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## Crime and Criminals

In India, in one hour about 175 cognizable crimes under the IPC and 435 crimes under local and special laws are committed. In one day, the police grapples with 890 thefts, 265 riots, 405 robberies and burglaries, and 2,445 other criminal offences (*Crime in India*, 1988 : 12). Between 1970 and 1980, crime had registered a rise of 57%, while between 1980 and 1988, crime increased only by 7.0% (1988 :8). The rising wave of crime might cause alarm among the public but our police and politicians remain unruffled about the deteriorating law and order situation. The non-ruling political parties are concerned with these figures only in one way—they use them to criticise the policies of the ruling party so that it could be defamed and depowered, yielding place to a new governing elite.

Sociologists and criminologists have been broadly concerned with locating the causes of crime and analysing the effectiveness of the criminal justice system. Recently, some scholars have moved beyond these narrow twin concerns and have raised questions about the enactment of laws, improving the police system, judicial activism, protecting the interests of victims, improving the condition in prisons and humanising the deviant.

### The Concept of Crime

But let us first look at the concepts of crime and criminals and also identify the various types of crimes and criminals. Since official statistics are based on the legal definition of crime, since the system of criminal justice is perceived from a legal approach, since all empirical

studies on criminals focus on crime defined by law, and since legal definition of crime is considered to be precise, unambiguous and capable of measurement, let us examine this legal definition (of crime) first.

Paul Tappan (1960 :10) has defined crime as "an intentional act or omission in violation of criminal law committed without defence or justification". Five elements are important in this definition: (1) it should be an act or omission of an act, that is, a person cannot be punished for his/her thoughts; (2) the act must be voluntary and committed when the actor has control over his actions; (3) the act should be intentional, whether the intent be general or specific. A person may not have a specific intent to shoot another person and kill him, but he is expected to know that his action might result in injury or death of others; (4) it should be a violation of a criminal law (as distinct from a non-criminal law or civil and administrative law). This is necessary so that the state can take action against the accused; and (5) it (the act) should be committed without defense or justification. Thus, if the act is proved to be in self-defence, or committed in insanity, it will not be considered a crime even if it causes harm or injury to others. Ignorance of law is usually not a defense.

Hall Jerome (1947 : 8-18) has defined crime as "legally forbidden and intentional action, which has a harmful impact on social interests, which has a criminal intent, and which has legally prescribed punishment for it". Thus, according to him, no action is to be viewed as crime unless it has five characteristics : (1) it is legally forbidden, (2) it is intentional, (3) it is harmful (to society), (4) it has criminal intent, and (5) some penalty is prescribed for it.

Crime has also been defined in non-legal or social terms. Mowrer (1959) has defined it as "an anti-social act". Caldwell (1956 : 114) has explained it as "those acts or failures to act that are considered to be so detrimental to the well-being of a society, as judged by its prevailing standards, that action regarding them cannot be entrusted to private initiative or to haphazard methods but must be taken by an organised society in accordance with tested procedures". Thorsten Sellin (1970 : 6) has described it as "violation of conduct norms of the normative groups". Marshall Clinard (1957 : 22) has, however, maintained that all deviations from norms are not crimes. He talks of three types of deviations: (i) tolerated deviation, (ii) deviation which is mildly disapproved, and (iii) deviation which is strongly disapproved. He perceives the third type of deviation as crime. Let us take one

example in order to understand it. Gandhiji not only himself deviated from caste norms but also prompted others not to follow them. Yet, Gandhiji was not considered a deviant because his deviation was for the good of the society. The deviation that harms the society is strongly disapproved.

Criminologists with a sociological perspective have not claimed that there is no place for the legal definition of crime in criminology. They have only drawn attention to situations in which people who engage in 'criminal' behaviour are either not caught or are acquitted by courts because of inadequate evidence or legal loopholes or pressures. Taking the reconciliatory position between legal and social definitions of crime, Reid (1975 :5) has said that the legal definition may be used for compiling statistics on crime and for assigning the label 'criminal', but the studies undertaken for studying causation of crime should include such persons also in their sample of 'criminals' who admit their crime but are not convicted by court.

### Crime, Criminal and Criminology

Six questions are important in Criminology today (Jock Young, 1974 : 249-252). These are:

- (1) how is an individual's criminal behaviour explained ? At the point of committing crime, is the offender perceived as acting out of free-will or is he seen as compelled by some forces beyond his control?
- (2) how is the functioning of social order perceived ? Is order in society understood as based on the consent of the vast majority or is it largely based on the coercion ?
- (3) how is crime defined ? Is crime seen as the violation of the legal code or as a behaviour that offends the social code of a particular community ?
- (4) how is extent and distribution of crime viewed ? Is crime viewed as a limited phenomenon committed by a small number of people, or as the extensive phenomenon engaged in by a large proportion of the population ?
- (5) how are the causes of crime explained ? Are the causes of crime located primarily within the individual (that is, his personality, or is crime seen as the product of the wider society within which the individual lives ?
- (6) what is the policy regarding criminals ? Is the policy of punishing the offender appropriate or is the policy of treatment of the criminal accepted ?

These questions can be frame on the basis of dichotomies as follows:

- Individual's behaviour : free-will versus determinism
- Functioning of social order : consensus versus coercion
- Definition of crime : legal versus social
- Extent and distribution of crime : limited versus extensive
- Causes of crime : individual versus social
- Policy towards criminals : punishment versus treatment

Following Fitzgerald (1975 : 248-307) and Jock Young (1974), the following chart (Table 12.1) can be presented to point out the dichotomous reactions of seven different paradigms on these six questions.

### **Salient Characteristics of Crime in India**

Given the limitations of official criminal statistics, it is perhaps unwise to attempt to set forth the seemingly most important facts about crime in Indian society. It is conceivable that with adequate and valid methods, many of these 'facts' would change drastically. Nevertheless, there seems to be enough evidence to support at least the following brief description of crime in our country.

- (1) Of the total crimes committed in India every year, about 14.5 lakh are cognizable crimes under IPC (including theft, burglary, robbery, dacoity, murder, riot, kidnapping, cheating, breach of trust...) and about 37.7 lakh are offences under local and special laws (like violation of Motor Vehicle Act, Prohibition Act, Gambling Act, Excise Act, Arms Act, Suppression of Immoral Traffic Act, Opium Act, Railway Act, Explosive Substance Act.). Thus, the crime rate is not very high in our country. Whereas crime rate in the United States is apparently among the highest in industrialized societies, it being 4% or 5% of the total population in one year (Howard Becker, 1966 : 211), in India it is only 0.25% of the total population.
- (2) Of about 58 lakh cases of crimes investigated by the police every year (including pending cases of last year), about 30% are cases of cognizable crimes and about 70% are cases of offences committed under local and special laws.
- (3) The rate of cognizable crime per one lakh of population is about 180.
- (4) Of the total (cognizable) crimes, about one-third (33.0%) are the economic (property) crimes relating to theft (22.0%), burglary

Table 12.1 : Reactions of Different Paradigms on Important Questions of Crime and Criminals

Questions and Dichotomous Reactions	Classicism	Positivism (Bio, Psy, Social Theories)	Conservatism	Strain theory	New Deviancy theory	Liberalism Reformism theory	Marxism
1. How is individual behaviour determined? (Free-will v/s determinism)	Free will	Determinism	Free will	Determinism	Determinism	Determinism	Determinism
2. How is functioning of social order perceived? (Consensus v/s coercion)	Consensus	Consensus	Coercion	Consensus	Coercion	Coercion	Coercion
3. Definition of crime (Legal v/s social)	Legal	Social	Social	Social	Legal	Legal	Legal
4. Extent of crime (Limited v/s extensive)	Limited	Limited	Extensive	Limited	Limited	Limited	Limited
5. Causes of crime (Individual v/s social)	Individual	Social	Individual	Social	Social	Social	Social
6. Policy toward criminal (Punishment v/s treatment)	Punishment	Treatment	Punishment	*	*	Treatment	*

\* They emphasise on changing the functioning of social structures and social systems.

(9.0%), robbery (1.5%) and dacoity (0.5%). In other words, crime is greater for property offences than for offences against persons (murder, abduction...). The same is true about the U.S. too, where 77.0% crimes are property crimes (burglary, larceny, auto-theft...), and 23% are crimes against person (Becker, 1966 : 211).

