NATIONAL OPEN UNIVERSITY OF NIGERIA

SCHOOL OF ARTS AND SOCIAL SCIENCES

COURSE CODE: CSS 212

COURSE TITLE: THE SOCIOLOGY OF PUNISHMENT AND CORRECTION

COURSE GUIDE

CSS 212
THE SOCIOLOGY OF PUNISHMENT AND CORRECTION

COURSE TEAM

Course Developer / Writer Mr Victor Aniekan Usoh
(State Prisons Headquarters, Uyo, Akwa Ibom State)
Course Coordinator Dr Niyi Adegoke NOUN
Course Editor Dr. Bosede Folashade Okeshola ABU
Programme Leader Prof. A. R. Yesufu NOUN

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1.0 Introduction

Welcome to CSS 212: The Sociology of Punishment and Correction.

This course is a three credit unit course for undergraduate students in criminology and security studies. The materials have been developed to extensively cover every aspect of punishment and correction, whether in Nigeria and other countries of the world. It is a broad area of study without any limit to its context. This course guide gives you an overview of the course. It also provides you with information on the organization and requirements of the course. There are also periodic tutorial classes that are linked to this course.

1.1 Course Aims

The aims are to help you to understand the sociological analysis of punishment and correction in its broad perspective. These broad aims will be achieved by

(i) Introducing to you the history and efficacy of punishment.
(ii) Educating you on the philosophies of punishment.
(iii) Acquainting you with the history of institutional correction.
(iv) Expose you to different types of punitive sanction.
(v) Expose you to the general nature of the prison environment and its administration.
(vi) Educate you on the effects and pains of imprisonment.
(vii) Expose you to the various correctional treatments available in our penitentiary.
(viii) Expose you to various recommendations of prison reform.
(ix) Introduce you on the theories of the Criminal Justice System.
(x) Educate you on standard minimum rules for the treatment of prisoners.

1.2 Course Objectives

To achieve the aims set out above, CSS 212 has overall objectives. Each unit also has specific objectives. The unit objectives are set out in the text and it is advisable that you read them before you start working through the unit. You may want to refer to them during your study of the unit to check your progress. You should always look at the unit objectives after completing a unit. In this way, you can be sure that you have covered what is required of you in that unit.

On completion of the course, you should be able to:

(a) Define what punishment and correction is.
(b) Explain the conditions influencing the effectiveness of punishment.

(c) Discuss issues related to capital punishment (Death penalty).

(d) Know the various alternatives to imprisonment.

(e) Explain the origin of imprisonment.

(f) Discuss the classification system in the prison.

(g) Understand issues on prison labor.

(h) Know the principles and strategies of Aftercare Services in Nigeria.

(i) Explain the trend and Historical development of prisons in Nigeria.

(j) Identify the problems of Nigeria prisons service with recommendation for improvement.

(k) Know the aims of imprisonment.

(l) Know issues pertaining to prisoner's rights and civil disabilities of ex-convict in Nigeria.

(m) Understand issues of awaiting trial in Nigeria.

(n) Explain the exercise of re-socialization with the wall.

(o) List the various pains that is associated with imprisonment.

(p) Identify the limitation of treatment of prison inmates.

(q) Understand the purpose of group therapy with offenders in the prison.

(r) Define what prisonalization is.

1.3 Working Through This Course

To complete the course, you are required to study each unit and other related materials. You will also need to undertake practical exercises for which you need a pen, a note – book, and other materials that will be listed in this guide. The exercises are to aid you in understanding the concepts being presented. At the end of each unit, you will be required to submit written assignments for assessment purposes. At the end of the course, you will write a final examination.

1.4 Course Materials

The major materials you will need for this course are:

(i) Course guide

(ii) Study units

(iii) Assignments file

(iv) You have added advantage and mastery of the subject by reference to: Relevant textbooks, Internet surfing, Magazines and newspapers highlighting pertinent issues in our Criminal Justice System.

1.5 Study Units

There are 31 units (of seven modules) in this course.

They are listed below

MODULE 1

Unit 1 History and Efficacy of Punishment

Unit 2 Philosophies of Punishment

Unit 3 Historical Overview of Institutional Corrections

Unit 4 The General Nature of the Prison Community

MODULE 2

Unit 1 Classification, Reception and Case Work

Unit 2 Prison Labor

Unit 3 Release from Prison

Unit 4 Probation

MODULE 3

Unit 1 Theoretical Framework of the Prisons System

Unit 2 Purposes and Goals of the Criminal Sanction

Unit 3 The Choice of a Sanction

Unit 4 Issues on Capital Punishment (Death Penalty)

MODULE 4

Unit 1 Sentencing Practices
Unit 2 The Inmates Social Code and Functions
Unit 3 Re-socialization within Walls
Unit 4 The Pains of Imprisonment
Unit 5 Prisonization

MODULE 5

Unit 1 Standard Minimum Rules for the Treatment of Prisoners
Unit 2 Limitation of Treatment in Prisons
Unit 3 Classification as Part of Treatment in the Prison System
Unit 4 Group Therapy with Offenders
Unit 5 Modification of the Criminal Value System

MODULE 6

Unit 1 Evolution and Philosophies of Prisons System in Nigeria
Unit 2 Penological Policies of the Nigerian Criminal Justice System
Unit 3 Penal Practices in Nigeria
Unit 4 Punishment as a Deterrent: How Effectiveness has it been ? (A Case of Nigerian Environment)

MODULES 7

Unit 1 Awaiting Trial and Holding Charge in Nigeria Criminal Justice System
Unit 2 Prisoners Rights and Civil Disabilities of Ex-Convicts in Nigeria
Unit 3 Nigerian Prison After Care Services
Unit 4 The Advocacy for Deinstitutionalization of Sentences in Nigeria
Unit 5 Various Recommendations on Prisons Reform.

1.6 Assignment File

In this file, you will find all the details of the work you must submit to your tutor for making. The marks you obtain for these assignments will count towards the final marks you obtain for this course. Further information on assignment will be found in the Assignment file itself, and later in this course guide in the section on assessment.

There are many assignments for this course with each unit having at least on assignment. These assignments are basically meant to assist you to understand the course.

1.7 Assessment

There are two aspect to the assessment of this course. First, are the tutor marked assignments, second, is a written examination.

In taking these assignments, you are expected to apply the information, knowledge and experience acquired during the course. The assignments must be submitted to your tutor for formal assessment in accordance with the deadlines stated in the Assignment File. The work you submit to your tutor for assessment will account for 30 per cent of your total mark. At the end of the course, you will need to sit for a final examination that will account for the other 70 per cent of your total course mark.

1.8 Tutor Marked Assignment (TMAs)

There are two aspects of the assessment of this course; the tutor marked and the written examination. The marks you obtain in these two areas will make up your final marks. Every unit in this course has a tutor marked assignment. You will be assessed on four of them but the best three performances from the (TMAs) will be used for your assessment. As earlier stated the assignment must be submitted to your tutor for assessment in accordance with the deadline stated in the presentation schedule and the Assignment file. The work you submit to your tutor for assessment will count for 30% of your total score. Make sure each assignment reaches your tutor on or before the deadline for submissions. If for any reason, you cannot complete your work on time, contact your tutor. Extensions will not be granted after the due date unless under exceptional circumstances.

1.9 Final Examination and Grading

The final examination will be a test of three hours. All areas of the course will be examined. Find time to read the unit all over before your examination. The final examination will attract 70% of the total course grade. The examination will consist of questions, which reflect the kind of self assessment exercises and tutor marked assignments you have previously encountered. You should use the time between completing the last unit, and taking the examination to revise the entire course.

1.10 Course Marking Scheme

The following Table lays out how the actual course mark allocation is broken down.

Assessment	Marks
Assignments (Best three out of four tutor marked assignment)	= 30%
Final Examination	= 70%
Total	100%

1.11 Presentation Schedule

The dates for submission of each of the assignments will be communicated to you. You will also be told the date for examinations.

1.12 Course Overview and Presentation Schedule

Unit	**Title of Work**	**Weeks Activity**	
Course Guide Module 1			
Unit 1	History and Efficacy of Punishment	Week 1	Assignment 1
2	Philosophies of Punishment	Week 1	Assignment 2
3	Historical Overview of Institutional Corrections	Week 2	Assignment 3
4	The General Nature of the Prison Community	Week 2	Assignment 4
Module 2			
Unit 1	Classification, Reception and Case Work	Week 3	Assignment 1
2	Prison Labor	Week 3	Assignment 2
3	Release from Prison	Week 4	Assignment 3

4	Probation	Week 4	Assignment 4
Module 3			
Unit 1	Theoretical Framework of the Prisons System	Week 5	Assignment 1
2	Purposes and Goals of the Criminal Sanction	Week 5	Assignment 2
3	The Choice of a Sanction	Week 5	Assignment 3
4	Issues on Capital Punishment (Death Penalty)	Week 6	Assignment 4
Module 4			
Unit 1	Sentencing Practices	Week 6	Assignment 1
2	The Inmates Social Code and Functions	Week 6	Assignment 2
3	Resocialization within Walls	Week 7	Assignment 3
4	The Pains of Imprisonment	Week 7	Assignment 4
5	Prisonization	Week 7	Assignment 5
Module 5			
Unit 1	Standard Minimum Rules for the Treatment of Prisoners	Week 8	Assignment 1
2	Limitation of Treatment	Week 8	Assignment 2
3	Classification as Part of Treatment in the prison System	Week 8	Assignment 3
4	Group Therapy with Offenders	Week 9	Assignment 4
5	Modification of the Criminal Value System	Week 9	Assignment 5
Module 6			
Unit 1	Evolution and Philosophies of Prisons System in Nigeria	Week 10	Assignment 1
2	Penological Policies of the Nigerian Criminal Justice System	Week 10	Assignment 2
3	Penal Practices in Nigeria	Week 10	Assignment 3
4	Punishment as a Deterrent: How Effectiveness has it Been? (A Case of Nigerian Environment)	Week 11	Assignment 4
Module 7			
Unit 1	Awaiting Trial and Holding Charge in Nigeria Criminal Justice System	Week 11	Assignment 1
2	Prisoners Rights and Civil	Week 11	Assignment 2

	Disabilities of Ex-Convicts in Nigeria		
3	Nigerian Prison After Care Services	Week 12	Assignment 3
4	The Advocacy for Deinstitutionalization of Sentences in Nigeria	Week 12	Assignment 4
5	Various Recommendations on Prisons Reform	Week 12	Assignment 5
	Revision		1
	Examination		1
	Total		14

1.13 How to Get the Most from This Course

In distance learning, the study units replace the university lecture. This is one of the great advantages of distance learning; you can read and work through specially designed study materials at your own pace, and at a time and place that suits you best. Think of it as reading the lecture instead of listening to the lecturer. In the same way a lecturer might give you some reading to do, the study units tell you where to read, and which are your text materials or set books. You are provided with self assessment exercises to do at appropriate points, just as a lecturer might give you an in-class exercise.

Each of the study units follows a common format. The first item is an introduction to the subject matter of the unit, and how a particular unit is integrated with the other units and the course as a whole. Next to this is a set of learning objectives. These objectives let you know what you should be able to do by the time you have completed the unit. These learning objectives are meant to guide your study. The moment a unit is finished, you must go back and check whether you have achieved the objectives. If this is made a habit, then you will significantly improve your chance of passing the course. The main body of the unit guides you through the required reading from other sources. This will usually be either from your set books or from a reading section.

The following is a practical strategy for working through the course. If you run into any trouble contact your tutor. Remember that your tutor’s job is to help you when you need assistance, do not hesitate to call and ask your tutor to provide it.

1. Read this Course Guide thoroughly, it is your first assignment.

2. Organize a Study Schedule. Design a 'Course Overview' to guide you through the Course. Note the time you are expected to spend on each unit and how the Assignments relate to the units. Whatever method you choose to use, you should decide on and write in your own dates and schedule of work for each unit.
3. Once you have created your own study schedule, do everything to stay faithful to it. The major reason why students fail is that they get behind with their course work. If you get into difficulties with your schedule, please, let your tutor know before it is too late to help.
4. Turn to the Unit and read the introduction and the objectives for the unit.
5. Assemble the study materials, as you work through the unit, you will know what sources to consult for further information.
6. Keep in touch with your study centre. Up-to-date course information will be continuously available there.
7. Well before the relevant due dates (about 4 weeks before due dates), keep in mind that you will learn a lot by doing the assignment carefully. They have been designed to help you meet the objectives of the course and, therefore, will help you pass the examination. Submit all assignments not later than the due date.
8. Review the objectives for each study unit to confirm that you have achieved them. If you feel unsure about any of the objectives, review the study materials or consult your tutor.
9. When you are confident that you have achieved a unit's objectives, you can start on the next unit. Proceed unit by unit through the course and try to pace your study so that you keep yourself on schedule.
10. When you have submitted an assignment to your tutor for marking, do not wait for its return before starting on the next unit. Keep to your schedule. When the assignment is returned, pay particular attention to your tutor's comments, both on the tutor-marked assignment form and also the written comments on the assignments.
11. After completing the last unit, review the course and prepare yourself for the final examination. Ensure that you have achieved the unit objectives (listed at the beginning of each unit) and the course objectives (listed in the Course Guide).

1.14 Tutors and Tutorials

Information relating to tutorials will be provided at the appropriate time. Your tutor will mark and comment on your assignments, keep a close watch on your progress and on any difficulties you might encounter and provide assistance to you during the course. You must take your tutor-marked assignments to the study centre well before the due date (at least two working days are required). They will be marked by your tutor and returned to you as soon as possible.

Do not hesitate to contact your tutor if you need help. Contact your tutor if:

- You do not understand any part of the study units or the assigned readings.
- You have difficulty with the exercise.
- You have a question or problem with an assignment or with your tutor's comments on an assignment or with the grading of an assignment.

You should try your best to attend the tutorials. This is the only chance to have face-to-face contact with your tutor and ask questions which are answered instantly. You can raise any problem encountered in the course of your study. To gain the maximum benefit from course tutorials, prepare a question list before attending them. You will learn a lot from participating in discussion actively.

1.15 Summary

This course guide gives you an insight of what to expect in the course of this study. The course exposes you to the rudiments involves in Sociological analysis of punishment and correction.

We wish you success with the course and hope that you will find it both interesting and useful.

THE SOCIOLOGY

OF

PUNISHMENT AND CORRECTION

Course Developer /Writer
Mr Victor Aniekan Usoh

NATIONAL OPEN UNIVERSITY OF NIGERIA

COURSE CODE : CSS 212

COURSE: THE SOCIOLOGY OF PUNISHMENT AND CORRECTION

COURSE DEVELOPER
MR VICTOR ANIEKAN USOH
STATE PRISONS HEADQUARTERS, UYO, AKWA IBOM STATE

COURSE WRITER
MR. VICTOR ANIEKAN USOH
STATE PRISONS HEADQUARTERS, UYO, AKWA IBOM STATE

COURSE COORDINATOR
PROF. A. R. YESUFU
DEAN OF ARTS AND SOCIAL SCIENCES
NATIONAL OPEN UNIVERSITY OF NIGERIA
HEADQUARTERS
14/16 AHMADU BELLO WAY
VICTORIA ISLAND, LAGOS

COURSE EDITOR
……..
……
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MODULE 1

Unit 1 History and Efficacy of Punishment
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UNIT 1: HISTORY AND EFFICACY OF PUNISHMENT

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    3.4 The “New Penology”
4.0 Conclusion
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7.0 References/Further Reading

1.0 INTRODUCTION

In this unit we shall examine the history of punishment from pre-scientific literate society to scientific penology and finally to the “New Penology”. Among the numerous customs acquired by man are many, which persist partly because of man’s limitless capacity for rationalizing his behavior. The custom of punishing wrongdoers is among these. While it may be true that punishment, real or threatened, is a necessary ingredient in maintaining conformity to group norms, most societies accepts its usefulness without question. With a few possible exceptions established means of corporately inflicting some form of unpleasantness upon the wrongdoer are found in

every society. At different times and places men have been branded, mutilated, torn apart, fed to beasts, slowly starved, burned, exposed in pillories to the insults of passers-by, enslaved in galleys, crucified, and pressed to death. Contemporary Western societies have largely abandoned these remnants of tribal punishment, providing instead that criminals be deprived of money or property, removed from the group, executed painlessly, or put to forced labor.

