CHAPTER - I

INTRODUCTION

Through this thesis, the various aspects about the concept of crimes, punishments, reformation etc are seriously attempted through various angles so as to achieve an overall perfection for the research work. The thesis consist various chapter detonating the different backgrounds coupled with historical commencement, its throughout development, present position & lastly the anticipation in reasoned way. In the eyes of author every chapter is in the form of a new approch towards the concept of reformation which is coupled with basic idea that "Criminality is a disease - criminal is a patient- reformation is the needed treatment - prisons are the Hospitals- the staff of the prisons ought to be the expert doctors for the criminal patient who are indoor in the prisons."

One may found apparently that author provides fullest luxary to the offenders vide this thesis however in advance at this juncture author do hereby clarify that ' What ever is needed for the treatment, curing of the criminal patient during the course of his treatment ought to be provided irrespective of the fact that it is non luxary or luxary.'

With this let us have an idea of the thesis with bird eyes view, chapter wise as follows;
Criminology consist 3 Principle divisions -

1) The seriology of Law
2) Criminal Epiology
3) Penology

One has to inquire into the nature of criminal law, causation of crime, personality of the criminal, control of crime & rehabilitation of offender in scientific way to understand the criminology.

This chapter consist the similarities & desimilarities in between crime & moral wrong; crime & sin as well as crime & tort.

Crime is possible by commission or omission however such commission or omission must have been prohibited by the valid law.

Generally we will find the offences of following classes -

1) Against property.
2) Against person.
3) Against state.
4) Against public tranquility.
5) Against public servants.
6) Offences relating to election.
7) Offences relating to the documents.
This chapter also provides pre-classical schools of criminology prevailing in 17th & 18th century when the religious emotion & religion were dominating.

After the pre-classical theory the chapter consist classical theory & it is surprising that for first time this theory provided that the criminals must by deemed as enemies of the groups, human kinds & so probably since the span of this theory the offences are deemed as offences against the state & this analogy is still in force with more soundness. In the classical school of criminal law 3 important principles were preserved.

1) The rights & liabilities of the individuals must be conserved.

2) Crime is Judicial abstraction.

3) Punishment should be limited by the social need.

Now we turn towards neo-classical school which represents the need of individualisation & the discriminating judgement to fit to individual circumstances. This neo-classical school is nothing but extention to criminology in the form of the ideas of human behaviour & so it has immence importance.

One has to be positive in life & so the birth of positive school in 1878 at Italy is welcomed throughout the world. Lombraso in 1876 scientifically suggested close relationship between crime, epilepsy, insanity & so he, for first time classified the criminals as follows -

1) Born criminals.

2) Insane criminals.

3) Criminals who under certain circumstances commits the offences.
Lombrasso was one of the main exponents coupled with Gauotalo & ferry. For first time positive school impressed that 'Criminals are required to be treated than punished'. Thus positive school has given birth to modern sociological & clinical approach because according to this school 'Crimes are caused due to combination of number of factors or circumstances.'

The chapter also consist the Cartiographics school having its origin in 1830. This school is also called as Geographic school because the prime idea of this school is 'Crime to be the necessary expression of enviromament'. The supporters of this school have given with full of courage a formula of the crimes, which is reproduced below.

Average Temp. of the month x 7 + Average of humidity x 2 = Number of Homicides committed during the month.

Author is well acquainted with the analogy that it is easy to condemn but still then author do hereby condemn the above formula because neither it is baseful, scientific, practical, acceptable. Surprisingly supporters of this school have displayed that 'Incidents of sex crimes are maximum in the month of may & June'. However it is needless to mention here that this observation is well falsified by the medical science.

The chapter also consist at the bottom multi causation theory of crime which provides that crime is not the result of one or other single factor but crime always use to be the result of multicauses & so according to this theory combination of several factors causes the criminality.
Under this theory various causes are collected by the author which are produced below, having without better particulars in this chapter.

1) Physical ailments.

2) Poverty.

3) Lack of education.

4) Fear.

5) Mental diseases.

6) Climetic conditions.

7) Conflict.

8) Culture conflict.

9) Family size.

10) Economic determinism.

11) The born criminal.