- (5) Of the total persons arrested for offences under the local and special laws, a little more than three-fifths (62.0%) are arrested under four Acts : Motor Vehicle Act—23.0%, Prohibition Act—22.0%, Gambling Act—13.0% and Excise Act—4.0%. The remaining two-fifths (38.0%) are arrested under Arms Act, Railways Act, S.I.T. Act, Opium Act, and so on.
- (6) Of the total (cognizable) crimes, about two-fifths (38.0%) are committed in the four Hindi-speaking northern states of Uttar Pradesh, Madhya Pradesh, Bihar and Rajasthan, and about one-fourth (25.0%) in four southern states of Tamil Nadu, Karnataka, Andhra Pradesh and Kerala.
- (7) For about 14.5 lakh (cognizable) crimes committed every year, about 24 lakh persons are arrested, that is, on an average 17 persons are arrested for every 10 crimes committed. On the other hand, for every nine offences committed under the local and special laws, 10 persons are arrested.
- (8) More than four-fifths of the offenders (85.0%) commit (cognizable) crimes for which they get less than 6 months imprisonment, that is, their crimes are misdemeanours.
- (9) Crime rate is much higher for males than females. Out of every 100 offenders, 97 are males and three are females.
- (10) The ratio of urban offenders is much less than the rural offenders.
- (11) Crime rate is highest among those in the lowest socio-economic groups.
- (12) Crime rate is highest (49%) in the age group of 18-30 years. The percentage in other age-groups is: less than 1% in age-group below 16 years, 2% in 16-18 years age-group, 39% in 30-50 age group and 9% in 50+ age-group.
- (13) The last characteristic feature of the Indian criminal scene is the increase in the organised crime—the development of large-scale organisations for criminal activities. What is being organised more is the control and distribution of illicit goods and services—drugs (narcotics), girls for prostitution in India and in

Arabian countries, smuggling of gold... In addition, there are the organised efforts of the mafia groups to control various legitimate business activities, such as coal mines, unions in industries and the like. Although the total number of major crimes charged to 'organised crime' is probably small, its cost and its pattern in cities provides a distinctive element.

In presenting these facts and features, the idea is to point out the weakening of motives for conformity to social norms and the disruption of social relationships and social bonds. The unrest is increasing almost in all sections of our society. There is unrest among youth, peasants, industrial workers, students, government employees and the minorities. This unrest increases frustrations and strains which leads to the violation of legal and social norms. It is, thus, the organisation and the functioning of the existing sub-systems and structures in our society that are more responsible for the increase in crime. The influential sets of ideas about crime causation have been developed by a number of scholars, stemming primarily from Durkheim, moving to scholars like Merton, Cohen, Miller, Cloward and Ohlin. We shall attempt to analyse some of these viewpoints.

### **Theoretical Explanations of Criminal Behaviour**

The theoretic explanations of criminal behaviour have been classified into six groups: (i) biological or constitutional explanations, (ii) mental subnormality, illness and psycho-pathological explanations, (iii) economic explanation, (iv) topographical explanation, (v) (human) environment explanation, and (vi) 'new' and 'radical' explanation.

Reid (1976 : 103-251) has classified the theoretical explanations as: (1) classical and positive theories, (2) physiological, psychiatric and psychological theories, and (3) sociological theories. He has further sub-classified the sociological theories in two groups: (i) social structural theories (including Merton's, Cohen's, Cloward and Ohlin's, Matza's, Miller's, and Quinney's theories), and (ii) social process theories (including Sutherland's and Howard Becker's theories).

We will discuss these theories by dividing them in four groups: (1) classicist, (2) biogenic, (3) psychogenic, and (4) sociogenic.

#### *Classicist Explanation*

Classicist explanations of crime and punishment were developed in the second half of the eighteenth century. In fact, these theoretical explanations developed as the reaction to the enlightened thinkers and

Table 12.2: Theoretical Explanations of Causes of Crime

S.No.	Theoretical explanation	Propounder	Year	Main thesis that crime is result of
1. <i>Classical</i>		Beccaria	1764	i) Man's rational motivation. ii) Hedonism or pain/pleasure principle
2. <i>Biogenic</i>				Inherited traits
i) Evolutionary Atavism Theory		Lombroso	1876	Physical stigmata or defective organisms
ii) Goring's Theory		Charles Goring	1919	Defective anatomical factors
iii) Hooton's Theory		Hooton	1939	Biological inferiority
iv) Physiological Make-up		Sheldon	1940	Mesomorphic physique
3. <i>Psychogenic</i>				Defective personality
i) Psychological Theory		Goddard	1919	Inherited feeble-mindedness
ii) Psychiatric Theory		William Healy	1915	Mental disorders or emotional disturbances
iii) Psycho-analytical Theory		Adler, Abrahamsen, etc.	1930 1952	Instincts, or undeveloped ego, or guilt-feelings, or inferiority complex
4. <i>Sociogenic</i>				Learned and conditioned by social environment
(A) <i>Processual Explanation</i>				
i) Differential Association Theory		Sutherland	1939	Associations with and social influences of criminalistic norms.



Table 12.2 *Contd. .*

Labeling Theory	Howard Becker	1963	Consequences of application by others of rules and sanctions to an 'offender'.
(B) <i>Structural Explanation</i>			
i) Economic Theory	Fornasari & Bonger, etc.	1894, 1916	Economic conditions, or poverty and richness
ii) Geographical Theory	Dexter, Quetlet etc.	1904	Geographical factors like climate, temper- ature, humidity, etc.
iii) <i>Sociological Theory</i>			
a) Anomie Theory	Merton	1938	Strains caused by disjunction between goals and means
b) Differential Opportunity Theory	Cloward & Ohlin	1960	Differentials in legitimate and illegiti- mate means to success-goals.
c) Delinquent subculture Theory	Cohen	1955	Rejection of dominant values and development of delinquent values
d) Containment Theory	Walter Reckless	1967	Unfavourable self-concept

political reformers against the arbitrary systems of justice and the barbarous codes of punishment which prevailed upto the eighteenth century. They demanded a legal system that would defend the interests of the criminals and protect their rights and liberties. They believed in the 'contract theory' of the origin of state (propounded by Rousseau), that is, regulating the conduct of free individuals who were bound to one another within the society by a free and 'legal' contract between free and equal individuals. Thus, individuals were conceived as free, rational and sovereign individuals, capable of defining their self-interests and rationally thinking of the consequences of their actions. They, therefore, thought of state/society not as something sovereign but as something which individuals had contracted to establish for their individual and mutual benefit. Thus, they sought to limit the power of the state to defence of the rights and liberties, as well as safety and security of the individual.

The propounder of the classicist explanation was an Italian thinker, Beccaria, who was influenced by the writings of scholars like Bentham and John Howard. Beccaria and his classical school maintained that (a) human nature is rational, free, and governed by self-interest, (b) social order is based on consensus and social contract, (c) crime is the infringement of the legal code and not of social norm, (d) distribution of crime is limited and is to be ascertained through a 'due process', (e) crime is caused by an individual's rational motivation, and (f) in punishing the offender, the principle of 'restraint' should be observed.

The main postulates of Beccaria's classical explanation (Schafer Stephen, 1969 : 106) developed in 1764 were :

- (1) Man's behaviour is purposive and rational and is based on hedonism or pleasure-pain principle, that is, he consciously chooses pleasure and avoids pain.
- (2) Punishment should be assigned to each crime so that the pain would outweigh any pleasure from the commission of crime.
- (3) Punishment should not be severe and deterrent but it should be proportionate to crime and also be predetermined, prompt, and public.
- (4) The law must apply equally to all citizens.
- (5) The legislatures should clearly enact the law and prescribe specific punishment for its violation. The judges should not interpret the law but should only decide whether a person committed the crime (violated the law) or not. In other words, courts should only determine innocence or guilt and thereafter prescribe the set punishment.