2.0 OBJECTIVES

At the end of this unit, the students should be able to

- Define punishment as a concept
- Explain the origin of punishment and its efficacy
- Know the trends of penal theory and practice in pre-scientific literate society
- Understand the trends towards a scientific penology
- Know what the “New Penology” is all about.

3.0 MAIN CONTENT

3.1 HISTORY OF PUNISHMENT

In at least one curious way primitive man deludes himself less than his literate brethren: he seeks revenge against those who wrong him and makes no attempts to embroider his motive. To the primitive, that a personal injury deserves a rejoinder is simple justice. The older notion that primitive “justice” was characterized by endless series of retaliatory exchanges has been modified; act of retaliation and revenge are so destructive of ordered living that limitations upon them early in the development of human societies were essential.

If Hoebel’s interpretation is correct, then the former distinction made by writers on primitive societies between private and public wrong clearly requires modification: in an ultimate sense, there are only “public” wrongs. Nevertheless, only certain disapproved acts elicit overt group response, and this realm of threats to corporate

safety is where preliterate practices are most relevant to the history of punishment. To primitives, the struggles for survival is a perilous enterprise requiring constant vigilance to avoid numerous threats to life and health: injuries, diseases, food shortages, enemy attacks, hostile animals – not to mention innumerable and varied unseen beings of unearthly character. Keeping alive and well is, more commonly than not, such a touch-and-go matter that actions tending to endanger a group's safely unnecessarily increasing the odds against survival are promptly and sometimes severely dealt with. Treason and "unauthorized" witchcraft are such actions; defiling sacred objects, cowardice in battle, and assault upon a ruler or holy man are example of others. (This not to say that the pre-literates' rationalization for proscribing such behavior is based directly upon recognition that it is "dangerous to the group". Taboos are, on the contrary, alleged to spring from transcendental sources – an allegation by no means restricted to primitive societies.)

3.2 TRENDS OF PENAL THEORY AND PRACTICE IN PRESCIENTIFIC LITERATE SOCIETY

The Civil State consisting of many tribes was no longer a primary group with the unity and intimate bonds of primitive society. Categories of conquerors and conquered, master and slave, nobleman and commoner, priest and layman, lord and serf, upper and lower class, and later employer and employee became more definite and significant. These implied a stratified society with conflicting class interest and multiplied points of friction. This meant laws furthering class interests, weakened bonds off sympathy, less interest in the individual member of the enlarged state, more crime, and more punishment for crime. Moreover, the Civil State, unable to tolerate the disorder resulting from blood feuds, interfered more and more in private disputes and developed elaborate machinery to promote order. Unwritten mores, though by no means the only source of Criminal Law, became written Penal Codes. Many private injuries or torts became public injuries or crimes. Individuals, rather than the groups of which they were members, came to be held responsible for crime. Penal practices, along with other social activities, were a bit less dominated by magical formulas.

3.3 TRENDS TOWARDS A SCIENTIFIC PENOLOGY

Before discussing classical and neoclassical theories of punishment, which intervened between medieval and scientific penologies, we must find the roots if the latter is the slow decline of medievalism. Scientific penology could not originate in a medieval atmosphere totally inconsistently with it. The other-worldliness of the Middle Ages prevented attention even on the physical world. Men had to observe nature and its orderliness before they could observe human nature and the order in human relationships. A “rebirth” was required to emancipate man from the absolutist hold of the medieval church. The Reformation attacked that absolutism but substituted for it an almost equal slavery to a book. The Renaissance introduced gradually, not the scientific attitude of mind, but skepticism towards the universe, which permitted rational thought and replaced the dogmatic faith of the Middles Ages. The Renaissance disclosed a universe full of a variety of things, and only later did reasoning about and observations of this variety of things disclose order in their arrangements. Later the order discovered in inanimate phenomena was found, though less demonstrable to characterize psychological and social phenomena. This scientific development grew out of discoveries, contacts, and inventions in the economic realm which produced the industrial revolution.

3.4 THE “NEW PENOLOGY”

The scientific point of view, though increasingly evident, does not yet dominate modern penal or treatment policies. Men have come to deal with the weather, mechanical and chemical problems, physical diseases, and to some extent mental disease as products of precedent conditions, but most men do not yet usually deal with human behavior and moral problems as the consequences of what has gone before in the lives of those who “misbehave.” We still punish primarily for vengeance, or to deter, or in the interest of a “just” balance of account between “deliberate” evildoers on the one hand and an injured and enraged society on the other. We do not generally punish or treat as scientific criminology would imply, namely, in order to change antisocial attitudes into constructive attitudes.

In the units which follow we shall describe existing penal policies and practices. We shall find neoclassical principles, slightly modified by scientific principles basically inconsistent with them. We cannot wholly avoid evaluating these policies of the “new penology”. The words “new penology” might be used in two senses. They might refer to the most progressive penal system actually in existence today, such as, perhaps, that of the federal government. The term might refer to an “ideal” penal system conceived to be implicit in a scientific criminology. Of course, so used, the “new penology” of one criminologist may differ somewhat from that of another. This is because it is not yet clear just what specific methods of treatment a scientific criminology implies.

Briefly we shall use the: new penology” in the second sense to mean:

1. A penal or treatment policy which shall always look upon the criminal as a product of antecedent conditions.
2. One which shall distinguish between the need for repression when dangerous criminals are in action and deeper levels of the crime problem where more constructive methods are requisite to social protection.
3. Treatment adapted to the individual case
4. Treatment utilizing as fully as possible the group approach, because the criminal is seen as largely a product of his group relationships.
5. Treatment recognizing that crime is also rooted in the very nature of the general culture; of which both criminal and noncriminal are a part.
6. Treatment which nevertheless calls upon every pertinent science to co-operate, because crime is seen as a synthetic product varied in origin.
7. Treatment which shall incorporate much which is appropriate and effective in specific existing practices and policies of the indeterminate sentence, probation, parole, reformatory treatment, and the like, but which suggest changes in such policies where they appear ineffective or inconsistent with a scientific approach.
8. Operation of correctional institutions in such ways will minimize the gulf separating the prisoner from the society to which he will eventually return.

SELF ASSESSMENT EXERCISE

Define the concept of punishment.

4.0 CONCLUSION

The universality of the punitive weapon in the face of quite differing reasons given by its users has led somepeople to conclude that its roots lie deep in the human psyche, perhaps in the form of an elemental impulse to vengeful relationship against any hurting agent, perhaps, as psychonalyists would have it, in resentment against having our own suppressed wishes awakened by a malefactor's example. Whatever the "real" reasons, the rationalizations for punishment bear them no necessary relations, for they are designed, as are most rationalizations, to enable rather than demean their creators. It is "better" for example, to imprison a rapist on the grounds that society will thereby be protected than to admit that our true motive may actually arise from anger at his disgraceful acts.

5.0 SUMMARY

In this unit we have been able to understand the meaning, historical trend of punishment. We have equally highlight on penal theory and practice in all epoch of human existence.

6.0 TUTOR MARKED ASSIGNMENTS

Explain the concept "New Penology" as being opined by some criminologists.

7.0 REFERENCES/FURTHER READING

Bohn, R. N. and Haley, K. N (2002), Introduction to Criminal Justice, 3rd ed. Published Glencoe McGraw-Hill. New York .

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UNIT 2: PHILOSOPHIES OF PUNISHMENT

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1.0 INTRODUCTION

Punishment policies have many sources. How far new philosophical principles normally precede the origin of any policy is open to question. Probably they are more often rationalizations of existing policies. Yet principles of punishment have been logically deduced from larger principles. For example, from the concept of abstract justice or divine will. such principles have had an influence at least in perpetuating existing penal policies in the face of changed conditions. Thus the ghost of Hegel as well as the shadow of God may be discerned in many modern courtrooms. This unit will focus on the sources and various philosophies underlying punishment.

2.0 OBJECTIVES

The objectives of this unit include among others things the following

- To enlighten the students on the various philosophies underlying punishment.

- The students should also be able to understand the conditions influencing the effectiveness of punishment.
- The students should be able to know the penal theories of the Eighteenth Century and beyond.

3.0 MAIN CONTENTS

3.1 TRANSCENDENTAL PHILOSOPHIES

Transcendental theories are those based upon principles supposed to transcend experience and to be especially sacred because of assumed universal validity. They are ideas spun in the dream factory of the mind, rather than induced from the fact factory of scientific research. These transcendental theories of punishment have been subdivided into the following:

(1) The theological view: Holds it a religious duty to punish criminals.

(2) The expiatory theory of punishment: In terms of which we must punish because the nature of the mystical order of the universe is that we punish. Ours not to reason why.

(3) Kant's theory of the moral law: Believing in an intuitive source of absolute morality, Kant insisted that there exist a categorical imperative to punish criminals who have violated this moral law. Punishment is an end in itself.

(4) The theory of Hegel: That punishment is necessary to annual the injury produced by crime. "… Crime has to punished because it postulates punishment as its necessary logical complement."

(5) The aesthetic theory of punishment: Our aesthetic sense rebels against the discord produced by crime.

3.2 PENAL THEORIES OF THE EIGHTEENTH CENTURY AND LATER

Eschewing authoritarian source of moral ideas, the eighteenth-century rationalist sought to drive ethical principles from more mundane sources. Jeremy Bentham, a chief expositor of the Utilitarian school of philosophy, held that since men are governed in their actions by rational assessments of the pleasures and pains to be netted by various courses of actions, punishment should be allotted in amounts just

sufficient to produce a net loss (i.e.,pain) for a person committing criminal act. By thus putting its thumb on the scale used by men as they choose between alternatives the state can, if justice is swift and sure, prevent crime. Ably and energetically propounded by Betham and his followers in an age whose burgeoning capitalism taught daily lesson in the principles of profit and loss, utilitarianism had an enormous appeal. The rationale for today's graduated penalties derives largely from this doctrine, and one need only observe the public's reaction to proposals to modify punishment in order to realize the extent of its grip on the popular mind.

The neoclassical school, including such men as Garraud, Rossi, and Joly, started with the same principles of free will as the classical school but made exceptions in the case of little children, the insane, and those whose crimes were committed under extenuating circumstances. By extenuating circumstances, it implied if the crime was committed under duress, self defence, or if 'actus reus and mens rea' elements of criminal responsibility is negated. By 'actus reus' we mean the criminal conduct specifically, intentional or criminal negligent (reckless) action or inaction that causes harm. We can therefore say that actus reus is the physical element or guilty act, and it requires proof. Where there is no actus reus, there is no crime. Actus reus can also be seen to be made up of conduct, its consequences and the circumstances in which the conduct takes place. 'Mens rea' on the other hand refers to a criminal intent or a quality state of mind. It is the mental aspect of a crime. Here, criminal conduct is limited to intentional, purposeful or premeditated action or inaction and not the accidents. Thus punishment was to be based upon the degree of responsibility which the individual had at the time of the crime. The importance of this school in the history of punishment lies first in the fact that the theories implied causation and secondly in that upon its philosophy is based the bulk of modern penal law and practice. Though, both have increasingly been influenced by scientific principles derived from a later period.

As we saw when tracing the history of criminological as distinct from penological thought, the real significant and revolutionary change came when study of the

conditions surroundings crime began. Since the early work of the social statisticians in France and England and Lombroso's measurements of the physical traits of criminals in Italy, evidence has gradually been accumulated tending to show that man's will is far from free and that crime and the criminal are products. The implications of this discovery for penal treatment were revolutionary, but the scientific view is not yet adopted by most of the people. The indeterminate sentence and probation and parole apparently have a sentimental rather than a scientific basis, or were largely put over by small groups rather than accepted by legislatures or public opinion. They exist today in the United States as very important but inconsistent adjuncts to an essentially neoclassical penal system.

SELF ASSESSMENT EXERCISE

Discuss the transcendental philosophies behind the application of punishment.

3.3 CONDITIONS INFLUENCING THE EFFECTIVENESS OF PUNISHMENT

3.3.1 Laboratory Experiments of Psychologists

Little can be derived from the study of punishment in the laboratory which is significant for the problems of the penologist. Strang, reviewing 88 such laboratory studies, concluded that they show reward almost universally beneficial, while punishment did harm twice as often as it did good. The nature of punished, the conditions surrounding punishment, and the meaning of punishment are not the same in the treatment of crime as the corresponding factors in the laboratory. A rat "deciding" whether to change his course to avoid an immediate, painful electric shock differs in myriad ways from a man **"**deciding" whether to kill irritating spouse on the possibility (possibly one in twelve chances) that he may receive a very severe shock in the electric chair.

3.3.2 Individual and Social Factors

The following conditions affecting the influence of punishment on behaviour should not be consider as universal but rather as fairly general, for they are altered by

changes in group values and patterns of behavior which determine status in different cultures. Punishment, to deter from crime, must provide a pain greater than the pleasure involved in crime. Again, pain to be deterrent must normally come shortly after the act it is desired to prevent. Long-delayed justice interferes with such deterrence. Pain is not deterrent unless it appears as a fairly inevitable consequence of criminal behavior.

Insistence that punishment alone cannot socialize a personality is quite consistent with Jenkins' statement that "… children cannot be socialized without a discerning use of punishment, and society cannot exist without penal sanctions." Such a statement is especially obvious if one emphasizes the word "alone" and extents the concepts of "punishment" and "penal sanction" to include all degrees of personal and social disapproval. A society requires a certain amount of conformity. Society requires that its members aid one another. It must reward conformity and cooperatives behavior at least by positive assignment of social status to those who conform or are helpful. This positive approval implies negative disapproval. Threat of such disapproval is the minimum "penal sanction." Under certain conditions this disapproval appropriately takes the form of punishment. Jenkins also holds that punishment, in addition to controlling behavior, sometimes relieves tensions, not only of injured parties but of the offenders themselves. However, a juvenile gangster may try his best to avoid capture and punishment and yet the prestige which punishment bring him among his associates will make his suffering more endurable and perhaps pleasing in retrospect, even if he retains a certain vague sense of guilt.

Not a particular punishment experiences, but the total situation, seems to determine the effect of punishment. A little child living in home where she has experienced predominantly affection and satisfying social relation may be punished for some offense. It is uncommon to find that a few minutes later she will throw her arms around the neck of the punishing parent. Because the general atmosphere of the home is constructive, the punishment appears as a minor temporary shock, acting as a reminder that those whom she loved were displease with her behavior. In such cases punishment may be effective. In court and prison, on the other hand, the dominating

experience is generally not only painful but productive of fear and hatred. In such a situation punishment may be effective in deterring from overt crime, so long as threat of punishment remains. Yet it cannot create social attitudes. Indeed, it may strengthen and crystallize existing antisocial attitudes. Hence furtive antisocial acts thrive in prison.

