
UNDERSTANDING CRIMINOLOGY: AN INITIAL STEP TOWARDS CRIMINAL JUSTICE FOR INDIA

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ABSTRACT

The broad study of criminology explores the complexities and multifaceted world of crimes, criminals, and the criminal justice system as a whole. It acts as the foundation on which the structure of criminal justice is built. Criminology provides important insights that are crucial for creating a fair, effective, and just legal system by examining the origins, trends, and effects of criminal conduct. The importance of criminology is best demonstrated by how it can influence practices and policies in the field of criminal justice. Several fields, including sociology, psychology, law, economics, and public health, intersect with criminology. This multidisciplinary strategy broadens its scope and increases its influence on the criminal system of justice. The efficiency of criminal justice regulations and procedures is increased through collaboration with these sectors. Being human, criminals have a number of rights that should be respected. In addition, the circumstances and situations that led to the crime must be taken into account while punishing or imposing judgment on the offender. This Research Paper will explore the importance of comprehending criminology as a necessary first step toward accomplishing the objectives of criminal justice by understanding various concepts of Criminology and relating it with Rights offenders possess, laws we have and criminal justice agencies.

Keywords: Criminals, Criminal Justice, Rights, Criminology, Crime

WHAT IS CRIMINOLOGY?

Criminology is inter-disciplinary science that deals with nature, extent and cause of crime and behavioural patterns of criminals. Before understanding the concept of criminology, let's understand

What is Crime?

Crime is an act which is unlawful in nature and is sanctioned by the law or some authority and the person who commits crime is known as Criminals. For any act to be considered as crime there should be Actus Reus (guilty act) and Mens Rea (guilty mind). The term "crime" must only refer to conduct that is thus defined by the law on crime, yet stringent definitions of the phenomena under examination in criminology are nevertheless required by accepted scientific methods¹. Crime is a societal injustice. It is a behaviour that society strongly condemns.

What is Criminology?

Criminology is the scientific study of crime, criminal behavior, and the criminal justice system. It is an interdisciplinary field that draws on principles and methods from sociology, psychology, anthropology, law, and other social sciences to understand and explain the causes of crime, the patterns of criminal behavior, and the societal responses to crime. It plays a crucial role in informing the development of laws, policies, and practices that aim to address and mitigate criminal behavior while ensuring justice and fairness in the criminal justice system. A criminology states that a person's unlawful purpose and conduct are the product of a variety of social, economic, biological, and psychological factors, which can be understood by looking at crime trends and the people who perpetrate them². Criminology helps individuals and communities take proactive steps to protect themselves from crime. It plays a crucial role in informing the development of laws, policies, and practices that aim to address and mitigate criminal behaviour while ensuring justice and fairness in the criminal justice system.

Evolution of Criminology & Its Schools

The many schools of criminology that were in use in the 17th, 18th, and 19th centuries were founded on the customs, rituals, and sense of reason that were common in that specific civilization. The growth of understanding the causes of crime is aided by these four

¹ Donald R. Cressey, Criminological Research and the Definition of Crimes, 56 American Journal of Sociology 6, (2023).

² T. Sowmya, Crime: A Conceptual Understanding, 4 Indian Journal Of Applied Research 196, 196 -197 (2014).

criminological schools and theories. The four schools of criminology can't be same because each one has developed a unique strategy and analysis for figuring out what makes a criminal act, why a crime occurs, and how criminals and crimes are related according to the evolution of society.