12) Kelptomania.

13) Pyromania.

14) Imitation.

15) Lack of sanitation.
16) Avarice.
17) Use of tobacco.
18) Alcoholism.
19) Narcotic drugs.
20) Cinemas.
21) Child employment.
22) Serial custom.
23) Idleness.
24) Other trifile factors leading to cause the crime just like, lack of moral culture, defective prison system, quarrels between the parents, over crowding in the house, broken homes, favouritisim of child over rest of other by the parents, lack of love of the parents towards the defective child, faulty theories of punishment etc.

In the opinion of Author for the treatment of disease the germs / bacterias of the disease has to be traced out firstly. According to the knowledge & belief of the author at present also medical science provides a pathological test styled as ‘Culture’ which provides the correct medicine for killing of the germs of the disease; with the same analogy author anticipate that causes of the crimes are nothing but the germs bacterias of the disease of the criminality & so one has to go to face this contingency in followings ways but step by step.
1) To find out the spot of births of the germs.

2) To try that no births will take place of such most dangerous germs.

3) To find out the exact class/ features of these germs.

4) To find out the ways to reduce the quantity & the quality of the germs.

5) To find out exact enemy of these germs so as to relieve the criminal from the criminality.

6) To find out & conclusively determine the mode of treatment, the form of treatment, the span of treatment so as to achieve reformation of the offenders.

All the time it is welcomed phenomena throughout the world that 'Prevention is better than cure' & so Author suggest to concentrate with devotional emotion towards the causes of the crimes & to reduce the same.

Author is of the firm view that 'Stich in time saves nine' & so if causes itself are prevented it is highly better.

**Chapter III**

**CONCEPT OF PUNISHMENT**

Punishment is nothing but infliction of the pain or an imposition of penalty on the offender who has broken the rule of law.

Imposition or infliction of the punishment coupled with no scientific result will stand as an important punishment which will cause the only harrassment without positive result. An action of punishment must be an
appropriate action both in qualitative & quantitative terms. In other words criminal sanction in the form of punishment should fit with offender. The offenders needs to be dealt with individualisation by penal sanction.

Sanctioning authority must have social sense behind infliction of the punishment otherwise a senseless punishment in the form of sin will be the result which is neither beneficial for the offender nor for the society. Sir John salmon has provided 3 essential elements to be considered for appropriate measurement of the punishment.

1) The motive.

2) The magnitude of the offence.

3) The character of the offender.

The later part of this chapter consist kinds forms of punishment. It consist various ancient forms of the punishment as well as the modern fully developed forms of the punishment.

Death sentence, a capital punishment is discussed at length, specifically considering its merits & demerits. It is needless to mention here that 'If you desire to treat or cure the patient as well as desire to releave the patient from the disease then it is not acceptable that so as to cause an end of all the problems you will cause an end of the life of the patient. Such treatment is not treatment but it is illtreatment. Doctor who kill the bacterias of the disease without killing the patient is the real Doctor & so the law which intends to kill the
criminal patient by way of death sentence without the disease is liable to be quashed and so in one line “Death is not the punishment to cause the end of exclusive criminality but by way of death we are killing a former gentleman, present criminal & tomorrow’s gentleman”.

It is crystal clear that death penalty is an antireformist theory.

Once death of the criminal has occurred by way of punishment & if latteron it is found that the person hanged was not guilty then the mistake is incurable. The chapter consist a reference of a case from Mahaboob Nagar (Andhra Pradesh) when the court of session convicted 8 accused in one murder case, the person who was alleged as killed & for whose murder punishment is awarded was found not only alive but he was present at the time of judgement, in the court hall.

From the above reference we all might have been shocked to say ‘Death sentence, be abolished’

Various merits & demerits are well incorporated in this part of the chapter with conclusion that ‘You can’t kill to whom you have not given birth’ Father of nation Mahatma Gandhi has said that ‘God alone can take life back because he alone give it.’ so the law made by the humen being will not kill the humen being irrespective of severe illagility.

In addition to death sentence following are the different forms of punishment.
1) Corporal Punishment.

2) Banishment.

3) Transportation.

4) Fine or financial penalties.

5) Restitution.

6) Imprisonment.