The offender's attitude toward punishment largely determines its effect upon him, and this attitude in turn is largely determined by his group relationships. Thus punishment which expresses the hatred or anger of the disciplinarian may have deterrent effect at the moment but can hardly lead to remorse or changed attitudes. There may be exceptional cases where the punished have come to recognize the need of punishment and to accept the disciplinarian as a suitable source of authority or "parent-substitute," as some psychiatrists put it. It is held that punishment need not express either hatred or blame, yet the closer one is to crime and physical punishment, the more difficult it is inhibit one's emotions.

Punishment is also ineffective when it affords the offender enjoyment because of the trouble it is making for parents, schoolteachers, police, or prison administrators. Just as a nation may forget its own military losses by gloating over and exaggerating those of the enemy, so a criminal, though bruised and bleeding from combat with the police or languishing in a punishment cell in prison, may console himself with the injuries or annoyance he has afforded his captors.

Punishment is ineffective, too, if administered by one who is not respected. Children will take much from parents they respect. The effectiveness of punishment in our penal system is reduced when staff are perceived by prisoners as brutal, stupid, or dishonest.

Finally, punishment fails when it raises the status of the punished in his group. This is often true in a gang. Moreover, continued avoidance of crime seems to call for group support. It seems almost correct to define a "reformed" criminal as one who has achieved status in some non-criminal group. Such group support seems to explain the

success of group therapy and of less controlled groups, such as Alcoholics Anonymous.

4.0 CONCLUSION

From this unit, students of criminology should have a broader knowledge of the various sources and philosophies that underlines punishment. Sociologists and psychologists has contracted immensely to the conditions influencing the effectiveness of punishment.

5.0 SUMMARY

We have been able to discuss the philosophies behind punishment. We have also looked at various conditions that influenced the effectiveness of punishment.

6.0 TUTOR MARKED ASSIGNMENTS

Discuss the conditions influencing the effectiveness of punishment.

7.0 REFERENCES/FURTHER READING

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UNIT 3: HISTORICAL OVERVIEW OF INSTITUTIONAL CORRECTIONS

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1.0 Introduction
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1.0 INTRODUCTION

Students often wonder why they must learn about the history of institutional corrections. One reason is that it is impossible to fully understand (and improve) the present state of affairs without knowledge of the past; the present developed out of the past. People who fail to remember the past are destined to repeat its mistakes.

Another reason is that nothing helps us see how an institutional correction is linked to our larger society and culture better than the study of history. Try to keep those two points in mind when studying history.

2.0 OBJECTIVES

At the end of this unit, the student should be able to:

- Know what prison is all about.
- Know the history of Imprisonment
- Appreciate the evolution of the penal system
- Understand the various penal institution that was in existence.
- Evaluate the general nature of the prison community
- Understand the contemporary institutional corrections existing today
- An exposure to women penal institution
- Identify the nature of a “Normal” community
- Discuss the structure of prisons
- Comprehend the entire prison systems and prison Administration
- Know the types of personnel and their functions
- Evaluate Inmates control and prison discipline.

3.0 MAIN CONTENTS

3.1 MIDDLE AGES

Criminologists generally view the rise of the prison as an eighteenth century phenomenon. Marian Wolfgang has written about Le Sunche, a prison in Florence. Italy, which was used to punish offenders as early as 1301. Prisoners were enclosed in separate cells and classified on the basis of gender, age, mental state, and crime seriousness. Furloughs and conditional release were permitted, and perhaps for the first time, a period of incarceration replaced corporal punishment for some offenses. Le Sunche existed for 500 years, but relatively little is known about its administration or whether this early example of incarceration is unique to Florence.

3.2 PUNISHMENT IN THE SEVENTEENTH AND EIGHTEENTH CENTURIES

By the end of the sixteenth century, the rise of the city and overseas colonization provided tremendous markets for manufactured goods. In England and France, population growth was checked by constant warfare and internal disturbances. Labor was scarce in any manufacturing areas of England, Germany and Holland. The thirty years War in Germany and the constant warfare among England, France and Spain helped drain the population

The punishment of criminals changed to meet the demands created by these social conditions. Instead of the wholesale use of capital and corporal punishment, many offenders were forced to labor for their crimes. Poor laws, developed in the early seventeenth century, required that the poor, vagrants and vagabonds be put to work in public or private enterprise. Houses of correction were developed to make it convenient for petty law violators to be assigned to work details. Many convicted offenders were pressed into sea duty as galley slaves, a fate considered so loathsome that many convicts mutilated themselves rather than submit.

The constant labor shortage in the colonies also prompted authorities to transport convicts overseas. In England the Vagrancy Act of 1597 legalized deportation for the first time. An Order in Council of 1617 granted a reprieve and stay of execution to people convicted of robbery and other felonies who were strong enough to be employed overseas. Similar measures were used in France and Italy to recruit galley, slaves and workers.

Transportation to the colonies became popular, it supplied labor, cost little, and was actually profitable for the government because manufacturers and plantation owners paid for convicts services. The Old Bailey Court in London supplied at least 10,000

convicts between 1717 and 1775. Convicts would serve a period as workers and then become free again.

Transportation to the colonies waned as a method of punishment with the increase in colonial population, further development of the land, and increasing importation of African slaves in the eighteenth century. The American Revolution ended transportation of felons to North America; the remaining areas used were Australia, New Zealand, and African colonies.

SELF ASSESSMENT EXERCISE 1

Give an highlight of punishment in the seventeenth and eighteenth centuries.

3.3 CORRECTIONS IN THE LATE EIGHTEENTH AND NINETEENTH CENTURIES

Between the American Revolution in 1776 and the first decades of the nineteenth century, the population of Europe and America increased rapidly. The gulf between poor workers and wealthy landowners and merchants widened. The crime rate rose significantly, prompting a return to physical punishment and the increased use of the death penalty. During the last part of the eighteenth century, 350 types of crime in England were punishable by death. Although many people sentenced to death for trivial offenses were spared the gallows, there is little question that the use of capital punishment rose significantly between 1750 and 1800.

Correctional reform in the United States was first instituted in Pennsylvania under the leadership of William Penn. At the end of the seventeenth century, Penn revised Pennsylvania's criminal code to forbid torture and the capricious use of mutilation and physical punishment. Theses device were replaced by the penalties of imprisonment at hard labor, moderate flogging, fines and forfeiture of property. All lands and goods belonging to felons were used to make restitution to the victims of crimes, with restitution limited to twice the value of the damages. Felons who owned no property

were required by law to labor in the prison workhouse until the victim was compensated.

Penn ordered that a new type of institution be built to replace the widely used public forms of punishment – stocks, pillories, the gallows, and the branding iron. Each county was instructed to build a house of corrections similar to today's jails. These measures remained in effect until Penn's death in1718, when the penal code reverted to its earlier emphasis on open public punishment and harsh brutality.

In 1776 post revolutionary Pennsylvania again adopted William Penn's code, and in 1787 a group of Quakers led by Dr. Benjamin Rush formed the Philadelphia Society for Alleviating the Miseries of Public Prisons. The aim of the society was to bring humane and orderly treatment to the growing penal system. The Quakers' influence on the legislature resulted in limiting the use of the death penalty to cases involving treason, murder, rape, and arson.

Under pressure from the Quakers, the Pennsylvania legislature in 1790 called for the renovation of the prison system. The ultimate result was the creation of Philadelphia's Walnut Street Jail. At this institution, most prisoners were placed in solitary cells, where they remained in isolation and did not have the right to work. Quarters that contained the solitary or separate cells were called the penitentiary house, as was already the custom in England.

3.4 THE AUBURN SYSTEM

In the early 1800s both the Pennsylvania and New York prison systems were experiencing difficulties maintaining the ever-increasing numbers of convicted criminals. Initially administrators dealt with the problem by increasing the use of pardons, relaxing prison discipline, and limiting supervision.

In 1816 New York built a new prison at Auburn, hoping to alleviate some of the overcrowding at Newgate. The Auburn prison design became known as the tier

system because cells were built vertically on five floors of the structure. It was sometimes also referred to as the congregate system because most prisoners ate and worked in groups. In 1819 construction was started on a wing of solitary cells to house unruly prisoners. These classes of prisoners were then created: One group remained continually in solitary confinement as a result of breaches of prison discipline; the second group was allowed labor as an occasional form of recreation; and the third and largest class worked and ate together during the days and went into seclusion only at night.

The philosophy of the Auburn system was crime prevention through fear of punishment and silent confinement. The worst felons were cut off from all contact with other prisoners, and although they were treated and fed relatively well, they had no hope of pardon to relieve their isolated. For a time, some of the worst convicts were forced to remain totally alone and silent during the entire day; this practice caused many prisoners to have mental breakdowns, resulting in suicides and self-mutilations. This practice was abolished in 1823.

The combination of silence and solitude as a method of punishment was not abandoned easily. Prison officials sought to overcome the side effects of total isolation while maintaining the penitentiary system. The isolation Auburn adopted was to keep convicts in separate cells at night but allow them to work together during the day under enforced silence. Hard work and silence became the foundation of the Auburn system whenever it was adopted. Silence was the key to prison discipline; it prevented the formulation of escape plans, averted plots and riots, and allowed prisoners to contemplate their infractions.

When discipline was breached in the Auburn system punishment was applied in the form of a rawhide whip on the inmates back. Immediate and effective Auburn discipline was so successful that when 100 inmates were chosen to build the famous Sing Sing prison in 1825, not one dared escape although they were housed in an open held with only minimal supervision.

SELF ASSESSMENT EXERCISE 2

Discuss the characteristics of Auburn System.

3.5 THE NEW PENNSYLVANIA SYSTEM

In 1818 Pennsylvania took the radical step of establishing a prison that placed each inmate in a single cell with no work to do. Classifications were abolished because each cell was intended as a miniature prison that would prevent the inmates from contaminating one another.

The new Pennsylvania prison called the Western penitentiary, had an unusual architecture design. It was build on a semicircle with the cells positioned along its circumference. Built back-to-back some cells faced the boundary wall while others faced the internal area of the circle. Its inmates were kept in solitary confinement almost constantly being allowed about an hour a day for exercise. In 1820 a second similar, penitentiary using the isolate system was built in Philadelphia and called the Eastern Penitentiary.

The supporters of the Pennsylvania system believed that the penitentiary was truly a place to do penance. By advocating totally removing the sinner from society and allowing the prisoner a period of isolation in which to ponder alone upon the evils crime the supporter of the Pennsylvania system reflected the influence of religious philosophy on corrections. In fact, its advocates believed that solitary confinement of with in-cell labor as a recreation would eventually make working so attractive that upon release the inmate would be well suited to resume a productive existence in society. The Pennsylvania system eliminated the need for large numbers of guards or disciplinary measures. Isolated from one another, Inmates could not plan escapes or collectively break rules. When discipline was a problem whips and iron gags were used (iron gags were jammed in inmates mouths so they could not speak, causing great discomfort).

The congregate system eventually prevailed, however and spread throughout the United States; many of its features are still used today. Its innovations included congregate working conditions. The use of solitary confinement to punish unruly inmates, military regimentation and discipline. In Auburn-like institutions, prisoners were marched from place to place; their time was regulated by bells telling them to sleep, wake up and work. The system was so like the military that many of its early administrators were recruited from the armed services.

Although the prison was viewed as an improvement over capital and corporate punishment. It quickly became the scene of depressed conditions; inmates were treated harshly and routinely whipped and tortured. As historian Samuel Walker notes.

> Prison brutality flourished. It was ironic that the prison had been devised as a more humane alternative to corporal and capital punishment. Instead, it simply moved corporal punishment indoors where, hidden from public view, it became even more savage.

Yet in the midst of such savagery some inmates were able to adjust to institutional living and even improve their lives through prison administered literacy programs.

SELF ASSESSMENT EXERCISE 3

Discuss the characteristics of New Pennsylvania System.

3.6 POST-CIVIL WAR DEVELOPMENTS

The prison of the late nineteenth century was remarkably similar to that of today. The congregate system was adopted in all states except Pennsylvania. Prison experienced overcrowding, and the single-cell principle was often ignored. The prison, like the police department, became the scene of political intrigue and efforts by political administrators to control the hiring of personnel and dispensing of patronage.

Prison industry developed and became the predominant theme around which institutions were organized. Some prisons used the contract system, in which officials sold the labor of inmates to private businesses. Sometimes the contractor supervised the inmates inside the prison itself. Under the convict-lease system, the state leased its prisoners to a business for a fixed annual fee and gave up supervision and control. Finally, the state account system had prisoners produce goods in prison for state use.

The development of prison industry quickly led to abuse of inmates who were forced to work for almost no wages and to profiteering by dishonest administrators and businessmen. During the Civil war era, prisons were major manufacturers of clothes, shoes, boots, furniture, and the like. During the 1880s, opposition by trade union sparked restrictions on interstate commerce in prison goods and ended their profitability.

There were also reforms in prison operations. Z. R. Brockway, warden at the Elmira Reformatory in New York, advocated individualized treatment, indeterminate sentences, and parole. The reformatory program initiated by Brockway included elementary education for illiterates, designated library hours, lectures by local college faculty members, and a group of vocational training shops. The cost to the state of the institutions operations was to be held to a minimum. Although Brockway proclaimed Elmira an idea reformatory, his actual achievements were limited. The greatest significance of his contribution was the injection of a degree of humanitarianism into the industrial prisons of the day. Although many institutions were constructed across the country and labeled reformatories as a result of the Elmira model, most of them continued to be industrially oriented.

3.7 CORRECTIONS IN THE TWENTIETH CENTURY

The early twentieth century was a time of contrasts in the U.S prison system. At one extreme were those who advocated reform, such as the Mutual Welfare league, led by Thomas Mott Osborne. prison reform groups proposed better treatment for inmates, an end to harsh corporal punishment, and the creation of meaningful prison industries

and educational programs. reformers argued that prisoners should not be isolated from society; rather, the best elements of society-education, religion, meaningful work, self governance-should be brought to the prison. Osborne even spent one week in New York's notorious Sing-Sing prison to learn about its conditions firsthand.

Opposed to the reformers were conservative prison administrators and state officials, who believed that stern discipline was needed to control dangerous prison inmates. They continued the time-honoured system of regimentation. Although the whip was eventually abolished, solitary confinement in dark, bare cells became a common penal practice.

In time, some of the more rigid prison rules gave way to liberal reform. By the mid-1930s few prisons required inmates to wear the red-and-white striped convict suit and substituted nondescript gray uniforms. The code of silence ended, as did the lockstep shuffle. Prisoners were allowed to mingle and exercise an hour or two each day. Movies and radio appeared in the prisons in the 1930s. Visiting policies and mail priviledge were liberalized.

A more important trend was the development of specialized prisons designed to treat particular types of offenders. For example, in New York, the prisons at Clinton and Auburn were viewed as industrial facilities for hard-core inmates, Great meadow as an agricultural center to house nondangerous offenders, and Dannemora as a facility for the criminally insane. In California, San Quentin housed inmates considered salvageable by correctional authorities, whereas Folsom was reserved for hard-core offenders.

Prison industry also evolved Opposition by organized labour helped end the convict-lease system and forced inmate labour. Although some vestiges of private prison industry existed into the 1920s, most convict labour was devoted to state use items, such as license plates and laundry.

Despite these changes and reforms, the prison in the mid-twentieth century remained a destructive total institution. Although some aspects of inmate life improve, severe discipline, harsh rules, and solitary confinement were the way of life in prison.

3.8 THE MODERN ERA

The modern era has witnessed change and turmoil in the nation's correctional system. Three trends stand out. First, between 1960 and 1980, a great deal of litigation was brought by inmates seeking greater rights and privilege. State and federal court ruling gave inmates rights to freedom of religion and speech, medical care, due process, and proper living conditions. Since 1980, the "prisoners' rights" movement has slowed as judicial activism waned.