- Pre-classical School – For the only reason that the demonological idea grew throughout the 17th century alongside the supremacy of the religion, the pre-classical school is sometimes referred to as the demonological school. The notion of crime was hazy and founded on beliefs and myths at this time, thus the scientific explanation was not given Favor. So, ghosts, devils, and unidentified powers were invoked in an effort to explain criminal conduct. The idea behind such a thought was that a man commits a crime as a result of the stimulation of an evil spirit or external force that is outside of human control and comprehension. Man can be cured by suffering and anguish, but the wrath of God and the natural forces were thought to punish the violators.³
- Classical School – This school believes on Free Will Theory. The major philosophers of this school were Cesare Beccaria and Donald Taft. This school laid greater emphasis on the mental phenomenon of the individual attributed to crime as his free will. It was stated that a person commits crime because of his free choice and seeking pleasure and to pain and not because of some evil superpower. Beccaria, a prominent criminologist, said that the severity of the penalty for a crime should be commensurate to that offense.⁴The main flaw of the classical school was that it focused only on the act of crime without paying any attention to the criminal's mental state mind or on the perpetrator himself. It also relied on an abstract presumption of free will. This school's equal penalty for identical offenses and lack of differentiation between first-time offenders and repeat offenders, regardless of the seriousness of the offense, were both flaws.
- Neo-Classical School – Neo-classists argued that regardless of how similarly their crimes were committed, certain categories of offenders, such as children, idiots, insane, or incompetent people, could not be treated equally as a prudent man in terms of punishment because they were unable to comprehend the purpose or methodology of the act they had committed. They made the argument that a person could commit crimes

³ Zeba Darvesh, Schools of Criminology: a Comparative Analysis, 2 Indian Journal of Integrated Research of Law 355, 356-357 (2022).

⁴ Law Bhoomi, <https://lawbhoomi.com/schools-of-criminology/> (last visited Oct. 15, 2023).

as a result of justifiable circumstances, and that these circumstances must be taken into account when determining whether or not criminal guilt should be discharged. This school also set the way for the creation of many correctional facilities that focused their efforts on the needs of the offenders and dealt with the shortcomings of the previous school.

- Positive School – In order to demonstrate a correlation between crime and the anatomy and workings of the brain, this school concentrates on the anthropological characteristics of criminals as the underlying cause of criminal behaviour. This school is known as the Italian School of Criminology because it was founded by three renowned Italian criminologists, Cesare Lombroso, Raffaele Garofalo, and Enrico Ferri. One of the three key proponents of the positive school of criminology, Raffaele Garofalo stressed that crimes against people are caused by a lack of sympathy, whereas crimes against people or property are caused by a lack of probity. He categorized offenders primarily into four groups. Ferri emphasized that criminal behaviour is the result of many different circumstances that have an impact on the offender and motivate him to conduct a certain crime. Ferri divided the criminals into five categories. Following a thorough examination of physical traits, Lombroso came to the firm conviction that criminals tended to engage in less than moral behaviour because of their physical deficiency. According to Lombroso's view, there are three different types of criminals.⁵

DOES CRIMINALS HAVE RIGHTS?

Answer to this question is a big YES! Criminals are human beings and possess certain rights and liberties. As ensuring the protection of individual liberties and rights is a tenet of democracy and the foundation of the legal system, criminals have rights. It's critical to recognize that when we talk about "criminals" possessing rights, we are actually talking about those of people who have been charged with committing crimes.⁶ It's crucial to remember that the rights of those who have been accused do not exempt them from responsibility for their acts. Criminals who have been deemed guilty of committing crimes may still be subject to legal punishments, such as imprisonment or fines. However, these sanctions must be applied in a

⁵Zeba Darvesh, Schools of Criminology: a Comparative Analysis, 2 Indian Journal of Integrated Research of Law 355, 356-357 (2022).

⁶Adil Hamid Lone, RIGHTS OF PRISONERS (law in theory and practice) 21-41 (V L Media Solutions 2017).

just and legal manner which safeguards their rights. Here are several reasons why individuals accused of crimes are afforded rights:

