to 2,13,960 in 1995. The highest percentage of recidivism was noticed in the states of Mizoram (51.7%) followed by 23.9% in Punjab, whereas this phenomenon has eluded the State of Jammu and Kashmir and the Union
territories of Andaman and Nicobar Islands and Dadra and Nagar Haveli. As many as thirteen States and Union Territories recorded higher percentage of recidivists than the All-India average of 8.6%. A comparative picture of recidivists in some selected states and Union Territories where the variation was high, is depicted in Table 1. Table 2 depicts frequency of convictions in 1995-96.

DIFFERENT PERSPECTIVES IN CRIMINOLOGY

Sociological Perspective of Crime

This has two approaches, the structural and the processual. The structural viewpoint studies crime as it relates to the social structure of the society. It is primarily concerned with discovering conditions within a society that cause criminal behaviour. Adherents to this view usually consider demographic, ecological, and economic characteristics of the criminal groups. The processual approach is concerned with how people become criminals. They emphasize that individuals learn criminal
tendencies and behaviour in the society. Alternatively, other individuals don't become criminals because they bond with people in conventional society who prevent them from breaking the law.

Processual theorists also emphasize the reactions of society that help maintain the criminal act. According to Sutherland’s principle of differential association (Sutherland and Cressey, 1974) criminal behaviour is learnt because an individual learns more favourable than unfavourable ‘definitions’ or normative meanings regarding violations of law in intimate personal groups. Akers (1977) reformulated this theory to dovetail it with Skinnerian and social learning perspectives in his theory of Differential Association – Reinforcement. He holds that deviant behaviour develops due to social reinforcements given by significant others. The normative definitions of the group operate as discriminative stimuli and become internal cognitive guides regarding good or bad conduct. Becker (1966), assigning more importance to the ‘social audience’ than the person, holds
that deviant behaviour is behaviour that people so label. This labelling perspective suggests that certain types of groups are more likely to be labelled deviant than others. The socio-analytic theory forwarded by Hogan (1982) holds that criminals and non-criminals adopt different social roles to meet the same primary needs. These social roles are a central part of one’s personality. The criminals see criminal behaviour as part of their social role. Their self-concept, self-presentation, reference group, and interpersonal competence, all contribute to their social identity as a criminal.

The sociological viewpoint of crime can also be explained according to two different approaches i.e. the functional and conflict approaches. The functional approach is based on the viewpoint of Durkheim (1893) who believed that crime was essential for the maintenance of a healthy society, serving to identify and validate what was morally acceptable. According to the functionalist approach, lack of adequate socialization is responsible for the making of criminals.
Psychology has been highly immersed in the Darwinian and Newtonian perspectives of human nature since the turn of the century. Freud (1953) and Skinner (1964) were strongly influenced by these two perspectives of mankind. Initially, psychologists assumed they could best understand human behaviour by searching for stable and consistent personality dispositions or traits that exert widely generalized effects on behaviour (Mischel, 1973). Many psychologists studying crime, therefore, assumed they should search for the personality variables or traits underlying criminal behaviour. They paid little attention to the person’s environment or situation. They assumed that once personality variables were identified, it would be possible to determine and predict which individual was most likely to engage in criminal behaviour. But, more recently there has been a notable shift towards cognitive and social learning approaches which are less deterministic i.e. they pay due attention to person’s environment and situational factors also instead of relying purely on personality traits.
Psychiatric concepts and theories are often believed to be accepted tenets in the field of psychology. Forensic Psychiatry is dominated by a psychodynamic tradition that embraces a variety of psychoanalytic positions. This tradition assumes that we must delve deep into the abyss of human personality, including criminal behaviour, because such behaviour finds its source in the unconscious. According to forensic psychiatrists, a criminal rarely knows the reasons of his conduct completely. This perspective endorses the view that the prime determinant of human behaviour lies within the person and that after the first few years of life the environment plays a very minor role. Therefore, criminal behaviour is believed to spring from within, dictated by the biological urges of the unconscious. The environment, culture or society cannot be held responsible for crime rates. The culprits are biological urges and needs within the individual. In general, the Darwinian orientation pervades the orientation of forensic psychiatry.
THEORIES OF CRIME AND PUNISHMENT

The Deterrence Model of Criminal Behaviour

This model assumes that people engage in specific types of behaviour only after careful and rational consideration of the costs (risks) and the benefits (rewards) of particular courses of action. People who go along with law seek the rewards of conformity and avoid the cost of deviance. Compliance is induced by the fear of punishment. Thus, this model suggests that criminal behaviour is determined by its possible consequences. Some offenders consider risks and plan properly before the execution of the crime. However, many offenders do not calculate risks and rewards. The deterrent effect of punishment varies with the personality, attitude, and social status of an individual. People may be more easily deterred if they have learned society’s dominant values, and have an authoritarian personality (Adorno, Frenkel-Brunswik, Levinson, and Sanford, 1950). People who can defer gratification for future rewards may be more easily deterred than people who
desire immediate gratification at the cost of future rewards. The type of offender that is least likely to be deterred by a criminal penalty is one who has a high commitment to crime as a way of life and whose crime results from expressive needs. The expressive, high commitment nature of crimes like drug addiction and sex offences makes these crimes difficult to deter. The severity, certainty, and the promptness of punishment also affects the deterrence of criminal behaviour.

The Retribution Model of Criminal Behaviour

This model is based on the rationale that offenders should be punished because they deserve to suffer for the harm they have inflicted on others. This justification for punishment is oriented towards the past behaviour rather than towards the future conduct of the offender. Retribution is often seen as motivated by a desire for harsh revenge against a wrongdoer. Adherents to this theory argue that offenders deserve to be punished because they have gained advantage over other people by their crimes and it is necessary to preserve and restore the social order. The
The rehabilitative rationale for punishment is that it should reform convicted offenders so that they will not commit additional crimes. The whole idea behind this rationale has its origins in the Positivist school of criminology, which holds that the target of punishment should be the criminal act rather than
criminal and the punishment should be socially useful. Positivists such as Lombroso (1972, originally published in 1911) and Garofalo (1977) drew attention to the conditions that could be changed to prevent and reduce crime. This model perceives crime as a type of disease and offenders as diseased individuals who can be changed through psychological treatment methods i.e. counselling, behaviour modification, vocational skills programs etc. The underlying principle of rehabilitation is to bring back the offender into the society not with negative vacuum of punishment-induced fear but with affirmative and constructive equipment – physical, mental, and moral.

**Critical Theory and Human Rights Perspective**

Critical theory emphasises the role of socio-cultural factors in human behaviour, ideological implications of science and the acceptance of human rights of all those groups, which are subject to discrimination or exploitation of some kind. The concept of human rights is based on the basic moral values of justice, equality, freedom etc. and upholds the value and dignity
of all human beings. Any kind of violation of basic human rights in any sphere is therefore considered unjustifiable. Human rights of criminals and prisoners who represent a powerless group in front of state authority, therefore, need to be recognised and accepted. This can help in the renewal of faith in the legal and social system and save them from further degradation.

PSYCHOSOCIAL MODEL OF CRIMINAL BEHAVIOUR AND RECIDIVISM

An overall review of the perspectives regarding criminal behaviour suggests that psychological as well as social factors play an important role in criminal behaviour. Further, when they combine interactively with unfavourable legal intervention they are responsible for the continuance of criminal tendencies in the form of recidivism. Figure 1 represents this relationship schematically. Not intended to be exhaustive, it is only a broad simplified model of factors affecting criminal behaviour and recidivism.