Second, violence within the correctional system became a national scandal. Well-publicized riots at New York's Attica prison and the New Mexico State penitentiary have drawn attention to the potential for death and destruction that lurks in every prison. One reaction has been to improve conditions and provide innovative programs that give inmates a voice in running the institution. Another has been to tighten discipline and build maximum security prisons to control dangerous offenders.

Third, the alleged failure of correctional rehabilitation has prompted many penologists to reconsider the purpose of incapacitating criminals. Today it is more common to view the correctional system as a mechanism for control and punishment than as a device for rehabilitation and reform.

The inability of the prison to reduce recidivism has prompted the development of alternatives to incarceration, including diversion, restitution, and community-based corrections. The nations correctional policy aims to keep as many non-threatening offenders out of the correctional system as possible by means of community-based programs and, conversely, to incarcerate dangerous, violent offenders for long periods. Unfortunately, despite the development of alternatives to incarceration, the number of people under lock and key has skyrocketed.

3.9 CONTEMPORARY CORRECTIONS

Correctional treatment can be divide today into community-based programs and secure confinement. Community-based corrections include of the probation, which involves supervision under the control of the sentencing court, and an array of intermediate sanctions, which provide greater supervision and treatment than traditional probation but are less intrusive than incarceration.

Treatment in the community is viewed as a viable alternative to traditional correctional practices. First, it is significantly less expensive to supervise inmates in the community than to house them in secure institutional facilities. Second, community-based treatment is designed so that first-time or nonserious offenders can avoid the stigma and pain of imprisonment and be rehabilitated in the community.

In secure confinement, the jail house misdemeanants (and some felons) serving their sentences, as well as felons and misdemeanants awaiting trial who have not been released on bail. State and federal prisons incarcerate felons for extended periods. Parole and aftercare agencies supervise prisoners who have been given early release from their sentences. Although parolees are actually in the community, parole is usually considered both organizationally and philosophically part of the secure correctional system

3.10 INSTITUTIONAL CORRECTIONS TODAY

Today there are two categories of prison facilities – detention and correctional.

Detention facilities normally do not house convicted inmates and are not technically correctional facilities. They house arrested and undergoing processing, awaiting trial, or awaiting transfer to a correctional facility after convicted. Correctional facilities, where convicted offenders serve their sentence, include county jails and state and federal prisons. Those convicted of misdemeanors normally serve sentences of not more than one year in county jails. But there are exceptions to the rule. Many jails operated by counties and cities serve two purposes. They house those awaiting trail or

transfer, and also hold convicts serving misdemeanor sentences. Moreoover, because of overcrowding in state prisons, many States have found it necessary to house inmates sentenced for felony offenses in county jails. Local variations cloud the distinction even further. Riker's Island in New York City serves not only as the jail for all the boroughs of the city, but also as a prisons "houses of detention, "but the basic differences remain: County jails are intended for the temporary detention of prisoners and for prisons serving sentences for misdemeanors; federal and state prisons are intended for felons, whose sentences are for longer than one year.

3.10.1 Jails

Jails are generally defined as facilities administered by local officials and designed to hold persons for more than forty-eight hours but usually less than one year. There are over 3,000 jails of various sizes in the United States. A jail in one state may be as large as the entire prison system of another state. The men's central jail of Los Angeles has a rated capacity of 5,136 inmates, and the Cook County Jail in Chicago has a rated capacity 4,600 inmates. Many jails in rural counties, by contrast, house but a few prisoners and operate with a fee system, under which the county government pays a modest amount of money for each prisoner per day. (Other jails operate on regular and fixed budgets.)

Criminal justice specialists generally consider the conditions in jails to be inferior to those in prisons, since county governments have comparatively fewer resources than state governments. Most jails are overcrowded, and unsanitary: have few services or programs for inmates and rarely separate dangerous from non-dangerous offenders.

3.10.2 Prisons

Prisons are federal or state penal Institutions in which offenders serve sentences in excess of one year. For the most part. both state and federal prisons have been blessed with better than management than jails and often with better education, recreation, and employment training programs. But this is not too surprising. After all, prisons are larger, have many more inmates, and thus have much bigger budgets. A prison

normally has three distinct custody levels for inmates, based on an assessment of their perceived dangerousness: maximum danger, medium danger, and minimum danger. Maximum security prisons are designed to hold the most violent, dangerous and aggressive inmates. They have high concrete walls or double-perimeter wire fences, gun towers with armed officers, and strategically placed electronic monitors. Every state has one or several maximum security prisons. The Illusions state penitentiary near Joliet, Illusions, is typical of a state institution; the United State Penitentiary at Marion, Illusions, typifies a maximum security federal prison.

Medium security prisons house inmates who are considered less dangerous or escape prone than those in maximum security facilities. These structures typically have no high outside wall, only a series of fences. Many medium security inmates are housed in large dormitories rather than cells.

Minimum security prisons hold inmates considered the lowest security risks. Very often these institutions operate without armed officers and without partner walls or fences. The typical inmate in such an institution has proved trustworthy in the correctional setting, is nonviolent, and/or is serving a short prison sentence.

3.10.3 Federal Prison System

The federal correctional system is operated by the Federal Bureau of Prisons. Its institutions house prisoners convicted of federal crimes. It became a professionally run system in 1929, when Sanford bates, a Massachusetts corrections official, was appointed its director (he served until 1937). He was charged with reorganizing an institutional system long troubled by political domination, official incompetence, and corruption. The federal correctional system was reconstituted as the Federal Bureau of Prisons in 1930. At that time there were only five federal institutions: three penitentiaries and two reformatories, one for men and one for women. Today there is federal system of more than thirty diversified institutions and facilities containing over 71,000 adults and youths, of which most are classified as medium or minimum

security. All personnel working for the Bureau of Prisons are under civil service, salaries are competitive, and tenure and promotion are based on merit.

3.10.4 State Prison System

State correctional institutions for adult inmates include a wide variety of prisons, penitentiaries, reformatories, industrial institutions, prison farms, and half-way houses. Over half of the nation's inmates are in institutions with average daily populations of more than 1,000 prisoners.

3.10.5 Institution for Women

Until the early nineteenth century, women convicts were imprisoned in institutions designed primarily for male prisoners. In some prisons they were housed in separate quarters. The initial step toward the establishment of a system of separate prisons for women was taken in 1835, when New York founded the Mount Pleasant female Prison (closed in 1865), which was administratively attached to neighboring Sing Sing, a prison for men. This was the first and only penal institution for women established before the great era of prison construction of the late nineteenth century. The first women's prison to built in that era was the Women's Prison of Indiana (1873).

During the twentieth century, women inmates have been incarcerated exclusively in Women's prisons. These institutions have tended to be smaller and less threatening in appearance and operation than male prisons (no high wall and guard towers, and less regimentation). Yet, being smaller, the also lack many of the facilities of male institutions.

Until recently, women's institutions and their inmates had received little attentions in the scholarly literature. In a review of the research on women's prisons, Nicole Hahn Rafter examines the differences between men's and women's prisons. She attributes the historical neglect of women's prisons in part to the fact that over time women have

comprised only a small fraction of the total prison population. However, this lack of attention is also the product of two commonly held assumptions: that the development of the women's prison system and the experiences of women inmates closely resemble those of men; and that, if different, the evolution of the women's prison system and female experience of incarceration are irrelevant to mainstream corrections because they can shed little light on the prison system as a whole. Rafter proposes that neither assumption is correct.

She points out that during the first stage in the development of the women's system (1790 – 1870), female penal units outwardly resembled male penitentiaries, but in some respects their inmates received inferior care. During the second stage (1870 – 1935), strenuous and often successful efforts were made to establish an entirely new type of prison, the women's reformatory, in which women would receive care more appropriate to their "feminine" nature. Yet by institutionalizing differential treatment, the reformatories legitimized a tradition of care that was inherently unequal. In the third stage, 1935 to present, the women's prison system continued to evolve in ways that perpetuated the older traditions of differential treatment. The women's prison is not merely a version of prisons for men. Nor is the history of incarceration of women irrelevant to an understanding of the prison system as a whole.

SELF ASSESSMENT EXERCISE 4

Give a critical assessment of the outlook of correctional institution today.

4.0 CONCLUSION

Sociologically, the prison is a total institution like other institutions such as the nursing home, mental asylum, Army barracks, boarding school. The prison bureaucratically organizes all aspects of an individual's life, a closed, large group environment segregated from the flow of the society i.e regimented in nature. The prison differs from most other total institutions in one very important way, however, it houses residents who are there involuntarily, largely hostile and sometimes violently dangerous. This heightens the issue of control, encourages the staff to exaggerate the

status degradation process, and stimulates the development of a violent and predatory subculture. The prison uses letter censorship solidarity confinement and restricted visits and communication. It is perhaps the deprivation or normal social relations and material possession that erodes the person's status and psyches, and more important leads to the major substitutes if the inmate subculture, namely rape, domination and exploitation, and underground economy.

5.0 SUMMARY

When the police which is the first entry point of the Criminal Justice System arrest a suspect, he or she is charged to court, if found guilty the court will convict him to prison. The actual execution of sentences is carried out by the prison services. The imprisonment enforced the sentence of the court upon a citizen who is suspected or convicted of breach of law. The place where such a person is confined is the prison.

6.0 TUTOR MARKED ASSIGNMENTS

(1) Discuss extensively the origin of imprisonment.

(2) Discuss the differences between the Pennsylvania system and Auburn system.

(3) Discuss the different movement and system that exist in the history of correctional institution.

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UNIT 4: THE GENERAL NATURE OF THE PRISON COMMUNITY

CONTENTS

1.0 Introduction
2.0 Objectives
3.0 Main Content
    3.1 The Nature of a “Normal” Community
    3.2 The Structure of Prisons
    3.3 The Structure of Modern Prisons
    3.4 Prison Systems and Prison Administration
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    3.6 Control of Inmates and Prison Discipline
4.0 Conclusion
5.0 Summary
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1.0 INTRODUCTION

The popular view that to reduce crime we should send more men to prison is in contrast with the view of penologists that we should keep as many as possible out of prison. Yet imprisonment at least incapacitates the inmate for crime for a time. When we have increased greatly the number put on probation, there will still be a need for confinement. Use of other methods has left prison inmates a selected, if still inadequately selected, group and a more difficult type to rehabilitate. The American Correctional Association has adopted the view that a prison operated on the basis of a purely punitive philosophy would produce more criminals than it would prevent; that while imprisoning more might deter a few from crime, punitive imprisonment is not an effective deterrent for most inmates today. This does not mean that penologists have dismissed the whole idea of punishment. It does mean agreement that prisons protect society best when their major emphasis is on rehabilitation.

The historical development described in the last unit has left us with a variety of penal institutions. To these are committed a greater variety of convicted men and women. In the present unit we disregard this variety and characterize the general nature of the prison system.

2.0 OBJECTIVES

At the end of this unit, the student should be able to:

- Understand the differences between the nature of a “normal community and the nature of prison community.
- Understand the structure of prisons.
- Comprehend the prison systems and prison Administration.
- Know the types of personnel and their functions.
- Examine the control of Inmates and prison discipline.

3.0 MAIN CONTENTS

3.1 THE NATURE OF A “NORMAL” COMMUNITY

The free community is in part an unplanned natural growth, in part the product of a plan designed to meet the interests and wishes of its members. If men on the outside eat poorly, they at least eat what they wish, given their meager incomes. If they dress somewhat shabbily, their clothing is not standardized and a mark of despised status. On the outside there are women, and this means not only a normal physical relationship but the genesis of emotions which at times soften and compensate for life’s hardships. When a man goes to prison, he usually leaves in the free community some intimate primary group which cares for him in spite of, if not because of his personal worth or worthlessness.

In the normal community also there is at least the form of democracy. Laws and rules there are, but theoretically every citizen participated in their making. There, too, life is competitive, there is incentive to effort, and men are supposed to be economically independent. If this fact brings some of life’s chief problems, it also brings some of life’s chief satisfactions. Men may live in undesirable neighborhoods on the outside, but they are confined there by low incomes rather than by walls and bars. Outside one

is indeed a part of regime which perhaps represses as many desires as it satisfies, but at least one has the very fond, if misleading, illusion of self-direction and self-control and often of self-respect.

The nature of prison community, however, is in sharp contrast.

First, all aspect of life are conducted in the same place and under the same single authority. Second, each phase of the member's daily activity is carried on in the immediate company of a large batch of others, all of whom are treated alike and required to do the same thing together. Third, all phases of the day's activities are tightly scheduled …, the whole sequence of activities being imposed from above by a system of explicit formal rulings and a body of officials. Finally, the various enforced activities are brought together into a single rational plan purportedly designed to fulfill the official aims of the institution.

SELF ASSESSMENT EXERCISE 1

What do you understand by the Nature of a "Normal Community".

3.2 THE STRUCTURE OF PRISONS

Significance and History

The structure of any building reflects the purpose for which it was intended at the time it was construct. Only a handful of our 150-odd state penal institutions have been built during the last 25 years, and a few are over 100 years old. The majority of our prisons, therefore, do not physically reflect modern treatment policies aimed at rehabilitation, but rather penal policies of older days when safekeeping and deterrent punishment were the primary considerations. With notable exceptions, our prison structures remain out-of-date partly because the secure fortress type of institution costs too much money to be abandoned and also because the general public still thinks of all prisoners as being high escape risks. Actually there are thousands of inmates who would not take advantage of an "open-door" policy, and a very few who will risk death to tunnel or blast their way out of the most secure prison. In addition a variety of structures are needed to provide a variety of institution programs. Every student of criminology might well read carefully the United State Bureau of Prisons' significant

and artistic publication, Handbook of Correctional Institution Design and Construction, a book which contends that a structure which is designed to deal constructively with the type of inmates for which it is built can be made as secure as need be against escapes. This possibility depends, of course, upon a classification system which will give information for each offender concerning his degree of dangerousness and likelihood of escape as well as his special program needs.

3.3 THE STRUCTURE OF MODERN PRISONS

The earliest Auburn-type structures, such as those in Boston, Auburn, Ossining, and Columbus, are either still in use or have just been abandoned. That type has been modified by use of modern devices to make escape more difficult and by other improvements. Thus tool-proof steel bars, underground passages, machine guns, walls more difficult to scale, gun detectors, electric eyes which will discover the presence of steel or other contraband on the person of prisoners or visitors, and devices to prevent the passing of contraband between visitors and prisoners have been added. On the other hand, windows in newly constructed prisons are generally far wider, cell doors no longer are nearly solid but are barred, sanitation is improved, dining room and chapels have been constructed and so on.

The Federal Bureau of Prisons distinguishes general types of penal institutions for adult males, which may roughly be grouped into penitentiaries of different degrees of security, correctional institutions, reformatories, and open road or forestry camps; though the restrictive or liberal nature of the life within them may always follow these lines exactly. In addition there are various specialized institutions, including detention or classification quarters, medical centers for both the physically and mentally ill, and institutions for drug addicts or special types of inmates.

Prison construction cost money. States are often poor. Taxpayers hate to spend money. People tend to worry little over the living conditions of prisoners. In addition the public fails to realize the effect of overcrowding upon prison discipline. For all of these reasons our prisons have often been overcrowded even in terms of the close living for which they were designed. With the same appropriate most States might

have housed many more prisoners without overcrowding had they set up adequate classification bureaus and built more of the less expensive medium and minimum security institutions. Overcrowding together with poor food and idleness, has frequently characterized institutions where riots have occurred.