- ❑ Presumption of Innocence - Persons are deemed innocent in a just judicial system until and until they are proven guilty. This implies that a person accused of an offense is not regarded as a criminal till a fair trial determines their guilt. They have the same rights as normal citizen throughout this time.
- ❑ Human Integrity: Respecting accused persons' rights protects their human dignity. Regardless of the charges levelled against them, all persons have the right to be dealt with decency, justice, and respect.
- ❑ Verifies on Government authority: Protecting accused persons' rights acts as a check on the authority of the judiciary and law enforcement authorities. It protects against arbitrary arrests, illegal arrests, or abuses of power.
- ❑ Fair Trial: A fair judicial process necessitates that those accused of crimes have the chance of defending oneself, provide evidence, and receive an impartial trial. Protecting their rights guarantees that the judicial system is fair and just.
- ❑ Eliminating false Convictions: Protecting accused people's rights helps to lessen the chance of false convictions. When the judicial procedure adheres to due procedure and protects the rights of the accusers, the possibility of convicting innocent people is reduced.
- ❑ International Human Rights Standards: Several countries, including India, have signed international human rights treaties outlining accused individuals' rights. Adherence to these criteria is a legal requirement.
- ❑ Rehabilitation: Recognition of the rights of those who have committed crimes is crucial for rehabilitation and reformulation within society. Access to schooling, mental health services, and various other support networks can assist individuals in leading law-abiding lives after they have served their time on probation.

LAWS & PROVISIONS WHICH DEALS WITH CRIMINAL'S RIGHTS

Under International Law

United Nations Charter - The United Nations Charter was signed at the end of the United Nations Conference in 1945. The General Assembly approved and declared the Fundamental

Rules for the Welfare of Prisoners in Session 45/111 on December 14, 1990. The following are the rules⁷:

- ☐ Prisoners should be treated with their inherent worth and be respected as human beings.
- ☐ No discrimination on the basis of race, gender, colour, religion, language, political, national, social origin, property, birth, or other status.
- ☐ Respect the religious principles and cultural tenets of the group to which the prisoners are associated with.
- ☐ All inmates should preserve the human rights and basic freedoms enshrined in the UDHR, ICESCR, ICCPR, and the optional protocol, as well as any additional rights enshrined in other United Nations covenants.
- ☐ Prisoners have the right to participate in educational and cultural events that promote the complete development of their personalities.
- ☐ The abolition or limitation of solitary confinement as a sentence should be done or promoted.
- ☐ Prisoners should be given meaningful remunerated work that will allow them to reintegrate into the labour market and contribute to their own and their families' financial well-being.
- ☐ Access to medical treatment without discrimination based on their legal situation.
- ☐ With the participation and assistance of community organizations and social agencies, and in the interests of victims, favourable conditions for the rehabilitation of the ex-prisoner towards society shall be created.

Universal Declaration of Human Rights (UDHR) – In 1948, the United Nations launched a movement in the formation of the Universal Declaration of Human Rights, which was adopted by the United Nations General Assembly.⁸ This essential paper lays forth some fundamental concepts of justice administration. The following are some of the stipulations of the document:

- ☐ No one should be forced to any form of torture or inhuman or degrading treatment or penalty.

⁷ United Nations, <https://www.un.org/en/about-us/un-charter> (last visited Oct. 15, 2023).

⁸ United Nations, https://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf (last visited Oct. 15, 2023).

- ☐ Everyone has a right to life, liberty, and personal security.
- ☐ No one should be subjected to arbitrary detention, arrest, or imprisonment.
- ☐ Every person should be presumed innocent until proved guilty as per the law.

Indian Laws

Constitution of India – The fundamental rights provided by the Indian Constitution cannot be considered absolute, and they are subject to several limits. Certain rights specified in Part III of the Indian Constitution⁹, however, are also available to criminals since a "Prisoner remains a 'Person' inside the prison." Even when imprisoned, inmates have the right to exercise their residuary basic rights. As a result, a criminal is entitled to some privileges, like as -

- ☐ Right to life and live with human dignity
- ☐ Right to have fair trial
- ☐ Right to have Speedy trial
- ☐ Right to Bail
- ☐ Right to have Parole
- ☐ Right to have medical and health facilities
- ☐ Right to presume innocent until prove guilty.
- ☐ Right to free legal aid
- ☐ Right to consult lawyers
- ☐ Rights of inmates of protective homes
- ☐ Right against cruel and unusual punishment
- ☐ Right to have reasonable wages in prison
- ☐ Right against bar fetters, handcuffing and protection from torture.

Other Enactments & Rules- There are several other enactments which protects certain rights of criminals.