The major weaknesses in the classical explanation were: (1) all criminals were to be treated alike without differentiating them on the basis of age, sex or intelligence; (2) no importance was given to the nature of crime (that is, whether the crime was a felony or misdemeanour) or the type of the criminal (that is, whether he was a first offender, a casual offender, a habitual offender, or a professional offender; (3) explaining an individual's behaviour merely on the doctrine of 'free-will' and suggesting punishment on the principle of 'utilitarianism', is only an armchair philosophy which considers crime in the abstract and lacks a scientific approach in the objective and empirical measurement; (4) there was no provision for justifiable criminal acts; and (5) Beccaria and Bentham were more concerned with reform in the criminal law (like mitigation of severity of punishment, removal of defects in the Jury system, abolition of transportation and capital punishment and in the adoption of a prison philosophy and regulating morality, than in controlling crime or development of criminological theories.

The British neo-classicist criminologists revised the classical theory in 1810 and 1819 and provided for judicial discretion and introduced the idea of minimum and maximum sentences (Vold George, 1958 : 25-26). Describing the concept of equal justice as unreal, they suggested giving importance to age, mental condition and extenuating circumstances in fixing punishment to criminals. Children under seven years of age and mentally diseased persons were to be exempted from the law. However, inspite of these changes, the neo-classicists accepted the principles of free-will and hedonism. As such, this school also has not been considered as a scientific school of criminology.

### *Biogenic Explanation*

The positivists rejected the concept of 'free-will' advocated by the classicists and the neo-classicists and emphasised on the doctrine of 'determinism'. Lombroso, Ferri and Garofalo were the major positivists who emphasised on the biogenic or hereditary aspects of criminal behaviour. (Heredity is the parental contribution made through 46 chromosomes. Of these, two determine the sex of the infant and 44 affect other qualities of the body. The combinations and permutations among the genes determine the infant's particular genotype, that is, genetic contribution of an organism).

Lombroso, an Italian physician and professor of Clinical Psychiatry and Criminal Anthropology and described as the "Father of

Criminology", propounded the Theory of Evolutionary Atavism (also called Theory of Physical Criminal Type or Theory of Born Criminals) in 1876. He claimed that the criminal is of a different physical type than the non-criminal (1911 : 365). A criminal suffers from many physical abnormalities. As such, he can be identified by a number of characteristics or stigmata, like asymmetrical face, large ears, excessively long arms, flattened nose, retreating forehead, tufted and crispy hair, insensibility to pain, eye defects and other physical peculiarities. Lombroso not only pointed out differences in physical characteristics between criminals and non-criminals but he also gave characteristics that distinguished criminals according to the type of crime they committed.

Charles Goring, an English psychiatrist and philosopher, criticised Lombroso's theory on the basis of his own study in which he measured the characteristics of 3,000 English convicts and a large number of non-criminals in 1913. He maintained that there is no such thing as a physical criminal type. However, he himself explained crime on the basis of hereditary factors (1919 : 11) using the statistical treatment of facts, or what is called the statistico-mathematical method. But Goring's work was also criticised because (Reid, 1976 : 120-21) (1) he committed the same errors in statistical analysis for which he had criticised Lombroso. He measured intelligence not by the available Simon-Binet tests but by his own impression of the mental ability of the criminals, (2) he completely ignored the impact of environment on crime, (3) the sample of non-criminals which included undergraduate university students, inmates of a hospital, mental patients and soldiers, was defective, and (4) he was violently prejudiced against Lombroso.

Though, Ferri and Garofalo too had supported Lombroso but he (Lombroso) modified his theory at the end of his life and said that all criminals are not 'born criminals'. There are 'criminaloids' (who are individuals of normal physical and psychological make-up), occasional criminals, and criminals by passion. The main criticisms against Lombroso's theoretical explanations are: (1) his collection of facts was confined to organic factors and he neglected the psychic and social factors; (2) his method was mainly descriptive and not experimental, (3) his generalisations about atavism and degeneracy left a gap between theory and fact. He adjusted facts to fit his theory; (4) his generalisation (about atavism) was drawn from a single case and is, therefore, unscientific, and (5) his use of statistics was actually not tested by the data. In spite of these criticisms, Lombroso's contribution to the

development of criminological thought has been recognised on the basis that he redirected emphasis from the crime to the criminal.

Interest on biogenic variables was revised by a Harvard physical anthropologist Hooton in 1939. On the basis of his 12 year study of 13,873 male prisoners compared to a small number of 3,203 male non-offenders, he concluded that the primary cause of crime is 'biological inferiority'. The four conclusions he drew from his study (1939) were: (1) criminal behaviour is the direct result of inherited biological inferiority as shown by characteristics like sloping foreheads, thin lips, straight hair, body hair, small ears, long thin necks and sloping shoulders, (2) particular types of crime are caused by particular types of biological inferiority. Tall and thin men tend to be murderers and robbers, tall and heavy men tend to be cheats, short statured and thin men tend to be thieves and burglars, and short heavy men are prone to commit sexual crimes, (3) criminals are organically inferior, and (4) elimination of crime can be effected only by the sterilization of the physically and mentally unfit persons.

He further held that in every society, there are a few geniuses, hordes of mediocres, masses of morons, and regiments of criminals. He gave three types of biologically inferior people: (1) who are organically inadaptible, (ii) mentally stunted, and (iii) sociologically warped.

His theory was, however, criticised by Albert Cohen, Alfred Lindesmith and Karl Schuessler (See Sutherland, 1969 : 118-19; Vold, 1958 : 59-64; Gibbons, 1977 : 139-40) on the arguments that : (1) his control groups of non-offenders were small in size and represented types that could be expected to be superior intellectually (university students) and physically stronger (firemen), (2) the sample of criminals was unrepresented as it was drawn only from an imprisoned population; (3) his research methodology was defective; (4) he had no explicit criterion of 'biological inferiority'; and (5) he offered no evidence that physical inferiority is hereditary.

Sheldon related crime with physiological make-up or body constitution in 1940. He classified individuals on the basis of their physique (or body types) into three groups: endomorphic, ectomorphic and mesomorphic. Individuals with the first type of physique (with small bones, short limbs, and soft smooth and velvety skin) love comfort and luxury and are essentially extroverts; those with the second type of physique (with lean, fragile, delicate body, small delicate bones) are introverts, full of functional complaints, sensitive to noise, who complain of chronic fatigue, and shrink from crowds and

individuals; and those with the third type of physique (with strong muscles and bones, heavy chest and large wrists and hands) are active, dynamic, assertive and aggressive. Sheldon developed scales for measuring the body-type dimensions in which individuals were scored on each component between 1 to 7 scores. However, Sheldon's hypothesis that there is a relationship between delinquent behaviour and body-types and that the delinquents are somewhat more mesomorphic in body structure than are the non-delinquents has not been convincingly proved. Crime is a social process and not a biologically determined pattern of behaviour.

If we were to compare the main points of the classical school with the positive school, we could say that (1) the former emphasised the legal definition of crime, the latter rejected the legal definition; (2) the former believed in the doctrine of free-will, the latter believed in determinism; (3) the former did not use empirical research, the latter used empirical research; (4) the former emphasised on crime (in suggesting punishment), the latter on the criminal; (5) the former suggested death penalty for some offences, the latter recommended abolition of death penalty; and (6) the former was in favour of a definite sentence, the latter was in favour of an indeterminate sentence.

Besides the above theories, some studies on identical twins have also emphasised on heredity as an important factor in crime. For example, Lange (1931) compared the behaviour of male twins in several prisons with the non-institutionalised twins. He found that in the case of identical twins (born of a single fertilized ovum), 10 of the 15 pairs were concordant (both members of a twin pair having the same characteristics) while in the case of fraternal twins (born of separate ova), 15 of the 17 pairs were discordant (both twin members having different characteristics).

Kranz (Rosenthal, 1970) in his 1936 study of twins and criminality found 66% twins concordant among identical twins and 54% among fraternal twins. Christiansen (1968) in his study of 6,000 pairs born between 1880 and 1890 in Denmark found that with respect to criminal behaviour, identical twins were concordant in 66.7% cases as compared to 30.4% of the fraternal twins.

The criticism against explaining criminal behaviour in terms of inherited factors is that the similarities of the behaviour of identical twins could be the result of living in the same environment and be totally unrelated to heredity. Secondly, if heredity is the cause of crime, there should be no cases of identical twins where one is a criminal and

the other is not. On similar lines, the studies of family lines (Jukes by Dugdale in 1877; Kallikaks by Goddard in 1911, etc.) as evidence of inherited criminality have also been rejected.