One of the most important needs is that, regardless of the type of inmate housed, prisons be so constructed that at night inmates may safely be given access to all kinds of educational, recreational, or other activities. Today most prisons have congregate dining rooms, which are usually considered danger spots because of the large number of men brought together with eating utensils as possible weapons. Most prisons and many reformatories seat the men in one direction, though the trend is towards tables for small groups, which are soon to be state-wide, for example, in California. At one end of the dining room may be a raised platform behind a screen where guards armed with machine guns stand ready for trouble. Cafeteria service is growing in popularity but is not universal. Most European prisons still feed the inmates in their cells.

Save for generally poor equipment and overcrowding, typical prison shops are not unlike those on the outside. Prison hospital buildings vary from some which are a disgrace to model institution equal to almost any civil hospital in structure and equipment. Punishment cells, sometimes in a separate building, are almost always provided for the isolation of troublemakers. Many prisons, of course, also have a death house with large cells where the condemned await their end.

The reader may well ask what such community housing does to human personality? What do constantly jangling cell doors and snapping locks do to the nerves? What are the implications of the replacement of home life by a cubicle existence in a cell block? What does it mean to the human spirit, however deprived, to see for many years practically to material object which is designedly beautiful? What do guard towers, bleak, gray surrounding walls, the whole stench does inmates well being? What is the impact of the massive structure pressing down on the person with its accompanied boredom do to a man? These questions cannot be fully answered. But modern prison

architects have proven that prisons may keep men securely and yet be humanly livable and even beautiful in some of their feature.

3.4 PRISON SYSTEMS AND PRISON ADMINISTRATION

A prison system, whether national, state, or local, is the public aspect of the process of protecting against crime. The process may begin in community preventive programs and school of other planned relations with little children. Failures at the earlier stages of the process are recognized by the commitment of a considerable number of adults to correctional institutions. Ideally, then, a state correctional system will be organized as one element in an integration of a many-sided program of both public and private agencies. Actually such complete integration of protective activities is almost nonexistent. Most prevalent are segmented and largely disconnected prison organizations, with inadequate relationships to police, court, probation, and parole administration, to say nothing of almost complete separation from work with juveniles in preventive activities. Facts about the reasons for delinquency and crime and the reasons for failure to deal adequately with specific cases should be carefully accumulated all the way along the line, and full records should accompany the adult to prison or parole. These facts would include characterization of communities, group value systems, and social relations, as well as facts about the individual criminal.

Even if such a complete integration were achieved, there would still, of course, be a somewhat distinct task of organizing a system of institutions for adult criminals. Administrators seem in fair agreement on certain principles involved in such an organization. Dealing with dangerous men, the prison administrator, like the police executive, requires some elements of semi-military line and staff organization, varying in degree in different institutions, with as much of more democratic elements introduced as possible, but with clear-cut lines of responsibility and command. A separate state department of corrections dealing with adult felony is generally preferred. Something might be said in favor of combining over-all direction of juvenile institutions and parole with that of adult prisons, provided a common ultimate constructive aim can dominate. At any rate, coordination of adult and juvenile

program is needed. A common correctional philosophy is all-important but rarely achieved. The States have many types of control by boards and commissioners with varying labels, but a single director appointed by the governor with a small but active advisory board seems preferable to wider dissipation of authority. Freedom from political interference at the top and a personnel appointed on a strictly merit basis is imperative, but unusual. A legal basis making a flexible policy possible organized planning and research and adequate financial support are obviously important.

Within the Central State Department, various deputies assume subordinate direction of different aspects of the prison program, their number necessarily varying with the size of the state, though even ion small States their basic function must be performed. Separate deputies in larger organization may each deal with central office personnel and general administration fiscal matters, classification, education and related programs, prison industries and farms. A variety of other functions may be group under a fifth deputy direction. So extremely important are public relations of the system and its constituent institutions, and the deliberate organization of cooperation between institution and community, that a separate deputy director in charge of such matters would seem to be appropriate.

Similarly, the internal administration of each correctional institution must express its agreed-upon functions. It is important that there shall be suitable channels of command and control not only from top to bottom but horizontally. This means that custodial, educational, and all other staff and subordinate personnel must see their work as part of the total program of the institution. It is appropriate that under the warden there be staff heads concerned with each of the following functions: custody and discipline, classification, inmate education, in-service training of personnel, business management, industrial and agricultural enterprises, medical and psychiatric service, public and community relationships, and the organization of inmate groups. More than one visitor from abroad has recently commented upon the general absence of the group approach in American prisons and upon its great importance were tried both here and abroad. So-called group therapy can be set up under the educational

director, the psychiatric, or even the chaplain. It is arguable, however, that the constructive possibilities of group organization of inmates are so promising that they might well be the major concern of a deputy warden.

3.5 TYPES OF PERSONNEL AND THEIR FUNCTIONS

In the old-line prison, and probably in most prisons today, the custodial staff tends to control. The rehabilitative staff either is isolated to a degree in conflict with those concerned with discipline or are "institutionalized" themselves. Yet the trend is towards a personnel including guards and officers of all ranks working cooperatively on a constructive task, of which necessary discipline is a consistent part.

In the typical prison, the warden carries out centrally determined policies with varying degrees of freedom to run his own institution as he pleases. Much is expected of him. He must keep large numbers of men in, whose common attitude is that they "want out". He must keep the cost of operation down when, if he is to do a decent piece of work, it should go up. He must employ as many as possible of his inefficient and unenthusiastic charges in ways which shall at the same time be productive and yet produce nothing to endanger the profits of private industry or threaten its wage scale. He must, even so, keep aggrieved men reasonably satisfied and orderly. He must satisfy somewhat the desires of sections of the public who ask him to socialize antisocial prisoners in spite of a prison structure, organization, and program designed to deter from crime and actually creating embitterment. Above all, in most prisons, he must so conduct his institution as to bring credit to and avoid criticism of a political party primarily interested in preserving a spoils system. Being in charge of a miniature community, he should ideally know something of every aspect of community life. Educational, religious, medical, political, and above all disciplinary problems crowd upon him, each complicated by the nature of the population concerned. A past achievement in acquiring the good will of a political machine often has imperfectly prepared many wardens for so exacting a task.

A deputy warden usually has special charge of discipline. In the federal system, a second deputy warden may similarly direct the treatment program. The captain of the

guards supervises this work and is still more immediately responsible for discipline. The superintendent of industries is of major importance in industrial prisons. The dietitian and cook can disrupt an otherwise orderly prison by failing to provide at a cost of a few cents per day the acceptable food which is a first essential to a tractable body of inmates.

In the old-line prison, the function of the guards is to watch, to report violations of rules, to inflict punishment if occasion requires, to act in crises such as escapes and riots - and little more. Physically closer to the prisoner than any other prison officer, the “good” guard in such a prison maintains a social gulf between himself and the inmates which is supposedly never the social gulf and show consideration and even friendliness for inmates. The old prison system, however, discourages such gestures. Even the progressive prison, fearing the temptation to do favors for inmates and so bring the guards under obligations to them, may still frown on too much fraternization.

In the opinion of some observers there exists within maximum-security settings a chronic control problem whose solutions in unlikely, short of returning to the individual isolation of the defunct Pennsylvania system. The problem is that of maintaining control of firmness sufficient to minimize the preparation of inmates values and attitudes which tend to impede re-socialization in conformity with conventional values and attitudes. Firm control is undermined in at least three ways. (1) The individual guard’s wish to “get along” to ‘be a good Joe,” may lead him to avoid actions which would make him an object of hatred. Contempt, or ridicule by the inmates. Since some of these actions include keeping a firm hand over his charges, their avoidance reduces the guard’s needed exercise of authority. (2) To maintain a modicum of order in his bailiwick the individual guard must rely not upon force or a blizzard of disciplinary tickets sent to higher echelons, but upon “purchasing” good behavior from his charges by ignoring minor rule infractions. (3) The need to trust minor chores to runners and other inmates may lead to an “established pattern of abdication” in which the guard’s power is transferred to certain prisoners.

SELF ASSESSMENT EXERCISE 2

Discuss types of prisons personnel and their functions.

3.6 CONTROL OF INMATES AND PRISON DISCIPLINE

Even under the very best conditions involving the most tractable men, inmates are a group of mature men held against their will. Prisoners want out. The purposes of custody, control, and discipline are (1) to prevent escapes, (2) to provide an orderly institution, and (3) to deal adequately with inmate misbehavior. Proper treatment of inmate offenses may improve inmates' capacity for voluntary self-control within the prison community. More importantly, it is hoped that patterns of behavior acquired on the inside will carry over into community life after release. In its broadcast sense, discipline is, then, not something separate from the constructive program of the institution, but an integral part of it. The public generally demands safe custody and deterrent punishment but without "inhuman" cruelty. Beyond that, the public is usually indifferent except as dramatic escapes, riots, or exposure of extreme conditions dramatize what goes on in prison. All three of these aspects of discipline will depend in different degrees upon the structure of the institution, the leadership provided, the nature of the inmates cared for, and the capacity of the program to bring reasonable contentment to men chronically discontented by the very fact of their incarceration.

SELF ASSESSMENT EXERCISE 3

Elaborate on the purposes of inmates custody control and discipline.

4.0 CONCLUSION

It is generally agreed that penal institutions need rules but that these should not be long lists to specific "thou-shalt-nots," but general rules of decorum set forth in booklets for the prisoners and annotated ones for custodial officers. It is imperative that inmates know the reasons for all rules and that these seem reasonable to them in the prison situation.

5.0 SUMMARY

We have been able to discuss the general nature of the prison community. Highlighting these deprivation and limitation that prisons inmates encounter while in prison. It showed that the nature of prison community is in sharp contrast to the free society. The structure of prison as well as the modern one was dwelt upon bringing us to the prison systems and prison administration. The unit also dwelt on the types of personnel and their functions in the prison and how order and discipline are enforced in the prison.

6.0 TUTOR MARKED ASSIGNMENT

(1) Discuss the contrast between the free and normal society and the prison community.

(2) Give a detail analysis of the prison system and Administration.

7.0 REFERENCES/FURTHER READING

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MODULE 2

Unit 1 Classification, Reception and Case Work
Unit 2 Prison Labor
Unit 3 Release from Prison
Unit 4 Probation

UNIT 1: CLASSIFICATION, RECEPTION AND CASE WORK

CONTENTS

1.0 Introduction
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3.0 Main Content
- 3.1 History of classification
- 3.2 Classification Bodies
- 3.3 Classification Centres and committees
- 3.4 Types of Institutions Available
- 3.5 The Personnel of Classification Boards
- 3.6 Personal Case Work in Penal Institutions
- 3.7 Reception Centres and Inmate Orientation
- 3.8 Case Workers in Progressive Correctional Practice

4.0 Conclusion
5.0 Summary
6.0 Tutor Marked Assignments
7.0 References/Further Reading

1.0 INTRODUCTION

For a long period, prison programs meant undifferentiated mass treatment. Even today the majority of inmates probably have little feeling that their widely varying individual characteristics and needs are given much attention in our correctional institutions. For several decades, however, the distinctive trend in our more progressive institutions has been towards individualization. A still-more-recent slight

tendency to use groups of inmates in the program may well prove to be still more significant. Classification of inmates into types for differential treatment is the first step towards individualization.

Individualization in social service is called case work. Case work implies effort to aid the individual even though the welfares of society be the ultimate goal. Yet to most people there seems to be an antithesis between case work and prisons. Case work breathes friendliness, prisons imply enmity. Case work strives to meet needs and grant reasonable desires. Prisons traditionally disregard all but the most primary needs and seem to exist to block men's desires. Progressive correctional institutions understandably give attention to the individuals case, not because of first concern for the criminal, but because first concern for the protection of society demands treatment adjusted to the needs of a vast variety of individual offenders. Separation of inmates according to their treatment and security requirements, as well as on the basis of their behavior towards each other, permits maximum specialization and efficiency in the use of prison resources.

2.0 OBJECTIVES

At the end of this unit, the student should be able to

- Know the reason why classification is carried out in the prison.
- Know the history of classification
- Distinguish between classification bodies, classification centers and committees.
- Know the types of institutions available.
- Understand the importance of case work in penal institution.
- Know what individualization in social service is all about.

3.0 MAIN CONTENTS

3.1 HISTORY OF CLASSIFICATION

Some common-sense distinction between types of criminals existed, of course, from an early date. The canonical courts distinguished between clergy and laity. We have seen that separation by sex, age, and nature of offense was imperfectly carried out in some early European and American institutions. Baltimore segregated women in its prison system in the early nineteenth century. The three juvenile institutions built about 1825 dealt separately with children. The isolation of the insane seems first to have been proposed in 1844. Later a few States permitted the transfer of criminals to these asylums, and in 1859 New York opened the first hospital for the criminally insane. Early in the eighteenth century the development of American houses of correction separated misdemeanants from felons. The building of Indiana's separate prison for women in 1873 is usually regarded as the beginning of the women's reformatory movement. The pioneer men's reformatory at Elmira dates from 1876. Modern classification at the institutional level implies the organization of special centers for this purpose, and that movement is about 35 years old.

Classification has been defined as a process of "organized procedures by which diagnosis, treatment planning and the carrying out of the component parts of the general program of treatment are coordinated and focused on the individual in prison and on parole." Its introduction in prisons was revolutionary, for it meant not only a commitment to the principle of individualized treatment but also a break in the classic pattern of authority in which the deputy warden was exclusively responsible for work. Training, and quarters assignment, as well as enforcement of discipline. This is not to say that treatment personnel now hold the balance of power in prisons, for the opposite is the case, but classification pushed wide the door to the sanctum of prison policy-making, into which trooped an increasing number of prison functionaries whose occupational values centered around treatment rather than custody.

SELF ASSESSMENT EXERCISE 1

Explain the history of classification in the prisons system.

3.2 CLASSIFICATION BODIES

The law itself may define the type of penal institution in which a convicted felon not granted probation shall be incarcerated. Or discretion to determine this may be given to the courts. For various reasons neither of these practices is satisfactory as preparation for intelligent treatment programs. For such preparation the collection of a vast amount of information is needed. Such fact-gathering requires a considerable period of time, trained personnel, adequate funds, and freedom from local prejudices and politics, such as few courts possess. Classification as carried out by some courts has been aptly characterized as follows:

In some ways judges have convinced themselves … that they can look into the eye of an offender and say: "Young man, in 10 years you will be ready to go back into the community." It is a good deal like trying to buy a watermelon by its feel. The judge does not even thump to find out what is inside.

Our best pre-sentence investigations are much more thorough but can hardly be planned with a prison program in mind. Hence it has become advisable to set up special administrative agencies within the correctional system of a state. These are of three general types: central classification centers, to which all convicts who are to be imprisoned are sent for study and determination of their future disposition; classification committees located with each institution, which decide upon the treatment program there; and reception centers, which house and have more or less control over the new inmates for a month or more, including or after their quarantine period, and prepare them for the subsequent stages of their life in the institution. Frank Loveland has said that in 1951 not over one-third of many of these existed hardly more than in name. Yet when prison administrators gather at their annual Correctional Congress today, absence of a classification system is looked upon as an indication of backwardness. The classification movement is extremely important but still in process of extension and improvement. Even in our most progressive state system, where classification means relating the institutional program of each inmate to his needs, it is still rare that program can plan for his adjustment to know specific conditions and

social relationships in his home community after his release. Ideally, classification will include this long look ahead.

3.3 CLASSIFICATION CENTERS AND COMMITTEES

A classification center of any type must first gather appropriate information about each prisoner. This information will come in part from records of various degrees of fullness derived from public and private agencies which have had previous contact with the man or his family.