1.The Prisons Act, 1894 - This act is India's first legislation on jail regulation¹⁰. Some of the key provisions concerning prisoners' rights are as follows:

⁹ INDIA CONST. art. 22, amended by The Constitution (One Hundred and Fifth Amendment) Act, 2021.

¹⁰ THE PRISONS ACT, 1894, No. 9, Acts of Parliament, 1894 (India).

- ☐ Prisoners' accommodations and hygienic conditions.
- ☐ Provisions concerning the mental and physical health of convicts.
- ☐ Prisoners are examined by a certified medical officer.
- ☐ Male, female, criminal, civil, convicted, and awaiting trial inmates are separated.
- ☐ Provisions for care of inmates awaiting trial, prisoners, parole, and convicts on interim release.

2. The Transfer of Prisoners Act of 1950 was designed to allow inmates to be transferred from one state to another for rehabilitation or vocational training, as well as from overcrowded jails to less congested jails within the state¹¹.

3. The convicts (Attendance in Courts) Act of 1955: This Act authorizes the transfer of convicts to a civil or criminal court for the purpose of delivering evidence or answering a charge of an offense.¹²

4. The Prisoners Act of 1900 states that it is the government's responsibility to transfer any prisoner jailed under any order or sentence of any court who is of unsound mind to a lunatic institution or other facility where he would get suitable treatment.¹³

WHAT IS CRIMINAL JUSTICE SYSTEM & AGENCIES

Criminal justice refers¹⁴ to the framework of procedures and institutions set in place by governments to preserve social order, discourage and regulate crime, and punish and rehabilitate individuals who break the law. It comprises a wide variety of processes and activities aimed at holding criminal perpetrators responsible for their actions and respecting the rights of victims as well as perpetrators. The following are typical elements of the criminal justice system¹⁵:

- ☐ **Law enforcement Agencies**- This includes police officers who are in charge of detecting crimes, interrogating suspects, and collecting evidence to create cases against people who have violated the law. The police force is in charge of investigating offenses apprehending criminals, keeping the peace, and preventing criminal activity. Each

¹¹ THE TRANSFER OF PRISONERS ACT, 1950, No. 29, Acts of Parliament, 1950 (India).

¹² The Prisoners (Attendance in Courts) Act, 1955, No. 32, Acts of Parliament, 1955 (India).

¹³ The Prisoners Act, 1900, No. 3, Acts of Parliament, 1900 (India).

¹⁴ ScienceDirect, <https://www.sciencedirect.com/topics/psychology/criminal-justice-system> (last visited Oct. 15, 2023).

¹⁵ University of Massachusetts Global, <https://www.umassglobal.edu/news-and-events/blog/what-is-criminal-justice> (last visited Oct. 15, 2023).

Indian state has its own police force, and there are specialist police groups such as the Criminal Investigation Department (CID) and the Rapid Action Force (RAF).

- **Judicial System & Legal Professionals** - The court system is in charge of handling criminal matters. This involves evaluating the accused's guilt or innocence and, if required, sentencing them. It also entails upholding due process and protecting individual rights. Criminal trials are presided over by judges, who make laws based on the facts presented in court. They make certain that the trial is impartial and that justice is delivered. Magistrates have the jurisdiction to conduct preliminary investigations into criminal cases, serve warrants for arrest, and make initial bail and remand judgments.¹⁶

Attorneys, the prosecution, and defence solicitors play crucial roles in the criminal justice system by defending the state's or the accused person's interests in court. Public attorneys are legal officials who represent the government in criminal proceedings. They present evidence, question eyewitnesses and argue in court as representatives of the prosecution. Defendants accused of crimes are represented by defence lawyers, who argue for their liberties and interests. They give legal assistance, develop a defence plan, and argue in court for the sake of the accused.