### *Psychogenic Explanation*

The psychogenic theories trace crime as some defect in the personality of the offender or 'in the inside of the person'. The psychological theory emphasises on feeble-mindedness (low Intelligence Quotient or I.Q.), the psychiatric theory on the mental disorders, and the psycho-analytical theory on the undeveloped ego, or drives and instincts, or guilt-feelings or inferiority complex.

### *Psychological Explanation*

Henry Goddard reported results on intelligence tests in 1919 and maintained that (1919 : 8-9) the greatest single cause of delinquency and crime is feeble-mindedness (very low I.Q.). He said that feeble-mindedness is inherited and is very little affected by life events. He emphasised that a criminal is not born but made. But Goddard did not believe that every feeble-minded person is a criminal. He may be a potential criminal but whether he becomes one would be determined by two factors: his temperament and his environment. Thus, though feeble-mindedness may be hereditary but criminality is not hereditary.

In 1928-29, Sutherland (1931 : 357-75) analysed 350 reports on studies on intelligence tests covering little less than two lakh criminals and delinquents to examine the relationship between crime and mental deficiencies. He discovered that: (1) 50% criminals were diagnosed as feeble-minded in the studies conducted between 1910-14, but only about 20% were found criminals in studies in the period 1925-28; (2) there was a negligible difference in the mental age of criminals and non-criminals; (3) the discipline among low-mentality prisoners was the same as among high-mentality prisoners; and (4) conformity to parole conditions of the feeble-minded and the ordinary parolees was almost equal. He, thus, concluded that low mentality of the feeble-minded is not a significant cause of criminality

### *Psychiatric Explanation*

William Healy, a psychiatrist in Chicago, disagreeing with his physician colleagues that juvenile delinquency is caused by defective

organisms or anatomical factors emphasised on personality defects and disorders, or 'psychogenic traits' as the cause of crime. In broader terms, psychogenic traits cause those ways of behaviour which are established in the infant or the young child through emotional interaction within the family. These traits refer to extroversion or introversion, dominance or submission, optimism or pessimism, emotional independence or dependence, self confidence or its absence, egocentrism or sociocentrism, and so on (Johnson, 1978 : 155). In narrower terms, however, the term 'psychogenic' is referred to 'mental disorder' or 'emotional disturbances'. Analysing psychological factors, Healy found a greater frequency of personality disorders among delinquents than among non-delinquents.

Psychiatrists have given three types of mental disorders or psychoses (that is, individuals manifesting severe decomposition, distortion of reality and loss of contact with reality) : (i) schizophrenia (exhibiting tendency to retreat from reality through delusions and hallucinations), (ii) manic-depressive disorder (exhibiting fluctuations in mood), and (iii) paranoia. The estimate is that only 1.5% to 2.0% criminals are psychotic, of which the schizophrenic is the most common among such offenders.

A study of 10,000 felons in New York between 1932 and 1935 also pointed out that only 1.5% were psychotic, 6.9% were psycho-neurotic, 6.9% were psychopathic and 2.4% were feeble-minded. Thus, 82.3% of offenders were diagnosed as 'normal'. Another study of Paul Schilder (*Journal of Criminal Psychopathology*, October, 1940 : 152) in 1937 in New York pointed out that 83.8% offenders were 'normal'. Dunham's (1939 : 352-61) study of 500 males in Illinois hospital showed that schizophrenia is a negligible factor in the causation of crime. Thus, all these investigations show that the psychiatric theory has proved untenable (Bromberg & Thompson, 1939 : 70-89).

Serious methodological errors have been pointed out in Healy's researches too (1) his samples are small and unrepresentative; (2) his terms are either not defined or vaguely defined, for example, 'normal emotional control' and 'good living conditions'. How are these factors to be measured, and (3) research fails to explain why some children who have the traits believed to be characteristic of delinquents do not become delinquents and why some children who do not have those traits do become delinquents. By now, we might conclude that psychiatric theory stands rejected.



### Psycho-Analytical Explanation

Sigmund Freud, who developed the psycho-analytical theory at the end of the nineteenth and the beginning of the twentieth century, did not advance a theory of criminality. But his approach and the three elements of Id, ego, and super-ego have been used by others like Adler, Abrahamsen, Aichhorn and Friedlander to explain criminal behaviour. Id is an individual's raw instinct or desire or drive or urge; ego is the reality; and super-ego is an individual's conscience or moral pressure. Super-ego constantly tries to suppress the Id while the ego is the acceptable balance between the Id and the super-ego. The Id and super-ego are basically *unconscious* while the ego is the *conscious* part of the personality.

The three propositions of psychoanalytic thought are: (1) behaviour is largely the product of unconscious psychological-biological forces (drives or instincts); (2) criminality arises out of conflicts related to these basic drives; and (3) to modify undesirable (criminal) behaviours, the person must be guided towards insight into the unconscious roots of his responses so that he can develop control over such impulses. In a well-balanced personality, Id, ego and super-ego work in relative harmony. But in abnormal cases (neurotic individuals), imbalance and disharmony occurs. When the super-ego is not sufficiently developed, the released repressed instincts may lead to anti-social behaviour. Conflict in the unconscious mind gives rise to feelings of guilt with a consequent desire for punishment to remove the guilt feelings and restore a balance of good against evil. The individual then commits the criminal act, leaves clues for apprehension in order to be caught and punished (Vold, 1958 : 93).

Aichhorn (1955 : 30) was the first scholar to use Freud's psycho-analytical approach in studying delinquents. He found several kinds of delinquents : some neurotic, some aggressive and lacking in super-ego development, some with little capacity for repressing their instinctual drives, and some having distorted cravings for affection.

Alfred Adler explains crime in terms of 'inferiority complex'. An individual commits crime to 'get attention' which helps him to compensate for his sense of inferiority. But Adler's theory is criticised for placing greater emphasis on the 'rational' side of an individual's behaviour and for oversimplification.

David Abrahamsen (1952) has explained crime in terms of an individual's resistance to tendencies and situations. He developed a formula  $C = \frac{T+S}{R}$  where 'C' stands for Crime, 'T' for Tendencies, 'S'

for Situation, and 'R' for Resistance. Criminal behaviour will result if the individual has strong criminalistic tendencies and low resistance.

Sociologists have not favourably reacted either to Abrahamsen's explanation or to psychoanalytic explanation that causes of crimes are unconscious. They say, it is an oversimplification to reduce causative factors to three factors in mathematical terms. Likewise, the explanation that the criminal commits crime because he subconsciously desires to be punished as a result of his guilt feelings cannot be accepted for all crimes because in some cases, the individual commits crime, feels guilty, and is then punished. Mannheim has also said that punishment is no deterrent for the criminal. Thus, arguments against the psychiatric theory are: (1) there is methodological and logic-of-science error in psychiatric theory; (2) the terms are vague as no operational definitions of Id, ego, super-ego or unconscious are given, (3) projective techniques are open to subjective interpretation of the analyst; (4) the researches are based on small samples and inadequate control groups; (5) so long as an individual is the focus of the approach, generalizations cannot be made regarding patterns of behaviour; and (6) this theory in fact does not explain anything in terms of the causation of criminal behaviour.

### *Sociogenic Explanation*

While the physiological, psychiatric and psychological theoretical explanations emphasize that crime is either inherited and results from a physical or a mental factor, or is the consequences of suppressed childhood experiences, sociologists argue that criminal behaviour is learned and it is conditioned by the social environment. Sociologists have used two approaches in studying the causation of crime: the first approach studies the relationship between crime and the social structure of society; and the second approach studies the process by which an individual becomes a criminal. Thus, sociological explanations may be classified in two categories : (1) structural explanations which include economic explanation, geographical explanation and sociological explanations of Merton and Clifford Shaw and subculture explanations of Cohen and Cloward and Ohlin, and (2) processual explanations which include explanations of Sutherland, Howard Becker and Walter Reckless.