More important are facts based upon interviews with the prisoner after his arrival at the classification depot. Information is also gained through correspondence with his family, friends, and associates. No decision can be considered adequately founded in fact which does not include a recent field study of the family and community or communities from which the inmate came. Such studies made by the classification committee itself are costly and rare. The assistance of probation or parole officers may be solicited, or the adequacy of field information must depend on the fullness or reports routinely sent from the courts.

On the basis of facts thus obtained, a central state classification board recommends or itself determines to which of available institutions the prisoner shall be sent. Even classification between institutions is not properly final, and frequent re-study, with transfer elsewhere when indicated, is essential. Beyond this the classification board may recommend or determine what treatment shall be given the man in the institution, seeking aid from outside agencies and specialists when needed. It may be provided that important changes in inmate program must be referred to the classification board, while minor ones may be made by the staff member in charge of education, work assignment, or any particular aspect of the institution's activities. The board may also recommend concerning the prisoner's potentialities for parole, and changes needed in the home or in associates in the interest of his later community adjustment. Where there is a central state classification center, facts obtained there will, of course, be handed on to the institutional reception center, where further study will be required for the detailed planning of the man's institutional program. The institutional

classification committee or reception center provides for regular periodical reviews of each case and for special re-consideration when new needs occurs. When a man first becomes eligible for parole, re-study should be routinely provided for even without his request. Ideally, classification is a continuous process rather than a periodic gesture.

The above functions with respect to the inmate by no means comprise all the duties and advantages of a good classification system. These include the following considerations: (1) Classification provides facts needed by the prison staff.
(2) It prevents their over departmentalization by integrating the views and programs of the many specialists and administrative heads involved.
(3) It prevents the warden's control from being a dictatorship by requiring him to share control with the classification committee.
(4) It tends to reduce escapes and results in better discipline through basing treatment in each case partly on facts concerning the inmate which been recorded by the committee. (5) Deliberations of the committee have meant better utilization of inmates for industrial output.
(6) Inmate morale is improved because inmates know that individual attention is given to personal needs, and the barrier between inmates and staff is reduced.
(7) Staff morale is increased through mutual appreciation of the roles and problems of each member.
(8) Classification gives the parole board facts essential to their decisions.
(9) Classification reports aid other institutions to which the inmate may later be committed.
(10) The research value of facts obtained is important both in the study of causes and in the evaluation of the effects of specific institutional programs.
(11) A well-staffed institutional committee brings together the professional specialist and the administrative specialist, who thus acquire respect for each other.
(12) Indeed, the fully functioning classification committee becomes the very heart of the entire institutional program and may appropriately be chaired by the warden since decisions reached by committee must have behind them the force of authority.

But however pious our expectation may be for the functions and advantages of classification, this device is in constant danger of being used to serve lesser ends than those of treatment. A deputy assistant director of the federal prison system has made this point well:

In all too many instances classification contents itself largely with being an administrative device through which we identify potential "problem" inmates – the escape risk, the homosexual and the strong-arm leader – and solve the problems of managing inmate work details. In the measurement of inmate response to programs we are forced to fall back upon a statistical recapitulation of the number of disciplinary violations reported, the number of work changes which at religious service, the number of counseling sessions in which he participated and the extent of his generosity in donating blood.

SELF ASSESSMENT EXERCISE 2

Discus the advantages of good classification system.

3.4 TYPES OF INSTITUTIONS AVAILABLE

Our large and more progressive state have different institutions for the custody of inmates. they are the following: (1) receiving and detention prisons; (2) prisons and subdivisions of prisons of maximum, medium, and minimum security for adult male offenders considered relatively normal; (3) reformatories for young males capable of making use of educational opportunity; (4) similar reformatories for women, which in many States take place of women's prisons; (5) prison farms; (6) road-building, soil-conservation, or forestry camps in some States; (7) institutions for the criminally insane (8) institutions for mentally defective criminals; (9) farms or other state institutions for misdemeanants; (10) in addition separate institutions or more usually department for drug addicts, tubercular inmates, the veneral diseased, homosexuals, and so forth.

Classification between institutions thus may be based upon age, sex, likelihood of escape, nature of offense, likelihood of reform, need for education, physical or mental condition, capability of work, or race. Its purpose may be more administrative convenience or provision for the special needs of the group in question. Many have claimed there is virtue in the mere collection in one institution of homogenous groups, thus preventing contamination and permitting a program adapted to a group with similar needs. Undoubtedly there is much to be said for this grouping on the basis of likeness, but it seems to date to have been too slavishly followed. As we come to plan a prison as a community, we shall find more significant bases for association and realize also that a certain degree of heterogeneity of population is normal in prison as elsewhere, provided that it does not disrupt organization.

Classification based upon the nature of the crime is almost useless. The practical prison warden, however, will insist that the interest of order in his institution must come first. Though mere separation of troublemakers does not imply their proper treatment, it does permit more constructive programs for the average inmate, as well as for the most tractable inmates. Within the institution a warden may also find it convenient to house men who work in the same shop together or to separate those who have achieved different levels in a conduct grading system. He will also appreciate the value of segregating the syphilitics, and his disciplinary problems will be less if he is rid of drug addicts and so-called “sex perverts.” Since apparently hopeless recidivists have occasionally center such labels as “un-improvable” or “psychopath.”

Even the most liberal penologist must admit that in classification certain administrative considerations must take precedence. Reasonable safety from escape and the health of the prison population are primary. Moreover, at any given time the nature and structure of the institutions available will limit the possible bases for classification. Granting the primary of such consideration be given in assignments to the basic need of grouping together, especially in informal activities, those who will profit most or suffer least through association. Awareness of ties and conflicts between inmates is essential to sociologically sound assignment.

3.5 THE PERSONNEL OF CLASSIFICATION BOARDS

Classification calls for participation in its discussion and decisions of two kinds of specialists, professional and administrative. Indeed, we have noted among the advantages of classification, not only the cooperation necessitated but also the mutual education involved in the association of these specialists and of the different subdivisions within each group. The psychologist, psychiatrist, and sociologist need to learn from one another. Similarly, the warden and his deputies, the industrial superintendent, the physician, and the recreational director need to learn to respect the importance of each other's contribution to the total task of rehabilitation. Even the custodian staff of a prison should visit meeting of the classification committee and thus not only learn about particular inmates in its charge but absorb the philosophy of the institution and the larger meaning of its total program. Where the staff is primarily professional, it is traditional that the director be a psychiatrist, although there seems to be no logical reason why the psychologist or the sociologist should not occupy this position, since it is by no means clear that the treatment of criminals is primarily a medical problem.

3.6 PERSONAL CASE WORK IN PENAL INSTITUTIONS

Personal prison case work includes promoting the individual's adjustment first within the prison community and then in preparation for the post-prison community. The man must be assigned to a cell block or dormitory; he must be given a job; he may need assignment to a class in the academic school or to a shop in the program of vocational training. If he has individual physical or health needs, they must be attended to. Knowledge of his case may and should affect the disciplinary policy used if he violates prison rules. The individual case record will assist in determining the use of leisure time allowed the individual.

Beyond all this, however, each man has personal problem. His mental state including his fears and worries and general emotional instability, calls for individuals attention from psychiatrist, social worker, or other counselor. It is most important here that the

prison administration realize the need for confidential relationships between prisoners and counselors and leave to its professional staff a high degree of discretion in protecting the confidences of the men. Prisoners can be frankly told that information pertinent to the safety of the institution will be reported.

It is sometimes implied that an emotional relationship between the social worker and the prisoner is the chief dynamic influence. Undoubtedly this influence is important, but unless the number of case workers is greatly increased, its possibilities are limited. Moreover, inmate relations with case workers are external to the inmate's social experience in prison, are applied to him, and are not consistent with his role as a member of subgroups in the prison community. The introduction of increasing numbers of interns and the socialization of guards, together with experiments in utilizing natural leadership and natural groups among the prisoners themselves, probably hold out more promise than the influence of a few trained psychiatrists or case workers. Both approaches are needed, however.

The development of pleasant relations between the prison case worker and the inmate's home and community goes far to overcome antagonism. It promotes contacts with every constructive force in the community, tends to prevent that suspicion and hospitality toward the prisoner in the home community which too often drive the parolee back to his gang, and reacts favorably upon the attitudes of the man on the inside.

3.7 RECEPTION CENTERS AND INMATE ORIENTATION

When an inmate is received at a correctional institution, he must first pass through quarantine. Following this he may be kept separate from the rest of the institution's population for a period which may extend to 60 days and more in special cases. If there is no state classification depot, the reception center may itself do classification work similar to that of the classification committee already described. But the major function of the reception center is inmate orientation. The center does not partake of the repressive atmosphere which may characterize the institution as a whole and its

staff often radiates a friendly attitude as they try to prepare the newcomer for success in the institutional program. He may be introduced to the institution by means of a booklet, group meetings where the program as a whole is discussed, a trip about the institution, the use of pictures, and so on. According to Kendall, the center should be administered wholly separately from the prison administration, though the desirability of such separation may be questioned. The center itself will give tests, provide interviews with members of the prison staff, evaluate the inmate's attitudes, require him to write a letter to his family or other close relatives and study his correspondence, and write itself to his family. It will have its own separate educational, vocation guidance, and recreational program. When all information is gathered, there will be a staff conference much like that already described. The cooperation of the new inmate in formulating his own is solicited. The program arrived at will be carefully explained to him. The plan will then be presented to the administration of the institution.

3.8 CASE WORKER IN PROGRESSIVE CORRECTIONAL PRACTICE

Existing classification and case-work programs have developed in a promising way. Yet case work is still handicapped even in the best systems. Often the work is cramped because its spirit is inconsistent with much of the rest of the prison program. Rarely indeed would a case worker, if concerned solely with improving the attitudes of the individual, send him to prison at all. Never would he subject him to the demoralizing influences which still characterize most prisons. Prisoners need to learn self-reliance; prisons make them dependent. Prisoners need to have their self-respect restored; prisons often further degrade them. Prisoners need to be associated with constructive outside influences; imprisonment isolates them from all such influences, although the best prison case work rebuilds selected outside contacts wherever it is permitted to do so. Most case work in prisons is individualistic in spite of some recent development of group therapy; while character is formed and "reformed" in primary groups, which originate naturally without external pressure. In the more natural prison community suggested in a later unit, case work should find its proper setting.

Until very recently the most ambitious effort to combine a degree of community organization in prison with social case work was probably Norfolk Prison Colony in Massachusetts, especially under the leadership of Warden Howard Gill. A brilliant analysis of the work of this institution was published in 1940.

Case work at Norfolk was by no means wholly a failure. The Norfolk experiment was terminated for reasons independent of the validity of either of its two methods. Yet the considerable degree of success Mr. Gill had during its early stages seems to have validated the small-group and community approach more than that of individual case works. At least the Norfolk experience showed that case work in prison to be effective must be coordinated with group work and the organization of the prison as a community and must be related to the free community.

SELF ASSESSMENT EXERCISE 3

Discuss the duties of case workers in the correctional institution.

4.0 CONCLUSION

Perhaps more important than rules and regulations in the smooth functioning of a correctional institution is a classification system that permits organization of inmates into cohesive manageable units. The classification process consists of regular procedures through which the custodial treatment, vocational and educational needs of each individual are determined while program classifications are important, security classifications are the number-one priority. Security requirements are necessary for the protection of the inmates themselves, for the safety of other persons within the institution, and for the protection of the public custodial classification is based on the inmate's behavior, mental health, attitude and likelihood of attempting escape.

5.0 SUMMARY

Classification is a method by which diagnosis, treatment, planning and the execution of the treatment program are coordinated in the individual case. It is also a method by which the treatment program is kept current with the inmate's changing needs. Prisons

are also classified in accordance to the level of security, which hinges on the types of criminal incarcerated in them in terms of their character and the seriousness of the crime commission.

6.0 TUTOR MARKED ASSIGNMENTS

(1) Discuss the meaning and importance of classification in the prison.

(2) Discuss the various types of classification system in the prison.

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UNIT 2: PRISONS LABOR

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1.0 INTRODUCTION

The public image of state as beehives of productive activity, with “cons” working long hours manufacturing auto tags, road signs, brooms, and clothing, is largely false. Even the few so employed seldom work more than six hours a day; three or four hours a day is more likely. The other prisoners are subjected to the demoralizing and wasteful assignment of trying to appear busy at housekeeping tasks, most of which can be completed easily in the first hour or two of the work period. Many penologists are convinced that idleness in prisons is a contributing cause of riots and other disturbances, homosexuality, and feelings of bitterness and hostility towards society.

at the vary least, such idleness does nothing for inmate rehabilitation and is a wasteful drain on a state's resources.

2.0 OBJECTIVES

At the end of this unit, the student should be able to:

- Understand issues that border on prison labor
- Know the system on prison labor
- Have a clear understanding of prison labor policy

3.0 MAIN CONTENTS

3.1 ISSUES ON PRISON LABOR

Until 30 years ago American prisons were, however, busy places, with idleness no problem except among the few prisoners unable to work. In the late '20's and early '30's a series of federal and state laws, designed to protect "free" labor and industry from alleged unfair competition arising from the public sale of prison made goods, dealt blows to prison industries from which they have not yet recovered. However, the problem of how best to organize prison labor is one which has not been solved even after two centuries of experience with prisons. Frequent changes in theories of correction, along with shifts in the social, economic, and political milieus in which prisons existed, not only militated against agreement on a final "solution," but virtually guaranteed that any such solution, even if reached, would soon become outmoded.

A basic factor contributing to the difficulties of solving the prison labor problem has been the presence in correctional theory of divergent – and in some degree inconsistent – ideas as to the purposes of prison work:

(1) Work has often been penal in nature. The crank and the treadmill served this purpose, and if these are gone, the same punitive motive is seen here and there today in the use of the quarry or rockpile whether a marketable product is obtained or not. The criminal law still frequently provides "imprisonment at hand labor" as the penalty

for crime, though there are instances when the “hard labor” in “workhouses” has meant almost complete idleness in the cell.

(2) Similarly, the purpose of prison labor may be to promote discipline in prison. Any sort of make-work is resorted to by wardens as a substitute for demoralizing idleness. At one time in Joliet prison in Illinois, for example, men were extensively set at “boon-doggling” in the form of carrying rocks in baskets across the prison yard. “Boon-doggling” keeps men occupied but probably creates attitudes almost as antisocial as idleness.

(3) Again, prison labor may aim at maximum production and maximum profit in order to keep within inadequate budget. Work somewhat reduces expense, and a few prisons in the North and a good many farms and road camps in the South have been sources of income.

(4) a fourth aim of prison labor is to teach the men so-called habits of industry. However, such habits do not develop through the mere forced repetition of undesired and uninteresting work. Habits of industry develop when works, or at least the rewards of labor, are satisfying to the worker.

(5) More psychologically sound are the efforts to use prison labor to teach trades chosen by the inmate which he may follow after prison. But inmates should know the use of as many tools as possible. More importantly, they need to acquire initiative and a sense of responsibility in their work. However, inmates rarely use their half-learned prison trades after release. The Gluecks found that about two-thirds of reformatory men after release did not use the trades which they had been taught in the institution, and that of the one-third who did use them, over half had worked at the same trades before imprisonment.

(6) Finally, prison labor may have as its object the accumulation of wages by the inmates. As a means of securing the favorable attitudes of the men, and of enabling them partially to support their families on the outside or to accumulate saving to assist them in the difficult task of adjustment after prison, prison labor might be of the greatest significance as one element in rehabilitation.