- **Correctional Institutions** - The corrections system is in charge of the supervision of people who have been convicted and found guilty and imprisoned including their confinement in correctional institutions (such as prisons or bars), probation, parole, and other rehabilitation programs. Prisons and correctional establishments are in charge of the detention and rehabilitation of criminally convicted persons. Individuals sentenced to probation or parole as an alternative to jail are overseen by probation and parole organizations, which provide monitoring and support to help them reintegrate into society.
- **Legal Aid & Services** - Legal Services Agencies are governmental organizations that offer legal aid and services to those who are unable to afford legal representation. Non-governmental organizations (NGOs) and legal aid groups also help accused people, particularly those from marginalized or impoverished backgrounds.
- **Victim Support** - Some Indian states have developed victim assistance organizations to aid and support victims of crime during the judicial process. The system of criminal

¹⁶ 5 Ronald J. Waldron, Chester L. Quarles, David H. McElreath, Micelle E. Waldron, David Ethan Milstein, *The Criminal Justice System* (Routledge 2010).

justice is also responsible for giving victims of crime with support and assistance, such as access to services and reparations.

INTERLINKING CRIMINOLOGY & CRIMINAL JUSTICE

Criminology and the criminal justice system are subjects that are closely related and frequently cross in numerous ways. Criminology is the study of crime, criminal conduct, and the variables that lead to criminal activity, whereas the criminal justice system is in charge of detecting, prosecuting adjudicating, and punishing criminals.¹⁷ Here are some of the important points where criminology and the criminal justice system intersect:

- Recognizing Criminal Behaviour: Criminologists investigate the underlying reasons of crimes, including behavioural, social, economic, and environmental aspects. This comprehension can aid in the creation of more effective law enforcement policies and practices.
- Criminological study can help to inform the prevention of crime initiatives. Criminologists can assist the criminal justice system in developing programs and policies targeted at reducing crime rates through the recognition of risk factors as well as early intervention approaches.
- Criminal Profiling: Criminologists frequently assist judicial agencies in developing criminal profiles to aid in the investigation and prevention of crimes. Profiling can offer law enforcement with valuable leads and techniques.
- Law Enforcement Training: The knowledge gained from criminological study can be used to inform police officer development, assisting officers in understanding the dynamics of criminal behaviour and enhancing their capacity to manage various scenarios in the field.
- Sentencing and Rehabilitation: research in criminology can affect judge sentencing choices and help to design rehabilitation initiatives within the criminal justice system. Recognizing the elements that lead to criminal conduct allows the system to target the underlying causes and reduce repetition.
- Policy Development: research in criminology can help shape and alter criminal justice policies and processes. It can, for example, assist define policy about punishment,

¹⁷ 5 Freda Adler, Gerhard O. W. Mueller, William S. Laufer , Criminology and the Criminal Justice System (McGraw-Hill Humanities Social 2003).

probation, parole, and drug treatment.

- **Evaluation & Assessment:** Criminologists can examine the performance of criminal justice policies and procedures, giving data-driven insights that can lead to system reforms.
- **Public Policy and Legislation:** Criminal justice researchers frequently do research and advocacy to inform the development of legislation and public policies concerning crime and the justice system.
- **Victimology:** The study of crime victims is a significant branch in criminology. Victimologists can help improve victim rehabilitation in the field of criminal justice and advocate for the rights of victims.
- **Ethical Considerations:** Criminal justice researchers also investigate ethical issues within the criminal justice system, which may result to conversations and reforms in police work, being imprisoned and execution of justice.

Ultimately, criminology and the criminal justice system in general are inextricably linked, with criminological research and insights critical to the operation and reform of the criminal justice system in order to better address crime and its fundamental causes.

SIGNIFICANCE OF CRIMINOLOGY

Understanding and studying criminology is important for a number of reasons, including the fact that it provides valuable insights into the complex phenomenon of crime and its impact on society. Here are some of the main reasons why criminology is important:

- **Crime Prevention:** Criminological research aids in the identification of the underlying causes of criminal behaviour as well as the factors that contribute to crime. Understanding these causes allows policymakers, law enforcement, and communities to create more effective crime prevention strategies.
- **Effective Law Enforcement:** Criminological knowledge informs law enforcement practices, assisting officers and agencies in better understanding criminal motivations and behaviors. This can lead to more effective investigations and crime-solving methods.
- **Policy Development:** Criminologists help to create evidence-based criminal justice policies and reforms. Their research helps to shape laws, sentencing guidelines, and

correctional practices that are more likely to achieve desired outcomes, such as lower recidivism.