### *Economic Explanation*

This explanation analyses criminal behaviour in terms of the economic conditions in society. It holds that the criminal is a product of the

economic environment which provides him his ideals and his goals. It was the Italian Scholar Fornasari who talked of the relationship between crime and poverty in 1984. He maintained that 60% of the population of Italy is poor, and of the total crimes in Italy, 85% to 90% criminals belong to this section of the poor. In 1916, a Dutch scholar Bonger also emphasised on the relationship between crime and the capitalistic economic structure. In a capitalistic system, man concentrates only on himself and this leads to selfishness. Man is interested only in producing for himself, specially in producing a surplus which he can exchange for profit. He is not interested in the needs of others. Capitalism, thus, breeds social irresponsibility and leads to crime.

In 1938, a British criminologist Cyril Burt analysing juvenile delinquency found that 19.0% juvenile delinquents belonged to extremely poor families and 37.0% to poor families (1944 : 147). He concluded that though poverty is an important factor in crime but it is not the only factor. In 1915, William Healy studied 675 juvenile delinquents and found that 5.0% belonged to the destitute class, 22.0% to the poor class, 35.0% to the normal class, 34.0% to the comfort class, and 4.0% to the luxury class. Thus, since 73.0% delinquents belonged to classes which were economically normal or well-off, poverty cannot be considered to be a very important factor in delinquency.

Karl Marx's view of economic determinism advocated that private ownership of property results in poverty which distinguishes those who own the means of production from those whom they exploit for economic benefit. The latter turn to crime as a result of this poverty. Thus, though Marx did not specifically develop a theory of criminal causation but he believed that the economic system was the sole determinant of crime.

In India, two studies may be referred to in this context. Ruttoonshaw studied 225 juvenile delinquents in Poona and found (1947 : 49) that 20.0% belonged to families whose income was less than Rs. 150 per month, 58.0% belonged to families with an income of Rs. 150-500 per month, 12.2% belonged to families with an income of Rs. 500-1000 per month, 4.8% belonged to families with an income of Rs. 1000-2000 per month, and 2.7% belonged to families whose income was more than Rs. 2000 per month. This study, thus, shows that poverty cannot be given too much importance in crime. Sutherland (1965) has also said that : (1) we find more criminals in poor families because it is easy to

locate them, (2) criminals belonging to upper classes use their influence and pressures in escaping arrests and convictions, and (3) reactions of administrators are more biased towards the upper class people. Thus, today, most behavioural scientists reject the theory of economic determinism in criminal behaviour

### *Geographical Explanation*

This explanation evaluates crime on the basis of geographical factors like climate, temperature and humidity. It is supported by scholars like Quetlet, Dexter, Montesquiu, Kropotokin, Champneuf and many others. According to Quetlet, crimes against persons predominate in the south and increase in summers, while crimes against property predominate in north and increase in winters. Champneuf supported this hypothesis of relationship between the nature of crime and the climate on the basis of his study conducted in France between 1825 and 1830. He found 181.5 property crimes against every 100 crimes against persons in north France, and 98.8 property crimes against every 100 crimes against persons in south France. On the basis of his study of property crimes conducted between 1825 and 1880, the French scholar Laccasagne also found the highest number of property crimes in December, followed by January, November and February. In this study on the effect of weather on an individual's behaviour made in 1904, the American scholar Dexter found that crime and geographical environment are highly related with each other. In 1911, a Russian scholar Kropotkin established that the rate of murder in any month/year can be predicted by calculating the average temperature and humidity of the preceding month/year. For this, he gave a mathematical formula  $2(7x+y)$ , where 'x' is temperature and 'y' is humidity. Multiplying the average temperature 'x' of last month with 7 and adding the average humidity of the last month 'y' to it, if we multiply the total figure with 2, we will get the number of murders to be committed in the given month.

The geographical explanation has been criticised on the ground that geographical factors may affect individual behaviour but the direct relationship between crime and geographical factors cannot be accepted as given by the scholars. Had such relationship existed, the number and nature of crime in a given geographical environment would have been the same at all times, which is not so. Hence, the invalidity of this theory.

## Sociological Explanation

### *Sutherland's Theory of Differential Association*

Sutherland propounded the "Differential Association Theory" in 1939. He says, two explanations have mainly been forwarded for criminal behaviour: situational and genetic or historical. The former explains crime on the basis of situation that persists at the time of crime, and the latter explains crime on the basis of a criminal's life experiences. He himself used the second approach in developing the theory of criminal behaviour. Suppose a hungry boy comes across a shop and finds the shopkeeper absent. He steals a loaf of bread. In this case, it is not because the shopkeeper was absent and he was hungry that the boy committed the theft but it is because he had learnt earlier that one can satisfy his hunger by stealing things. Thus, it is not the situation which motivates a person to commit theft, it is his learnt attitudes and beliefs.

Sutherland's main thesis (1969 : 77-79) is that individuals encounter many inharmonious and inconsistent social influences in their life-time and many individuals become involved in contacts with carriers of criminalistic norms and as a consequence become criminals. He called this process 'differential association'.

The theory states that criminal behaviour is learned in a process of communication with other persons, principally in small, intimate groups. This learning includes the techniques of committing the crime. The specific direction of motives, drives, rationalisations and attitudes is learned from definitions of the legal codes as favourable or unfavourable. A person becomes criminal or delinquent because of an excess of definitions favourable to violation of law over definitions unfavourable to violation of law. This is the principle of differential association. Differential associations may vary in frequency, duration, priority and intensity. The process of learning criminal behaviour by associations with criminal and anti-criminal patterns involves all of the mechanisms that are involved in any other learning. While criminal behaviour is an expression of general needs and values, it is not explained by those needs and values since non-criminal behaviour is an expression of the same needs and values.

Sutherland's theory was supported by James Short Junior on the basis of his study of 176 school children (126 boys and 50 girls) in 1955 (Rose Giallombardo, 1960 : 85-91). Short measured the degree of, presumed exposure to crime and delinquency in the community, the

frequency, duration, priority and intensity of interaction with delinquent peers and knowledge of and association with adult criminals.

But Sutherland's theory has been attacked by many scholars like Sheldon Glueck, Mabel Elliott, Caldwell, Donald Cressey, Tappan, George Vold, Herbert Bloch, Jeffery Clarence, Daniel Glaser and others. The major criticism is that it is difficult to empirically test the principles and measure 'associations' and the priority, intensity duration and frequency of relationships. According to Tappan, Sutherland has ignored the role of personality or role of biological and psychological factors in crime. George Vold (1958:194) has maintained that he has ignored the role of secondary contact and formal groups in criminality. Clarence Ray Jeffery holds that Sutherland's theory fails to explain the origin of criminality, since criminality has to exist before it can be learned from someone else. (Johnson, 1978 : 158) Mabel Elliot (1952 : 402) says, Sutherland's theory explains the systematic crimes but not the situational ones. According to Cressey, Sutherland does not fully explore the implications of the learning process itself as it affects different individuals. Herbert Bloch (1962 : 158) is of the opinion that it is virtually impossible to measure associations in comparative quantitative terms. Glueck (1951:309) maintains that an individual does not learn every behaviour from others; many acts are learnt naturally. Caldwell says that individuals become what they are largely because of the contacts they have but both the constitutional or inborn hereditary structure and the intensity of the environmental stimuli must be appraised as well.

Daniel Glaser (1956 : 194) modified Sutherland's theory a little to explain from whom an individual learns crime. He called this new theory as 'Differential Identification Theory' and said that a person pursues criminal behaviour to the extent that he identifies himself with real or imaginary persons from whose perspective, his criminal behaviour seems acceptable. He further says that one of the persistent problems in the Theory of Differential Association is the obvious fact that not everyone in contact with criminality adopts or follows the criminal pattern. What, therefore, is the difference in the nature or quality of the association that in one case leads to acceptance of the attitudes and behaviour of a group of one individual but in the case of another individual leads to only acquaintance with but not an acceptance of the behaviour characteristics of the group.