Actually the policies have been designed to provide some work which will interfere as little as possible with free industry. Today legislation almost demands that this last aim be the sole determinant of prison labor policy.

3.2 SYSTEM OF PRISON LABOR

Whatever their aim, prison labor system vary in their effectiveness. Yet more important than the nature of the system in its effect on prisoner attitudes are the extent to which individual needs and preferences are considered and the relationship of employment to life after prison.

3.2.1 The Lease System

Under the lease system, the state turns the convicts over to a private lessee who not only works them but feeds, clothes, guards, houses, and disciplines them. Authorized by law in some States before the beginning of the eighteenth century, this system flourished in the South in Reconstruction days and after. Health, morality, and every other consideration of the convicts' welfare tend to be neglected under this system, which has involved much cruelty. Scandals growing out of its abuse led to the virtual abandonment of the system in the United States, although it is still operating in at least nine countries throughout the world, in some of which restrictions surrounding its use have removed its older semi-slavery characteristics.

3.2.2 The Contract System

Under this system, the state feeds, clothes, houses, and guards the convict. A contractor engages with the state of the labor of the convicts, which is performed within or near the institution. The contractor pays the state a stipulated amount per capita for the services of the convicts, supplies his own raw materials, and superintends the work.

The history of the contract system is one of grave abuse. not only is there the tendency for the prison administration to be more interested in profits than in rehabilitation, but at times foremen have been ill-paid and allowed bonuses to their

great advantage. “Conducted under proper supervision, a contract shop need not by any worse for the worker than a shop run by the prison.” Yet it is difficult for States to secure contracts which provide reasonably adequate wages and proper conditions for convicts and which will also attract the bids of contractors, whose was extensively used in the early state prisons and frequently made profits above all expenses both for the state and the private contractor. Contract labor is now practically nonexistent in this country but is used abroad.

3.2.3 The Piece-Price System

Under the piece-price system, the contractor supplies the raw materials and pays the state a determined amount for the work done on each piece or article manufactured by the convicts. For the prisoner this system has sometimes meant the advantage of tutoring from civilian instructors hired by the state to minimize losses from poor work, but it has likewise often meant being forced to work under pressure to produce as many finished items as possible. Though this system eliminates the objections to private control of convicts, it does not eliminate the difficulties associated with marketing the product. It therefore came to be vigorously objected to by free labor as was the contract system.

3.2.4 The Public-Account System

Unlike the three systems thus far discussed, five others call for public control only. “In the public-account system the State .. Buys the raw material, manufactures and puts the product on the market, and assumes all the risk of conducting a manufacturing business.” This system would perhaps prove the best under proper restrictions, but business and labor interests do not permits it.

3.2.5 The State-Use System

The most prevalent and most generally approved system of prison industries today is the state-use system. Under this system the State conducts a business of manufacture of production, as in the public-account system, but use or sale of the goods produced of the system is that the State shall produce articles of merchandise for its own

consumption alone and shall not compete directly with the business manufactures employing free labor.

The chief purpose of the state-use system has been to avoid competition with free industry. This purpose it only partially accomplishes. Clearly, the goods made by prisoners and sold to public institutions might be made by outside industry. Yet under this system, prison-made and “free” goods do not come into direct price competition. Moreover, the state-use system requires a diversification of industries if the needs of institution and government bureaus in a single state are to be met. This diversification prevents competition from being concentrated in a few industries. Organized labor has advocated the state-use system but has been unable to prevent its constituent members from opposing prison-made goods in their particular fields. An additional difficulty is the fact that public institutions and bureaus often do not wish to purchase prison-made goods, preferring to buy the quality they wish in the cheapest market.

3.2.6 Prison Farm Work

Prison farms may be only small units where a few trusties or men soon to be released care for cattle and raise vegetables. Climate conditions prevent the year-round use of convicts on any large scale in the North. In the South, however, large and sometimes profitable penal plantations have been developed, as in Texas, Louisiana, Arkansas and Mississippi, but the plantation system is aimed at profits rather than rehabilitation of convicts. However, farm work for selected prisoners is universally advocated as an aid to the health of convicts, as a prelude to release from prison, and for its vocational value for men intending to go back to farm work.

Farmers are less well organized than industrialists and farm laborers less than factory workers. Moreover, diversification is easier in farming than in factory work. Hence there has been less opposition to the agricultural employment of inmates.

3.2.7 Public-Workers-And-Ways System

This system is really a form of the state-use system. We include here not only road and building construction for the state or local government, but also reforestation, prevention of soil erosion, or other forms of outdoor work. This system partly avoids competition with free industry, since it is possible to select work which is not commercially profitable and yet which may be very useful. Road-camp work has only wholly escaped opposition from construction companies.

Some of the worst examples of the abuses of the lease system were found in the chain-gang camps long maintained by lessees in the South. Often no permanent structures were built. Earlier wooden boxcar bunk-houses were replaced by crowded iron cages with two layers of bunks so low that the man could not sit up on his bed. At night, on days when the weather did not permit work, and generally from Saturday noon to Monday morning the convicts would be housed in these tight quarters. The men put in charge of such road gangs were frequently not very different from the convicts themselves. The chain gang is a dying institution, and its death is to be welcomed.

3.3 ATTEMPTS TO IMPROVE THE STATE-USE SYSTEM

Saddled, perhaps permanently, with a faulty state-use system of prison industry, administrators have striven mightily to make it serve. Such steps as the following are recommended and have been made in some States: (1) survey of the needs of the prison population, (2) evaluation of the potential market in the state, (3) selection of suitable diversified activities, (4) adequate methods of assignment and realistic employment practices, (5) quality production so that state institutions will not object to purchases which are required of them, and (6) employment integrated with all the other phases of the prison program.

The basic hindrance remains the opposition of free labor and industry, but significant developments have taken place in that area, for example in California. Progress in that state has come through bringing representatives of organized labor, industry, agriculture and the general public into conference, informing them of the need, and securing their cooperation. A Correctional Industries Commission made up of two representatives of each of these three interest groups has been set up, with the Director of Corrections as its chairman and seventh member. In addition it has been

possible to secure the continuing cooperation of a long list of specific organizations. In this way a substantial productive enterprise was made possible in California "without opposition from any source." California public schools are expected to cooperate not only by purchasing prison goods now manufactured, but by suggesting new articles the institutions could make. On the other side, a State Coordinating Committee integrates the activities of the state departments in the fields of industries, correction, and parole. Advisory committees represent specific trades. More fundamental still is the work of a full-time public relations man employed by the Correctional Industries Commission, who heads the effort to develop among the population generally an understanding attitude towards the needs of prisoners. Even in California, however, there is still opposition from particular local business concerns and labor unions. a significant aspect of the California system has been the setting-up of small pilot experiments to do research and propose schemes for the better employment of prison inmates. As penologically advanced as it is, however, California employs less than 15 per cent of its inmates in industry. A few other States have had some success with efforts to work hand in hand with representatives of labor and industry. Space does not permit further detailed discussion of specific programs. For the country as a whole, the organization of the Penal Industries Association and the Correctional Educational Association has furnished leadership and publicity in this difficult aspect of the prison problem.

3.4 A PRISON LABOR POLICY

It is an unhappy fact that the state-use system has not achieved the goals of full diversified and meaningful employment envisioned by its early advocates. State use was not, in its origins, a "better" system than those it replaced: it was a retreat to which prison administrations were driven by dogged opposition from labor and management groups. The administrations have had to make their peace with reality, however, by becoming spokesmen for the only system left to them. The present thinking of the American Correctional Association is to stay in the retreat, make it as comfortable as possible (with second-hand furniture), and pretend to like it. It is our contention that the problem of prison idleness cannot be solved, however, as long as

we persist in trying to put the square peg of prisoner employment in the round hole of state use. At the very least, state use must be supplemented by other systems.

The utilization of prisoners by private interests was an unsavory unit in penological history, but the use of free workers by private interests was nearly as unsavory. Low wages, long hours under dreary conditions, and harsh supervision characterized workingmen's lives during most of the early and middle stages of the industrial revolution. The conscienceless exploitation of prisoners in the nineteenth century under the contract, lease, and piece-price system was a reflection of general values of the time. The determination of American prison administrators to repudiate any suggestion that private interests again play a role in prisoner employment needs re-examination in the light of present economic and social realities. The increasing democratization of industry, higher living standards for the masses, legislative safeguards against exploitation, and the general trend towards welfare statism reflect basic value changes in Western cultures. Granting that all of our social problems have by no means been solved, the deplorable industrial conditions of the past are vastly improved in the present, and the fear that the reintroduction of private interests in prison labor would revive past abuses seems to us to lack reasonable foundation.

Three possible lines of development for the rejuvenation of prison employment deserve exploration:

(1) Modifying of federal and local laws regulating the public sale of prison-made goods, together with measures taken to equalize production expenses with those in private enterprise – including, perhaps, the payment of standard wages to prisoners. The production and marketing of such goods under the expertise of private entrepreneurial interests might be desirable.

(2) The production and marketing of prison goods for state use under private auspices. Poor quality control and the absence of vigorous marketing practices partly account for the paucity of state-use output. Prison industries managers, unlike those in private industry, no longer stand or fall on their capacity to show a profit, and it might be useful to reinstitute this "capitalistic" test of

efficiency. It seems to us unfortunate that prisons should be insulated from the values of private industry that the powerful drive impacted by those values is inoperable.

(3) Extramural private employment of prisoners. The practice of allowing unguarded prisoners to go forth daily to work for private employers is not new. Jessie Hodder and her successor, Miriam Van Waters, used such a system for many years after 1910 at the Massachusetts reformatory for Women; under Wisconsin's Huber Law of 1913, hundreds of jailed misdemeanants annually work for private employers, returning to their cells each night. It is in Europe, however, that this system finds most of its champions. Beginning in Sweden in 1945, selected felony prisoners in seven countries may now work privately away from their prisons during the day under conditions approximating those of free men, even to the extent of benefiting from social security protection. Their wages, paid at the going free rates, are budgeted by the prison administrations for dependants, saving, debts, and room and board. From experimental beginnings in 1957, North carolina's prison are now permitting more than 300 inmates to hold outside jobs as barbers, mechanics, cooks, secretaries, and farm laborers. All inmates serving five years or less and who are not sex offenders, alcoholics, or drug addicts are eligible for the program.

SELF ASSESSMENT EXERCISE

Discuss extensively on prison labor policy.

4.0 CONCLUSION

In more general terms the accepted thesis regarding the importance of work in inmate rehabilitation is that inmates who return to society unprepared for productive work roles in the community and who cannot support themselves and their dependents will, in fact, return into the Criminal Justice System. Therefore, the correctional system has a responsibility to help inmates became employable, not only as a means of protecting society, but also save taxpayers money. Moreover, preparation for employment entails

more than development of job-specific talents; equally important is the need to develop positive attitudes and good work habits.

5.0 SUMMARY

Prison labor and vocational training have been transformed over the years. Some correctional systems have formed their own prison industry organizations, and these are producing profits and creating skills and work discipline for Inmates Educational Programs provided by all Federal and State correction system, cover basic academic subjects as well as life skills.

6.0 TUTOR MARKED ASSIGNMENTS

(1) Discuss various system of prison labor.

(2) Discuss the purposes of prison labor.

7.0 REFERENCES/FURTHER READING

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UNIT 3: RELEASE FROM PRISON

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1.0 INTRODUCTION

The least complicated means of being released from prison is to go out upon expiration of sentence. Ironically, this is the means least satisfactory from the standpoint of good correctional practice. Such releases, moreover, perpetuate the archaic notion that convicts serving their full sentences thus “pay their debt” to society, that they have wiped clean the slate and can start life anew.

Release by amnesty, a kind of general pardon, is granted usually only to political prisoners as a benign gesture by a head of state following a war, revolution, palace rebellion, or similar event. Visiting heads of state are sometimes invited in some

countries to exercise the amnesty power on behalf of petty military prisoners or jail inmates as part of the hospitality being extended by the host authorities. Amnesty has no relationship to correction. This unit will focus on various mean by which a prisoner is released from prisons.

2.0 OBJECTIVES

At the end of this unit, the students should be able to:

- Know various ways by which a prisoner is release from prison.
- Know how pardon is arrived at.
- Know what it mean by commutation.
- Understand the use and importance of parole in the prison system.
- Examine the use of parole actuarial devices.
- Know the conditions of parole.
- Know the types of parole.
- Comprehend the advantages and disadvantages of parole.

3.0 MAIN CONTENT

3.1 PARDON

“Most societies have felt a need to provide a broad discretionary executive power to temper restriction with mercy, to correct error, to do justice where the rigorous inflexibility of a judicial system has not adjusted to compelling social needs.” The American constitutional separation of powers notwithstanding, the ancient custom of executive pardon as a corrective measure for judicial miscarriages or errors is fully recognized among the United States, as it is in most civilized countries. Individuals are sometimes erroneously convicted, or tried under improper conditions or given excessively severe sentences, or deserve restoration of their civil rights after release . Under English legal theory pardons expressed royal forgiveness for breaches of the crown’s peace and in simpler days was a boon personally asked and personally granted.

3.2 COMMUTATION

Commutation usually regarded as one of the minor and less legal forms of executive clemency, is used to a much greater extent than full or conditional pardon combined. Commutation is essentially the substitution of a greater by a lesser penalty; its use in the United States arose to alleviate hardships imposed by long, fixed sentences and soon was used to shorten sentences where new evidence reduced the degree of guilt or when unduly heavy sentences had been passed in response to public or judicial passion.

While the use of commutation in its most dramatic form involves reducing a death sentence, it is most often used to reduce a fixed sentence to time already served, permitting immediate release without parole-an undesirable type of release in the case of hardened systematic offenders. Commutation may also reduce a minimum sentience sufficiently to allow immediate parole consideration, or reduce a maximum sentence to a degree requiring the immediate discharge of a parole, ready or not. Such uses of commutation can constitute serious and unwarranted abrogation by the executive of functions properly belonging to a parole board.

3.3 PAROLE

Parole is release from prison after part of the sentence has been served the prisoner, still in custody and under supervision, being permitted at large in the community under stated conditions until discharged and liable to return to the institution for violation of any of these conditions. Parole differs from probation in that the parole has already served time in prison or reformatory. Probation is normally granted by the court, while parole is granted and administered by an executive board of the institution itself.

Parole is significant to society as a release method which retains some control over prisoners, yet permits them more normal social relationships in the community and

provides constructive aid at the time they most need it. It protects them against unjust arrest or exploitation. Parole is the last and in many ways most difficult stage in correctional treatment.

3.3.1 The Indeterminate Sentence and Parole

The idea of parole is usually associated with an indeterminate-sentence law where, instead of being committed to serve a definite number of years, the inmate is sentenced to a minimum and maximum period, parole being possible any time after the minimum has been completed. Actually, in most States where the Criminal Code prescribe sentences to a definite number of years rather than minimum and a maximum, the parole legislation authorize parole after a given fraction – frequently one-third – of the definite terms has been served. These sentences are in fact indeterminate, even though they usually are called “definite.”

Two main forms of the indeterminate sentence are in use. In one, statutes fix the minima and maxima for particular offenses, within which the judge in turn imposes a minimum and maximum. In the other, the judge can impose only statutory maxima, the minima being determined by the court or by a paroling authority.