Being an idea behind thesis is of reformation, author has confined himself to comment more on two kinds of punishment only i.e. death sentence & imprisonment. According to the author an imprisonment is an admission of the criminal in the prison for the purpose of satisfaction of the punishment & this aspects may be well compared with the admission of patient in the Hospital for treatment. Imprisonment fulfills the purposes of almost all the theories of punishment.

1) Deterrent theory.

2) Preventive theory.

3) Retributive theory.

4) Reformative theory.

5) Expiatory theory.

Following two are main purposes / merits of an imprisonment.
1) To disable the offender from committing to danger in society by locking him up.

2) To reform the offenders.

After having the consideration of merits & demerits of this kind of punishment we can safely conclude that merits of this punishment can be achieved well but demerits of the same can be avoided by extra efforts & so author conclusively suggest that 'Turn prisons into the Hospitals'.

Chapter IV

CONCEPT OF REFORMATION

'Re' means back & formare means to form so 'Reformation' means cause to form again.

Following are the basic features of the concept of reformation -

1) Original formation of human kind is gentle & an innocent.

2) Offender is not original criminal.
3) Removal of bad or immoral things from the offender is process.

4) Reformation process will compel offender to leave immorality, illegality, criminality.

5) Offender is a patient, Reformation is a treatment.

Mind of human being can make a hell of heaven & a heaven of hell Man basically gains shanti & his nature is tranquility & crime always use to be the result of hit or hotness. If without scientific approach punishment is inflicted then " The punishment for crime becomes the crime of punishment. "

Criminals are not born but are made. Crime is a disease of stress and stress related cause.

Jails are required to be converted into the hospitals. Reformation is the process of reconciliation and rehabilitation. It is form of training, remoulding, redirecting as well as re-channeling. Without 'Reformation' there will not remain any difference in criminal law & the criminal & consequently law will remain as 'Law without justice'.
19th Century development in Reformation in USA

The first open prison was established in Switzerland in 1891. Lorton Reformatory in District Columbia (USA) was built without a wall in 1916.

Following points were considered about the prisoners & prisons in 19th century:

(A) Prisoners should be treated as human beings.

(B) Hopeful cases & hardened cases deserve to be separated.

(C) Moral rehabilitationfull cases deserve to be separated.

(D) Offenders must be given an adequate opportunity for outdoor life & sense of freedom.

(E) It is between probation and imprisonment.

(F) Open air prisons are used for initial prisoners / fresh prisoners.

The first American Reformatory was opened at Randall's land in New York.

This chapter consists the details of Pennsylvania system, the silent system, Elmira Reformatory in New York, model Reformatory, penitentiaries Nacional at Buenos Aires, features of this reformatory, Massachusetts reformatory system.
In this way in 19th century in USA, the entire concentration was made on the prison - Reform as well as on the reformation of the offenders.

Chapter V

Observations On Practical Viewpoint - On Visits

The chapter V consist the base for research, practical collection of datas, noting from the visits as well as the Judicial observations coupled with the suggestions through research in new angles, approach. The chapter is divided in 3 parts.

Part - I

Author has visited the 6 prisons from the State of Maharashtra on representation basis as detailed below :-

<table>
<thead>
<tr>
<th>Prison</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paithan Open Air Prison</td>
<td>10-08-91</td>
</tr>
<tr>
<td>Visapur Prison</td>
<td>12-08-91</td>
</tr>
<tr>
<td>Central Jail, Mumbai</td>
<td>03-08-92</td>
</tr>
<tr>
<td>Central Jail, Yerwada</td>
<td>05-08-92</td>
</tr>
<tr>
<td>Central Jail, Aurangabad</td>
<td>07-08-92</td>
</tr>
<tr>
<td>District Jail, Osmanabad</td>
<td>08-08-93</td>
</tr>
</tbody>
</table>
Author had interviewed in all 60 prisoners from 6 prisons, referred above & has collected important data on baseline.

The data which consist classification on the basis of education amply indicates that the ratio of commission of offences at the hands of illtreate persons is more in comparison to those who are educated & so it revealed, that education makes man, in real sense, useful for himself & the society. More education, less criminality.