*Merton's Theory of Anomie*

Merton, reacting against the biological and psychiatric theories (that crime is the result of inherited traits) first attempted to explain deviant behaviour in 1938 in a paper published in the *American Sociological Review*. He elaborated his thesis further in 1949 and 1957 and distinguished between social and cultural structures. Cultural structure, according to him, refers to goals and interests men pursue, while social structure refers to means or approved methods which regulate and control the pursuit of goals and interests. The cultural system of society enjoins all men to strive for goals by means of normatively regulated or approved forms of behaviour. However, opportunities to reach these goals through socially approved means are unequally distributed. Deviant behaviour ensues when social structure restricts or completely closes a person's access to the approved modes of reaching these goals. In other words, the disjunction between goals and means causes strains which in turn leads to a weakening of men's commitment to the culturally prescribed goals or institutionalized means, that is, to a state of anomie. Thus, Merton's thesis is that some social structures exert a definite pressure on some persons to engage in non-conformist rather than conformist conduct.

Merton (1968 : 192-193) has identified five modes of adaptation available to those who react to goals and means of society : conformity, innovation, ritualism, retreatism and rebellion. *Conformity* describes the acceptance of goals and also of the means of the society. *Innovation* represents the acceptance of the goals but the rejection of the means, for example, a student accepts the goal of passing the examination and obtaining a degree but uses unfair means to pass. Thus, Merton points out that poverty does not cause crime but when poverty is linked with a cultural emphasis on monetary success as a dominant goal and a poor individual cannot compete because of his poverty for the culture values, then criminal behaviour is the normal outcome. *Ritualism* is the rejection of the goals but acceptance of the means. For example, a student goes to the college but does not attend his classes and spends time instead in the college canteen. *Retreatism* involves the rejection of both goals and means. For example, when an individual fails to achieve his goals by legitimate means and at the same time cannot adopt illegitimate means because of his prior socialization, he rejects both goals and means and becomes a drunkard, drug addict or a vagrant. *Rebellion* is characterized by the rejection of the goals and the means and an attempt to adopt new goals and means.

Merton's theory has been criticised by Cohen, Clinard and Lemert. Their main arguments are : (1) Merton's theory is incomplete because he has not explained who will reject the goals and who will reject the means , (2) only structure has been given importance; an individual's personality has been ignored; (3) strains do not necessarily lead to deviant behaviour; (4) the theory neglects the important role of social control, (5) Merton's assumption that deviant behaviour is disproportionately more common in lower classes is not correct; (6) anomie may be the cause rather than the effect of circumscribed life chances; (7) Cohen has argued that Merton has not explained what the determinants which determine the mode of adaptation of the individual are, (8) Cohen has also said that Merton has failed to account for the 'non-utilitarian' crime and juvenile delinquency, which people engage only for fun and not to meet specific goals of the society, for example, vandalism or a car-theft for joy-rides; and (9) finally, the theory does not take into account the social-psychological variables or the social structural elements which might explain the adoption of one adaptation over the other by the individuals.

### *Cloward and Ohlin's Theory of Differential Opportunity*

Cloward and Ohlin integrated Sutherland's and Marton's theories and developed a new theory of criminal behaviour in 1960. Whereas Sutherland talks of illegitimate means and Merton talks of differentials in legitimate means, Cloward and Ohlin talk of differentials in both legitimate and illegitimate means to success-goals. The important elements of this theory are: (1) an individual occupies a position in both the legitimate and illegitimate opportunity structures, (2) relative availability of illegitimate opportunities affects the resolution of an individual's adjustment problems, and (3) faced with limitations on legitimate avenues of accessibility to goals and unable to revise his aspirations downward, he experiences intense frustration, resulting in exploration of non-conformist alternatives.

Clarence Schrag (1972 : 167) systematically organised Cloward's theory and gave its four postulates : (1) middle-class goals, specially economic goals, are widespread, (2) every organised community provides legitimate opportunities for attaining these goals, (3) access to legitimate means varies from class to class, and (4) within given community, illegitimate opportunities may or may not be available. But Schrag himself has criticised the theory of Cloward and Ohlin based on the above postulates on two counts : (1) the theory fails to explain why



a young person who belongs to a lower class does not become involved in the activities of delinquent gangs, and (2) who will use illegitimate means to achieve goals ? Schrag has answered the second question himself. He says that three types of persons are susceptible to indulging in deviant behaviour or join delinquent gangs : (1) those who blame the system for their failures and/or adjustment problems, (2) those who think, they possess the official criteria but not the pragmatic criteria, and (3) those who are alienated from conventional norms or a legitimate system.

Cloward and Ohlin have identified three types of delinquent sub-cultures; the criminal, the conflict, and the retreatist. The first emphasises orderly activity oriented to economic gain; the second emphasises violence and gun-fighting; and the third emphasises drug use and other 'kicks'. The first tends to arise in areas where successful and big-time criminals reside and they have a high status in the conventional community and mutually acceptable relations with political machines and law enforcement officials. This sub-culture does not manifest violence. The second is found in areas where there is no alliance between the criminal and the conventional elements. This subculture features violence and/or threat of violence as a method of getting status. In such neighbourhoods, young people tend to organise themselves in a community of gangs contending with one another for "rep" through the show of violence and toughness. The third is found in areas where either repressive police measures make street-fighting too dangerous or where moral and other inhibitions against the use of violence exist. Individuals denied access to criminal and 'conflict' opportunities tend to withdraw into a world of narcotic drugs.

Short, Tennyson and Rivers have supported Cloward and Ohlin's theory on the basis of their study on the perception of legitimate and illegitimate opportunities pertaining to education and occupation among 500 negro and white lower-class gang boys and middle-class non-gang boys from the same neighbourhood. Walter Reckless also undertook a project to examine Cloward's theory. Some of the questions pertaining to the perception of opportunities were: (1) I probably won't be able to do the kind of work that I want to do because I don't have enough education, (2) if a kid like me works hard, he can get a lead, (3) my family can't give me the opportunity that most kids have, (4) most people are better off than I am, (5) I am as well off as most people are, and (6) a guy like me has a pretty chance of going to a college.

On the basis of the responses received, Reckless found that Cloward's theory is partly correct, that is, it explains some crimes but not all crimes.

The important criticisms against Cloward and Ohlin's theory are: (1) the main contention in the theory that there are kinds of opportunities—legitimate and illegitimate—is not so simple as it seems. The distinction, although real, is 'analytical' rather than 'concrete', that is, there are not *some* things that are legitimate opportunities and *other* things that are illegitimate opportunities, but the *same* things are always both, for example, notes prepared by students on small pieces of paper can be used as unfair means in examinations as well as legitimate simple means for remembering points a day or two before the examinations. Similarly, a gun can be used for killing as well as defending oneself, (2) Cloward and Ohlin maintain that the lower-class youths have two orientations: (a) orientation toward membership in middle-class, called 'lifestyle' orientation, and (b) orientation toward economic improvement, called 'economic orientation. Cloward's thesis is that candidates for delinquent subculture are those who wish to retain lower-class membership but aspire to improve their economic status (Johnson, 1978 : 179). But Gordon says, these two orientations do not exist separately; (3) Cloward has not specified the initial conditions for the emergence of various types of subculture; (4) there is class-bias in this theory; (5) some concepts cannot be operationalised, for example, opportunity structure, perception of opportunity, denial of legitimacy or double failure; and (6) the personality factor has been completely ignored.

### *Cohen's Theory of Value Orientation or Delinquent Sub-Culture*

Albert Cohen's theory mainly deals with the problems of status adjustment of working-class boys. He holds (1955 : 65-66) that the young people's feelings of themselves depend largely upon how they are judged by others. The situations in which they are judged, most notably the school situation, are largely dominated by middle class values and standards, which in fact is the dominant value system. These standards include such criteria as neatness, polished manners, academic intelligence, verbal fluency, high level of aspirations, and a drive for achievement. Young people of different origins and backgrounds tend to be judged by the same standards in the society, so that young people of lower classes find themselves competing for status and approval under the same set of rules. However, they are not equally well-

equipped for success in this status game. For this and other reasons, the lower-class children are more likely to experience failure and humiliation. One way they can deal with this problem is to repudiate and withdraw from the game and refuse to recognise that these rules have any application to them. But, this is not quite that simple because the dominant value system is also, to a degree, their value system. They have three alternatives before them: (i) to adopt the 'college-boy response' of upward mobility (thrifty, hardwork, cuts himself from activities of peers), (ii) to adopt the 'stable corner-boy response' (does not surrender the upward mobility idea but is neither thrifty nor cuts himself from peers nor incurs hostility of either middle-class persons or delinquent boys), and (iii) to adopt 'delinquent response' (completely repudiates middle-class standards). Of these alternatives, most of the children adopt the third response. They resort to reaction formation. They reject the dominant value system and develop new values which are *non-utilitarian* (because they do not benefit economically), *malicious* (because they enjoy at others' cost and suffering), and *negativistic* (because they are opposed to the accepted values of the larger society).

