

Research Article

**A BRIEF NOTE ON ENDS OF CRIMINAL JUSTICE SYSTEM IN INDIA
AND THEORIES OF PUNISHMENTS**

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Abstract

The Indian Criminal Justice system is one of the oldest criminal systems in the world. During the British period, they enacted the Indian Penal Code – 1860 to define various types of offences. The Criminal Procedure Code, 1973 is the procedural law, which dealt with practical aspects of criminal justice system. The Indian Evidence Act, 1872 contains a set of rules and related provisions governing the admissibility of evidence in Indian courts of law. The main stakeholders in criminal justice are the police, the prosecution agencies, the judiciary and the prison department. Among these organs correction through the prison system plays a vital role. The imprisonment in India is used for the reformation, rehabilitation and re-integration into the society.

Keywords: Criminal Justice, Theories Punishments, Deterrent, Preventive, Retributive, Reformatory, Preponderatingly, Criminology, Penology, Victimology .

The chief ends of Criminal Justice System in India: The ends of criminal justice, according to Salmond, are four fold – Deterrent, Preventive, Retributive and Reformatory.

1. Deterrent:

The object of criminal justice in awarding punishment is to deter people from committing a crime. Commission of offences must be made a bad bargain for the offender. The infliction of punishment serves as a check on others who are evil minded. The inducement to promote one's selfish interests is at the bottom of every criminal act and by providing adequate penalty, it seeks to create a check on his deflection from the path of rectitude. This theory of punishment, however, fails to achieve the end in view. A hardened criminal becomes accustomed to the severity of the punishment and no amount of deterrence prevents him from indulging in crime. It fails to affect an ordinary criminal too for many a crime are committed in a moment of excitement.

2. Preventive:

It aims to prevent a repetition of the offence by the offender by such penalties as imprisonment, death and exile. Punishment in his sense is preventive or disabling. It is now generally recognised that, with the advance of civilization, death penalty has become incongruous. Murders in a preponderatingly large number of cases are never premeditated. They are committed in a moment of excitement. Provocation and anger may be the other ancillary causes. They benumb all senses of reason and restraint of the murderer for the time being and blind him to its consequences. This torrent of anger and provocation deadens his intellect, chills his sense, debases his soul and evervates him, but this state is

only ephemeral and, after he gets over the temporary insanity the murderer becomes a normal human being and is repentant for his conduct.

3. **Retributive:**

The view of the great philosophers in the past had been that punishment should be based on the principle of retribution. The doctrine that the offender should be made to suffer in proportion to the injury caused to the victim has been the source of enactments of various penal laws. A more definite form of purely retributive punishment is, according to Salmond, expiration, which blots out the crime by the suffering of the penalty.

The theory of retributive crime justice, which justifies that "life shall go for life, eye for eye, tooth for tooth, hand for hand, foot for foot", is regarded by as a relic of barbarism. It is a cruel form of punishment and betrays an utter ignorance of the causes of crime. Instead of curing the disease scientifically, it tries to deal with criminality superficially.

4. **Reformative:**

The object of punishment must not be to wreak vengeance but so to reform the criminal as to prevent him from further crime. Crime like all other disease should properly be diagnosed and treated scientifically. Punishment must not be regarded as the end but only means to an end, the end being the reclamation of the criminal to useful citizenship. Crime is a malady and the aim of every punishment should be the reclamation of the offender by prescribing proper treatment. The principle that "un investigated criminals are an expensive luxury" should be a guide to reformers in tackling this problem.

Salmond levels three objections against the purely reformative theory, viz.,(i) if criminals are sent to prison in order to be transformed into good citizens, prisons will be turned into dwelling houses for too comfortable to serve as any effectual deterrent to such class of persons; (ii) there are in the world men who are incurably bad and are beyond the reach of reformative influences, and (iii) crime will be a profitable industry which will flourish accordingly.

Salmond, therefore, concludes that the perfect system of criminal justice is based on neither the reformative nor the deterrent principle exclusively, but the result of a compromise between them. In this compromise it is the deterrent principle which possesses predominant influence. The reformative element must not also be over looked, though it should not assume undue importance.

The message of Mahatma Gandhi "Hate the sin and not the sinner" should always guide the reformer in adopting a judicious penal policy. For the society contains within itself the germs of all the crime that are about to be committed, and the criminal is only the instrument which executes them. The atmosphere in jail will, therefore, have to considerably improved. Instead of a veritable hell imposing slavish discipline the prison should provide outlet for constructive work. In the words of Mahatma Gandhi, the outlook to the Jail Staff should be that of physicians in a hospital. The work taken from the prisoners should be interesting, instructive and remunerative, so that after their release, with aid of the discharged prisoner's societies, they may resume a normal life in society. The education in prison should be made compulsories for all the illiterates and semi - illiterates. Crime must be regarded as a disease and treated as such in hospitals, along with physically degenerate criminals. In the new era of prison reforms, therefore, medical treatment, on the basis of the study of the causative factors of crime, will play a very important part. A rational penal policy of the state should, therefore, aim to protect the society and reclaim the criminal by removing the imperfections that are to be found in the law as administered in the country. It should evolve measures to prevent people from committing crimes rather than making an attempt to reform them in prison. The law must provide ample scope for the adjustment of punishment according to differences in culpability disclosed by psychological and scientific tests. In the words of Prof.

Devon, “there is only one principle in penology which is worth any consideration; it is to find out why a man does wrong and make it not worth his while.” The Bharatiya Nyaya Sanhita (BNS) – 2023, the new substantive criminal law enacted by the parliament retains the traditional criminal law and a change towards contemporary objectives of punishment, more so victim – based justice and the common good of the society. Apart from traditional punishment theories, the Bharatiya Nyaya Sanhita introduced ‘victim – centric/compensatory approach. It ensures the rights of the victims and fair compensation. Apart from punishing the convicted it concentrates on supportive mechanism for victims. The introduction of Community Service as punishment, awarding equal punishment irrespective of gender in some areas, stringent punishments to offences affecting national security and the public order. The Bharatiya Nyaya Sanhita overhauls and refines criminals’ justice system by simplification and modernization of criminal provisions.

Conclusion:

The Bharatiya Nyaya Sanhita represents the contemporary societal needs of our society in terms of criminal justice system and focuses on principles of rehabilitation of victims and aimed at achieving a just balance among the concepts of “Criminology, Penology and Victimology.”

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Citation: Dr. S. Someswara Rao 2026. “A BRIEF NOTE ON ENDS OF CRIMINAL JUSTICE SYSTEM IN INDIA AND THEORIES OF PUNISHMENTS”. *International Journal of Academic Research*, 13(2): 80-82.

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