Following is the percentage noted during actual visits

(A) Illiterate offenders - 48.33 %

(B) Offenders studied upto

10th std. - 28.33 %

(C) Offenders studied more

than 10th std. - 23.34%

Classification on an educational base is needed & so it is suggested as education is foundation stone for reformation also.

Further classification noted through visits is on sex base & it is revealed that out of 60 prisoners only 2 were females. It is crystally revealed that "Tolerance ability of the females is higher than males & males use to become victim of circumstance, in very short time. Towards example it is quoted that
one lifer female from the prison committed the murder of neighbour lady as she was maintaining illicit relations with the husband of lifer & was not withdrawing herself despite of requests by lifer. When the fact crossed limits of tolerance, females have committed the offences.

It is further observed from the data that few offenders who have completed 60 years of their age but still are in the prison. In fact if such prisoners are released by curtailing their further imprisonment, it will be justifiable. The percentage of the prisoners from age group 20 to 30 years is 46.67 % & so young offenders use to become victim of circumstances, very fast. Ages of the offenders are also annexed with the problem of unemployment and if young age & if it is coupled with an unemployment then it has badly resulted in commission of crime in peculiar circumstances.

On data base observations various suggestions are given in this chapter, the soul of which is quoted below, in brief.

(A) Maintance of individual files

(B) Maintance of individual medical and pathological check-up.

(C) History of the offender

(D) History of the offence

(E) Need of qualitative and quantitative food, as a basic need for reformation

(F) Observance of human rights in the prisons.
(G) Need of separate treatments to the undertrials and the offenders.

(H) Need of implementation of process of rehabilitation of prisoners.

Part - II

**JUDICIAL OBSERVATIONS**

Following cases, which are reported & which have enlightened the situation of various prisons, prisoners need of variation, the concept of reformation, are quoted.

1977 Cri L. J. Page No. 3458.


Air 1992 H. M. 76.


1993 Cr. L. J. Page No. 3242.


Judicial observations about the need & increase in open air prisons.

Judicial observations about conversion of prisons in correctional institutes.

Judicial observations about building of prison, production of prisoner before courts.

Judicial observations about keeping the habitual offenders separate from the undertrials & further scientific classification of prisons & the prisoners.

Judicial observations that, Prison reform is now a constitutional compulsion.
Further under part III of this chapter, the prevailing classification of the prisons and of the prisoners & needed classification has been amplified. The following chart amply indicates the suggested classification with chief aim of reformation.

Following important researchal suggestions are quoted -

1) Separation of innocent (undertrials) and guilty (offenders) has to be maintained by separate prisons.

2) For the undertrials open air prisons should be established.

3) Till final verdict of the conviction, accused shall remain in open prison, if not released on bail.

4) Females, irrespective as undertrial or offenders should be kept in open prisons only.
5) Offenders who are to be kept in prison on account of default in payment of fine must be kept in open prisons only.

6) Separate prisons for lifers who are sentenced with life imprisonment ought to be provided & such prisons shall be established with devoted sense of reformation.

7) Female staff for female offenders & prisons.

8) Followup for the disposal of the trial by prison Authorities before the court of law in case of undertrial offenders.

9) Classification in specific as prison for undertrial & for offenders must be introduced.

10) Establishment of courts in the prison premises for undertrial prisoner’s trial is need of judiciary & time.

11) Classification of prisoners on an education base shall be introduced.

12) Moral education from primary class to higher classes deserves to be introduced & given.

13) Moral education must be given to the prisoners in the prisons.

14) Moral officers deserves to be appointed in the prisons.

15) Vocational courses ought to be provided to the prisoners.
16) More concentration for reformation of habitual offenders is needed.

17) Educated class of prisoners shall teach to uneducated class of prisoners

18) With the help of education system of specific beneficial nature the prisons ought to be converted into real reformatories.

19) Health education system also must be introduced in prisons.

20) For prompt classification, variation, modification, a classification committee shall be formed.

21) Consolidation of different rules of the classification is also needed.

22) Prison Reforms pertaining to
   
   (1) Premises & building of the prisons.

   (2) Lack of education.

   (3) Library.

   (4) Aftercare of the criminals.

   The End