The propositions in Cohen's theory may be stated briefly as follows (Kitsues & Dietrick, 1966 : 20) : The working-class boy faces a characteristic problem of adjustment which is qualitatively different from that of the middle-class boy. His problem is one of 'status-frustration'. His socialization handicaps him for achievement in the middle-class status system. Nevertheless, he is thrust into this competitive system where achievement is judged by middle-class standards of behaviour and performance. Ill-prepared and poorly motivated, he is frustrated in his status aspirations by the agents of middle-class society. The delinquent sub-culture represents a 'solution' to the working-class boy's problem, for it enables him to 'break clean' with the middle-class morality and legitimizes hostility and aggression without moral inhibitions. Thus, the delinquent sub-culture is characterised by non-utilitarian, malicious and negativistic values as an attack on the middle-class where their egos are most vulnerable. It expresses contempt for a way of life by making its opposite a criterion of status.

Cohen's above theory has been critically examined both as a theory of the delinquent sub-culture and as a theory of delinquency. Sykes and Matza, Merton, Reiss and Rhodes, Kobrin and Finestone, Kitsuse and Dietrick and Wilensky and Labeaux have questioned various

propositions and implications of his thesis. The main criticisms are : (1) a gang member does not reject middle-class values and standards but adopts techniques of neutralization to rationalize his delinquent behaviour (Sykes & Matza, 1957), (2) if Cohen's theory is accepted, the delinquency rate of lower-class boys should be higher in areas where they are in direct competition with middle-class boys and their rate should be lowest in areas where lower-class is universal. But Reiss and Rhodes (1961) found that the more the lower-class boy was in minority in school and in his residential areas, the less likely was he to become a delinquent, (3) Kitsuse and Dietrick have challenged Cohen's statement that the working-class boy measures himself by middle-class norms; (4) his description of delinquent sub-culture as non-utilitarian, malicious and negativistic is inaccurate; (5) Cohen's description of the working-class boy's ambivalence toward the middle-class system does not warrant the use of the 'reaction formation' concept; (6) the methodological basis of the theory renders it inherently untestable; and (7) the theory is ambiguous concerning the relation between the emergence of the sub-culture and its maintenance.

### *Howard Becker's Labeling Theory*

Becker propounded his theory in 1963. Before him, Frank Tannenbaum (1938), Edwin Lemert (1951), John Kitsuse (1962) and K. Erikson (1962) had also used an approach called the 'Social Reaction Approach' or the 'Social Interaction Approach' as different from the 'Structural Approach' used by Merton, or the 'Cultural Approach' used by Cohen and Cloward and Ohlin. This theory does not deal with the question as to why a person becomes a criminal but tells why the society labels some people as criminals or deviants. Some men who drink heavily are called alcoholics while others are not; some men who behave oddly are committed to hospitals while others are not. Thus, according to this theory, what is important in the study of deviance is the *social audience*, not the individual *person*. Becker also maintained that what is important in crime is not the act of the individual but the reaction of the society in terms of rules and sanctions. Kai Erikson has also said that what distinguishes a delinquent from a non-delinquent is not the characteristic *found* in him but the characteristic *assigned* to him by others. According to Becker (1963 : 9), deviance is not a quality of the act a person commits but rather a consequence of the application by others of rules and sanctions to an 'offender'. The deviant is one to whom that label has successfully been applied; deviant behaviour is

behaviour that people so label. An experiment was performed in the United States (Reid, 1976 : 232) in which eight sane persons of varied backgrounds got themselves admitted for feigned mental illness to psychiatric wards of 12 hospitals in various parts of the country. All gave the same account of their life situations. All but one were labeled Schizophrenic. Once labelled insane, they were presumed insane by the staff who interacted with them daily. This shows that it is the reaction of others which labels an individual in a specific way. In the case of criminals also, it is the society which brands some people but not others as criminals. If a lower-class boy steals a car, he is branded a 'thief', but if an upper-class boy does so, he is described as a 'mischievous pleasure-seeker'.

In another experiment conducted by Richard Schwartz and Jerome Skolnick in 1962 in U.S.A., one person with a criminal record was introduced to 100 potential employers with four different versions—he was found a criminal and convicted; he was not found a criminal and acquitted; he was found a criminal but acquitted; he was not a criminal but was convicted. It was found that employers would not offer a job to a person with a criminal record. Thus, the labelling theory shifted the focus to those who label, that is, the process of rule-making and rule-enforcement.

According to Becker, whether or not labelling occurs depends upon (1) the time when the act is committed, (2) who commits the act and who is the victim, and (3) the consequences of the act. Thus, whether a given act is deviant or not depends in part on the nature of the act and in part on what other people do about it. Becker suggests that a distinction be made between *rule-breaking behaviour* and *deviance*. Deviance is not a quality that lies in the behaviour itself, but in the interaction between the person who commits an act and those who *respond to it*. Becker has also suggested that certain types of groups are more likely to be labeled deviant than others, for example, groups that do not have political power and, therefore, cannot put pressure on the officials for not enforcing the law, groups which are seen to threaten the persons in power, and groups which have low social status.

What are the effects on the individual who is labelled. The official response to the behaviour in question may initiate processes that push the "delinquent" individuals toward further delinquent conduct, and at least, make it more difficult for them to re-enter the conventional world. If on the other hand, the individual does not receive official response to his delinquent acts, he may continue committing them.

while receiving no help in changing his behaviour (Wheeler and Cotterell, 1966 : 22-27).

Criticism against the labeling theory is that it gives a good logic but does not explain the cause of crime. It entirely avoids the question of causation. Jack Gibbs (1982 : 219) has posed four questions : What elements in the scheme are intended to be definitions rather than substantive theory ? Is the ultimate goal to explain deviant behaviour or to explain reactions to deviation ? Is deviant behaviour to be identified exclusively in terms of the reaction to it ? Exactly, what kind of reaction identifies behaviour as deviant ?

### *Walter Reckless's Theory of Self-Concept and Containment*

Walter Reckless (1967 : 522) has said that the important question that must be answered in explaining criminal behaviour is why, given the alternatives of law-abiding and law-violating behaviour, do some people turn to one or the other behaviour. He advocates that self-concept is the key factor in explaining the choice among alternatives of behaviour. A favourable self-concept directs an individual toward law-abiding behaviour, and an unfavourable self-concept directs him toward delinquent behaviour. Reckless has further said that there are two important aspects of control: inner control and outer control, and that depending upon the balance of these control systems, the individual can take either a deviant or a conformist route. His assumption is that strong inner and reinforcing outer containment constitutes an isolation against normative deviancy, that is, violation of the socio-legal conduct norms.

In 1955, Reckless and Dinitz studied white 'good' boys (who, their teachers thought, would not get into trouble with the law) of sixth grade of about 12 years age, selected from high delinquency areas. The schedule, administered in the boys' homes, contained 50 items designed to measure self-concept. Likewise in 1956, they interviewed 101 'bad' boys (who, their teachers thought, would become delinquents) and studied their self-concept. They concluded, on the basis of this study, that a good self-concept is an evidence of favourable socialization and the development of a 'strong inner self' (self-control, well-developed super-ego, high frustration tolerance, resistance to diversions, ability to find substitute satisfactions and tension-reducing rationalizations) which directs a person towards middle-class values. Poor-self concept is indicative of unfavourable socialization and 'weak inner direction,' which in turn does not deflect the boy from bad

companions and street corner society, does not enable him to embrace middle-class values, and gives him an awareness of being cut off from the upward movement in the legitimate opportunity system.

The evaluation of this theory has pointed out that though this is the only research by sociologists in the area of delinquency which handles variables of personality and self, nevertheless the measure of self concept has been questioned and the lack of control groups has been noted. The samples have also been questioned. Was the selection of 'good' boys related to their performance in schools? What about boys with 'bad' self concepts who might not be delinquents?