- **Fairness and Justice:** Within the criminal justice system, criminology promotes fairness and justice. It assists in identifying and addressing systemic biases, discrimination, and inequalities, ensuring that individuals are treated equally under the law.
- **Understanding Victimology:** The study of victimology, that assists society in understanding the observations and requirements of crime victims, is included in criminology. This understanding informs victim support services, legal processes, and policies aimed at protecting and assisting victims.
- **Rehabilitation and Reintegration:** Criminological research informs offenders' rehabilitation and reintegration programs. Recognizing what works in reducing recidivism helps to develop effective interventions aimed at assisting individuals in reintegrating into society after serving their sentences.
- **Public Safety:** Understanding criminology enables communities and individuals to take preventative measures against crime. This includes being aware of crime hotspots, taking safety precautions, and understanding the role of community policing in improving public safety.
- **Academic and Career Opportunities:** The study of criminology opens up academic and professional possibilities for those interested in law enforcement, criminal justice treatment, legal professions, research, and academia.
- **Insights into the Social and Psychological Factors influencing Human Behaviour:** Criminology provides insights into social as well as psychological variables that influence human conduct, including criminal behaviour. This knowledge can be applied in a variety of fields other than criminal justice, including sociology, psychology, and governance.
- **Crime Reduction:** Criminology's ultimate goal is to reduce criminal activity and its negative impact on people and the community as a whole. Criminologists study the causes and consequences of crime in order to find effective solutions to reduce criminal behaviour and its related harms.

COMPARISON OF TRIALS: INDIA & WORLD

The Indian legal system upholds the importance of justice and a fair trial while offering a variety of options. However, the perpetrators of the criminal cases have been overlooked in favour of focusing on delivering justice. Following observation of the facilities and assistance offered by the French Criminal Justice System, the Indian court ought to establish victim care centres. Since India is a democratic nation, every Indian citizen is entitled to the fundamental right of access to information. Furthermore, as the Indian judiciary is a vital pillar of the state, it must abide with laws passed by the state. From Criminal Justice System of USA India can make process of trials easier and faster by understanding actual cause of offence, what are the circumstance which instigate person to commit such offence? What is the background of accused? What is actual story which leads to the commission of offences? Because it is important to go to roots of the cases before providing judgement.

We may conclude from a comparison of the criminal justice systems of the other states and India that the Indian judiciary ought to implement some of the policies that permit the recording of court sessions and make them readily accessible to the public. In addition to eliminating judicial corruption and bias, this would instil public confidence in the legal system's ability to punish wrongdoers, hear both sides out, and uphold the ideal of Audi Alterum Partum.

CONCLUSION

Understanding Criminology is an essential and initial step towards achieving the goals of the criminal justice system. It serves as the intellectual foundation upon which informed policies, practice and reforms are built. By adopting a scientific approach to crime, criminology unravels the mysteries of the criminal behaviour, informs the pursuit of justice, enhances public safety and fosters interdisciplinary collaboration. The rights of accused people exist to ensure a just process of justice, protect against abuses of authority, prevent wrongfully convicted individuals and uphold the principles of equality, dignity and humanity within a society governed by the rule of law and this can be accomplished by understanding the offender's backstories and circumstances that led them to commit such crimes. Criminology helps to comprehend criminal circumstances and behavioural patterns, which helps to create a better society for them by enacting various laws, as well as for the general public since it aids in crime prevention. In conclusion, study of criminology is significant because it not only improves our understanding of crime and criminal behaviour, but it additionally serves a vital role when establishing regulations, procedures, and remedies that promote public safety, fairness, and justice in society.

also It helps to continue efforts to prevent crime, protect persons and communities, and solve the issues caused by criminal conduct and their Rights. In a world where the quest for a fair and effective criminal justice system is ongoing, criminology remains an invaluable guide, illuminating the path toward a more just and secure society. As we continue to unravel the complexities of crime, criminology stands as a beacon of hope, guiding us towards a brighter and safer future.