### Confinement and Correction of Criminals

Two methods are mainly used in our society in punishing/treating the criminals: imprisonment and release on probation, though some serious offenders are given capital punishment, and fines are imposed on some minor offenders.

#### *Prisons*

The conditions in Indian jails were horrible upto 1919-20. It was after the recommendations of 1919-20 Indian Jails Reform Committee that changes like classification, segregation of prisoners, education, recreation, assigning productive work and opportunities for maintaining contacts with family and society were introduced in maximum-security prisons (that is Central jails, district jails and sub-jails). Later on, three medium-security jails or model jails were also established in three states with an emphasis on *panchayat raj*, self-managed canteens, and the wage-system; but these jails were ultimately converted into central jails. Minimum-security prisons or open jails were started in Uttar Pradesh in 1952 and since then 31 open jails have come to be established in 17 (out of 25) states till today (1991). Prisoners have to fulfil certain conditions before being admitted to an open jail, like spending one-third term of imprisonment in an ordinary jail, having a record of good behaviour, possessing physical and mental fitness, and being in age group of 20 and 50 years. The capacity of open jails varies from 100 to 3,000; the highest capacity (3,000) being found in Sitarganj Camp in Nainital district in Uttar Pradesh and the lowest (less than 100) in Tamil Nadu, Assam, Madhya Pradesh and Gujarat Open Jails. Some open jails provide training only in agriculture, some only in industries and some both in agriculture and industries. The average stay of a prisoner in an open jail varies from two to three years.

As regards the maximum security prisons, there are about 1,200 prisons in India, of which 6.0% are central jails, 18.0% are district jails, 75.0% are sub-jails and less than 1.0% are special jails. About 5.0 lakh out of about 24.0 lakh offenders arrested for about 14.5 lakh crimes are sent to jails every year. The average daily population of jails in India is about 1.5 lakh, of which 60.0% are under-trials and 40.0% are convicted offenders. Of the total prisoners in Indian jails, about 1.0% are below 16 years, 17.0% are between 16 and 21 years, 40.0% are between 21 and 30 years, 28.0% are between 30 and 40 years, 12.0% are between 40 and 60 years and 2.0% are above 60 years. About 45.0% prisoners have an agricultural background, 33.0% are literate and 85.0% get an imprisonment of less than six months and 10.0% between six months and two years.

The prison is a unisex world where every inmate is stigmatised and has to carry on tightly scheduled activities in the company of strangers. The inmates are deprived of liberty, privileges, emotional security, and hetero-sexual relations. To face these psychological and social problems, inmates follow the 'inmate code' of the 'inmate system' which is just contrary to the formal code of the prison system. Some examples of the inmate code/norms are: do not work hard, do not co-operate with the officials, do not quarrel/argue with other inmates, do not reveal secrets to officials, always keep on expressing dissatisfaction with food, clothes, work, and so forth. Donald Clemmer has described the internalization of these values and norms as the process of 'prisonization'. His contention is that every prisoner is prisonized, prisonization takes place in stages; the degree of prisonization could be low, medium or high; prisonization depends upon factors like age, term of imprisonment, nature of crime, relations with outside world, cell-mates and work-colleagues; and the length of time served in jail. The prisonized inmate could be de-prisonized as well as re-prisonized. Studying the effects and the effectiveness of the prison system on the basis of an empirical study of 252 prisoners in three central jails in Rajasthan in 1967-68 (Ahuja, 1981), it was found that: though the process of prisonization is found in Indian jails too, but every prisoner is not prisonized as claimed by Clemmer. Studying conformity to prison/inmate norms on the basis of three factors, namely, *contact* with inmates/officials, *identification* with staff/inmates norms, and *loyalty* to inmates/officials, it was found that 24.0% inmates were conformists (who identified with prison norms, were bound by loyalty to staff and had great contacts with prison officials), 42.0% were non-conformists.



27.0% were partial conformists and 7.0% were isolationists. Further, analysing the absorption of inmate/prison norms by assigning scores to answers of 15 questions, it was found that 48.0% inmates conformed to inmate norms, 45.0% to prison norms and 7.0% were neutral. This shows that the rate of absorbing inmate norms is about the same as that of absorbing prison norms and most of the inmates remained in an ambiguous position in accepting or rejecting prison/inmate norms. It was also found that prisonization is not related to age, nature of offence, term of imprisonment, and the phase of imprisonment as claimed by Clemmer. However, it is related with the type of inmates with whom a prisoner lives/works. Thus, rejecting Clemmings' model, a new model was developed, called "Self Image Model," for explaining the process of adjustment of inmates in a jail. This model is based on four elements : Self-image, value conformity, actual conformity and prisoners' prestige.

On the basis of this study of three prisons, it is maintained that a balanced policy of liberalization and strictness regarding the inmates in the prison should be adopted for punishing/ treating the offenders through imprisonment. Other measures needed to make the prison system more effective and in correcting the deviants are: under-trials should not be kept with convicts in the same prison; inmates should be provided access to their files; there should be proper diagnosis before assigning barrack/work to the prisoners; inmates should be given freedom of choosing the work of their choice; release on parole should be made more easier and effective; private industries should be encouraged to come to prisons; effective channels should be provided to the inmates for expressing their grievances; a system of indeterminate sentence should be introduced; sending offenders to prison for a short term (less than six months) should be discouraged (at present 85 per cent of our prisoners are short-termers); a Bureau of Prison Industries should be established at the state level, and the prisoners should be associated with the management of prisons through the Advisory Committees (this system will be different from the *panchayti raj* system in the prisons). Knowing that there is no connection between the severity of prison conditions and incidence of crime, why should we not try to devise programmes which may induce prisoners to turn over a new leaf ? What we need today is an alternative to a prison.

### *Probation*

Probation is an alternative to a prison. It is suspension of sentence of an offender by the court and releasing him on certain conditions to live in

the community with or without the supervision of a probation officer. The system was introduced in India in 1958 by passing the Central Probation Act. Though Section 562 in 1898 Cr PC permitted release of an offender on probation but it applied only to juvenile delinquents and first offenders. There was no provision for supervision and only first class magistrates were empowered to grant probation. The British government permitted states in 1934 to enact their own laws permitting probational release. Madras and Madhya Pradesh enacted such an Act in 1936, Bombay and Uttar Pradesh in 1938, Hyderabad in 1953 and Bengal in 1954. But all these Acts were meant only for the probational release of juvenile delinquents. The 1958 Act applied to all offenders. It permits the release on probation for a maximum period of three years and also has a provision for revoking the term. Some states (like Rajasthan, Uttar Pradesh, Assam and Himachal Pradesh) have linked probation with social welfare and others (like Bihar, Bengal, Punjab, Andhra Pradesh, Tamil Nadu and Kerala) with the Prison Department. Madhya Pradesh has linked it with the law Department while Karnataka has its separate Directorate. The probation officer has been assigned two functions: social investigation and supervision of probationers. There are about 500 probation officers in the whole of India. On an average, one probation officer investigates 10 cases and supervises four cases a year.

The probation system has certain advantages over the prison system. These are: no stigma is attached to the offender released on probation, there is no break in the probationer's economic life; his family does not suffer; the offender does not feel frustrated; and economically it is less expensive. The disadvantages are that the offender is put in the same environment in which he committed the crime; there is no fear of punishment; and no individual attention is paid to probationers. However, these criticisms are not logical. Further, probation can be made more effective through new measures. These could be: changing the concept of probation and treating it not as a suspension of sentence but as an alternative to imprisonment (with this, the probationer will not be imprisoned for the original offence for which his sentence was suspended but will only be penalised for violating the conditions), making social investigation compulsory in all those cases where the offender is released on probation; not making supervision compulsory for all probationers; making conditions for release flexible; introducing indeterminate sentence system and, not linking probation services with any other department but establishing a separate directorate for it at the state level.

Summarising the problem of correction, it may be concluded that criminologists have always been tied to two explicit interests : first, the *managerial* interest in making the correctional system more efficient and second, the *humanitarian* interest in reforming the system. These two interests are often considered incompatible but they might not be so when perceived in terms of 'rehabilitative ethics'. Treatment can be seen both as more *efficient* and more *humanitarian*.

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