Under an ideal state of affairs the sentencing and release of offenders would be determined by striking a nice balance between the need to protect society and the rehabilitative needs of the individual offenders. The unique aspects of each case would be fully recognized in accordance with the correctional doctrine of individualization of treatment. Prisoners would be incarcerated for necessarily undetermined periods, since uncertainly as to the progress of their rehabilitation would have to be allowed for. Because an ideal state of affairs does not prevail, the handling of offenders falls short of these standards. Public sentiment demands some bowing to the norm of “punishing” wrongdoers by applying minimum incarceration periods proportionate to the presumed harm to society of various offenses. Judge occasionally

allow personal feeling to influence their sentencing decision and parole authorities sometimes bend to pressures extraneous to the aim of rehabilitation or base their release decisions upon inadequate information.

3.3.2 Preparation for Parole

Every experience preceding parole is preparation for it. Most of the prison experience is poor preparation. Nevertheless, it is well that efforts specifically to prepare for parole are being made in many institutions. Important to parole preparation on the inside are the general atmosphere, philosophy, and social relations of the prison community, as well as opportunities for vocational training and for contact with non-criminals outside the prison, preferably in the community to which the inmate will go on parole. Too often pre-parole orientation programs have consisted almost entirely in stressing the negative restrictions involved in parole. Paroles must, of course, know the rules, but the great needs would seem to be: (1) to assure a satisfactory job commensurate with the parole's abilities or with a real basis for his hoping to earn advancement to a job which will be fully satisfactory; (2) to assure a satisfactory home where the parole will feel "at home" and welcome; (3) to assure satisfactory leisure-time contacts where the parolee may develop non-criminal friendships and interests; (4) to prepare the parolee to bear and deal with the many consequences of his being an ex-convict, including the prospect that he may frequently feel very much ostracized and unwanted when with non-criminal associates; (5) to sell the parole system to the prospective parolee as a real asset to him by giving him hope that it can be his salvation, and at the same time to avoid unrealistically over idealizing the prospects before him. For an ex-convict to find he has fewer difficulties on parole than he anticipated is better than to have him be overwhelmed by the discovery that life on parole is much harder than he expected it to be. Most inmates over-idealize conditions on the outside while they are brooding in prison, and their disillusionment on release may contribute to their recidivisms.

3.4 THE USE OF PAROLE ACTUARIAL DEVICES

Except in a few jurisdictions, parole administrations must rely upon more or less routine matters of record, supplemented by correspondence, interviews, and little or no field investigation. This large dependence upon records has raised the question whether statistical predictions of probable parole success are possible as a rough guide to the board in dealing with the individual case. If one can determine the characteristic of parolees who have succeeded as compared with those who have failed on parole, future candidates with records similar to those of past successes may then be favored in parole decisions.

Over a quarter of a century ago, Professor Burgess of the University of Chicago studied the records of thousands of men released from Illinois prisons. He had, it seems, no fully reliable measure of their success or failure and had to use official records of parole violation or repeated crime. Yet it is practically certain that by and large the group classified as successes were successful than the group classified as failures. Burgess found the violation rates varying markedly among parolees with different types of records, personalities, and backgrounds. On the basis of this study and subsequent analysis and experience, Illinois has set up an actuarial into different categories classified in terms of some seven to 12 factors found to be consistently predictive to parole outcome, can be determined. It is possible, then, by a simple statistical computation, to figure and estimated violation rate for each prospective parolee in terms of the experience with other men of his type. Each man's success percentage thus derived is not intended for use without consideration of other factors in the case. It does, however, serve as a warning or encouragement in the decision with reference to any individual. Actually in Illinois, the nature of the offense, the fact of recidivism, the state of public opinion, and newspaper publicity seem to have been major factors determining parole policy.

The use of actuarial prediction in parole decisions has been criticized on the basis of technical deficiencies not yet solved: unreliability of prison records, disparity between the social milieus of the experience-table parolees and the future milieus of the predicted parolees, the need for precise measurement of attitude and character traits,

and so on. If one assumes the eventual conquest of these deficiencies and the subsequent development of devices of such precision that parole boards come to rely heavily upon them without qualms, there still remain more fundamental objections to their use.

(1) The adoption of “perfected” prediction devices in jurisdictions with poor standards of parole work would enable such districts eventually to show high rates of parole success, since the accurate selection of low-risk parole prospects would be possible. A poorly trained physician’s short-comings can be ignored if he has only healthy patients.

(2) To remove problematical cases from parole rosters would tend to reduce parole supervision from the professional to the merely technical level, at which professionally trained and oriented persons would find their capacities unchallenged.

(3) With increased emphasis upon paroling “good risks” who, so far as public safety is concerned, did not require imprisonment in the first place, there would exist increase reluctance to parole prisoners accurately known to be poor risks, despite the fact that such men are in urgent need of the assistance skilled parole agents can render; instead, the poor risks would be kept in prison to the end of their terms and then released without supervision.

(4) Parole prediction promotes an image of parole as a period of “testing” an offender’s capacity for conventional behavior rather than as a continuation of correctional measures begun during incarceration. strengthening this erroneous image in the thinking of parole boards and their agents could produce a concomitant stress upon mere surveillance carried on in order to learn whether or not the parolee is “passing” or “failing” his test.

(5) The American Correctional Association has defined parole as “a procedure by which prisoners are selected for release on the basis of individual response and progress within the correctional institution and a service by which they are provided with necessary controls and guidance as they serve the remainder of their sentences within the free community.” But the selection of parolees by actuarial devices need not entail measurement of such response and progress.

> In fact, among the 12 categories used in Illinois, none are related to prison experience. Moreover, the "perfection" of predictive devices does not require the inclusion of such items. It seems to us that a canon of the individual-treatment philosophy is being ignored when prediction scores can be assigned without reference to prison experience.

SELF ASSESSMENT EXERCISE 1

Explain the use of parole actuarial devices.

3.5 THE CONDITIONS OF PAROLE

To the conditions necessary for release are added other conditions which the parolee must meet while on parole or risk return to prison without a court hearing. While there is not by any means complete uniformity of conditions, the following are often included:

1. He must abstain from intoxicants.
2. He must report his address promptly after release and not change it without permission of his parole officer.
3. He may not change employment without permission.
4. He must make prompt written report of his situation.
5. The parole must not, of course, violate any law.
6. He must not marry without consent.
7. A parole usually must not drive an automobile without permission.
8. Parolees are forbidden to associate with other parolees or ex-criminals.
9. Parolees are also denied the right to leave the state without permission. Sometimes they may not leave the country where they were paroled.
10. Parolees must not carry weapons of any kind.
11. They must not use narcotics.
12. They must be home at stated hours.
13. They must not borrow money without permission.

3.6 TYPES OF PAROLE

Reid (1999) identified three models of parole systems. There are: the institutional, the independent, and the consolidated models.

1) The institutional Model: The institutional model is found mainly in the juvenile field, the decision to release depends on correctional staff. The assumption is that those who work closely with the offender are in the best position to make a decision concerning his or her release.
2) The independent model: This is where the parole board is established as an agency independent of the institution. This model has been criticized because the board members may not understand what is going on privately, and as a result, parole boards may be release those who should not be paroled and retain those who should be released.
3) The Consolidated Model: The consolidated model is the trend that accompanies a move toward consolidating correctional facilities into one common administration, usually a department of correction.

3.7 ADVANTAGES OF PAROLE

1) The offender is released from prison when he is psychologically and socially ready. This increases the chances of his adaptation to free community. If this period is allowed to pass without his release, he may deteriorate and his chances of success diminish.
2) The knowledge that parole may be available gives the inmates a sense of hope, and encourages him to make the adjustment of his attitudes and patterns of behaviors that are necessary if he is to be successful after release. Such positive stance on his part will help him and also contribute to a better prison programme.
3) The fact that society expressed confidence in him and the fact he has agreed to the conditions of his effort to re-establish himself in the free community.
4) The offender is enabled to resume his family and community responsibilities with a minimum separation. The longer the period of separation, the more difficult the role of parent and citizen become.

5) The assistance given by the parole supervision aids the offender's chances of successful adjustment in the free community.
6) Parole not only corrects the offenders, but decongests the prison itself.

3.8 DISADVANTAGES OF PAROLE

1. Parole has come under attack primarily as the result of violent crimes committed by persons released on parole.
2. Some people decisions are found to be arbitrary and capricious.
3. Since decisions taken by parole board members are based on discretionary power, they may be less objective in the decision because they may be involved closely with the offender.
4. Often, the parole board is composed of people who know little or nothing about correction.

SELF ASSESSMENT EXERCISE 2

What is Parole?

4.0 CONCLUSION

People tend to confuse parole and probation to mean the same thing, though they are different concept but are related because both have suspension of punishment with personal supervision of a staff. Both probation and parole are given on the assurance of a good behavior and proper guidance by a qualified staff and these methods for first offenders. However, probation as we have seen is not given to committed to prison and is mainly to Juvenile offenders whereas parole is recommended after offenders had served apart of the sentence in jail, and is applicable to adult offenders. Most of parole decisions are based on the discretion of the parole board members. But systems are based on the concept that the individual has the capacity to accept help to change his behavior.

5.0 SUMMARY

Parole is on administrative decision to please on offender after he or she has served time one sentenced to prison. In other words, a parole is a procedure whereby an inmate of a prison who is considered suited may be released at a time considered appropriate by a parole board, before the expiration of his sentence in the society but subject to state condition, under supervision, and subject to return to prison if he is to comply with the conditions covering his release. Parole is also act as conditional release from prison.

6.0 TUTOR MARKED ASSIGNMENTS

Discuss the advantages and disadvantages of parole.

7.0 REFERENCES/FURTHER READING

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UNIT 4: PROBATION

CONTENTS

1.0 Introduction
2.0 Objectives
3.0 Main Content
- 3.1 Issues on Probation
- 3.2 History of Probation
- 3.3 Functions of a Court Probation Department
- 3.4 Eligibility for Probation
- 3.5 Pre-sentence Investigations and Intake Control
- 3.6 Condition of Probation and their Violation
- 3.7 Supervision of Probations and Parolees
- 3.8 How successful is Probation
- 3.9 Type of Probation
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1.0 INTRODUCTION

"Probation is a process of treatment, prescribed by the court for persons convicted of offenses against the law, during which the individual on probation lives in the community and regulates his own life under conditions imposed by the court (or other constituted authority) and is subject to supervision by a probation officer." Juvenile probation in a children's court is similar except that less formal and non-criminal procedures are involved. In this unit we shall discuss principles common to both types, noting differences in law or practice when appropriate.

2.0 OBJECTIVES

At the end of this unit, the student should be able to

- Know what Probation is all about.
- Know the History of Probation
- Appreciate the use of Probation in the Criminal Justice System
- Comprehend the Functions of a Court Probation Department
- Know what qualify ones for Probation
- Understand the Conditions of Probation and their Violation
- Know the duties of Probation Offices
- Also Appreciate the Success of Probation over the Years.

3.0 MAIN CONTENTS

3.1 ISSUES ON PROBATION

It is sometimes said that probation is neither punishment nor giving offenders another chance. Good probation is never intended as an easy way out for the criminal or delinquent, but it is often received by them and by their parents and friends as such. The statement that probation is not punishment is misleading. However much preferred by the delinquent, good probation may involve restrictions upon freedom and requirements to refrain from disapproved behavior or to perform required acts which may be irksome and even painful to the probationer.

More specifically, probation, whether juvenile or adult, permits a more normal social experience than institutionalization, but make possible varying degree of control over the delinquent, together with the possibility of sentencing him, to an institution if probation proves ineffective. Probation permits contacts with the other sex, with family, with constructive social agencies of all kinds. It means a less routinized and more self-directed existence. It does not, like imprisonment, make the offender a dependent but leaves him responsibility for self-support. Probation leaves less stigma than incarceration. The probationer can earn his living rather than be idle. His family

will not accumulate a burden of debt as the prison inmate's family often does. The taxpayer should prefer probation, for its annual cost has been estimated as only one-tenth or less than that of prison expense. Moreover, even when there are social dangers in the probation community, probation furnishes for that very reason a better test of ability to adjust than does life in the socially isolated prison or institution for juvenile delinquents.

3.2 HISTORY OF PROBATION

Probation in part has its historical roots in suspension of sentence without supervision and also in benefit of clergy and reprieve. Benefit of clergy-dating from medieval times but surviving in England and American into the nineteenth century – permitted clergy and other literates to escape the severity of the criminal law. Reprieve differs from probation in being a withdrawal of sentence for an interval of time only, thus suspending the execution of sentence.

Under the common law, English court had developed a policy of suspending sentence for an indefinite time or during good behavior. American court copied this policy in order to avoid inflicting the serve punishment called for under Colonial law.

Before the first probation law was passed in Massachusetts in 1878, voluntary supervision had sometimes been provided. Among these volunteer probation officers the name of John Augustus, a Boston shoemaker, became famous. His pioneer work with several hundred offenders was said to have been markedly successful, and many other volunteers followed his lead.

SELF ASSESSMENT EXERCISE 1

Discuss the historical development of probation

3.3 FUNCTIONS OF A COURT PROBATION DEPARTMENT

In spite of its lower cost and many attractions to the offender, probation can, of course, only justify itself if the probation department and others concerned perform their many functions efficiently. Types of offenders who shall be eligible for

probation must be defined. Pre-sentence investigations of a very thorough nature must furnish the factual basis for granting or refusing probation and for the types pf specific treatment to be accorded in each case. The conditions under which probation shall be granted must be wisely determined. The all-important supervision and assistance to the man, woman, or child on probation must employ approved methods. Staff for this exacting task must be qualified, selected on a merit basis, and properly trained before and after appointment. Probation must be sold to the citizens of the community, and their aid solicited through a good public relations policy. The probation function must be integrated with that of all other public and private agencies concerned with crime and delinquency prevention. Research as the basis for improved standards of work must be undertaken. Research cannot be the primary activity of out probation officers, already overloaded with work. Nevertheless, carefully kept probation records and full case investigations form part of the basis for more thorough studies made by universities or other research organizations. Moreover, every probation officer ideally should have engaged in research, and all may cooperate with specialists in that field. Such research activities are not only important in themselves but assist in self-evaluation by the department and help to interpret probation to the community, to elicit its interest, and to advance probation to the status of a profession. We consider other functions below.

3.4 ELIGIBILITY FOR PROBATION

Eligibility for probation may be limited by law or may be left to the court for determination. In any case, if the court grants probation, it is on the basis of the investigation of the individual case. Many children's court use informal probation following investigation by probation officers without bringing the case officially to the attention of the court at all. This practice, designed to save the child from whatever stigma may be attached to appearance in juvenile court, is now frowned upon by some critics as lending itself either to sentimental leniency or to unrecorded, uncontrolled, and arbitrary severity in decisions, as well as sloppy treatment policies. Speaking generally, the steps usually followed by a progressive juvenile court are: several continuances, probation at home, foster-home care, commitment to intermediate

private or public institutions, and finally commitment to a state institution, with discharge from court supervision possible at any one of these stages where successful adjustment seems to have achieved. However, the needs of the individual cases, and not any fixed order of procedure, should determine what is to be done. There usually are fewer alternatives in the treatment of adults.

Eligibility for probation in adult cases varies greatly among States. Many States deny probation to those convicted of specified crimes, especially certain crimes of violence, certain sexual crimes, and political crimes such as treason and even violation of election laws. In a few States, those who have been previously convicted of any crime, including a misdemeanor, are denied probation, but more often it is previous conviction of a felony which disbars the criminal. There "is no clear indication that offenders who have committed the so-called more vicious crimes are poorer probation risks than others." Though studies show that recidivists in general succeed less frequently than so-called first offenders, "many recidivists have good behavior records on probation. " Through insisting on trained and nonpolitical personnel, adequate facilities for investigating and supervising cases, full records, and so fourth, the public will be better protected against the possible abuse of probation than through legislative restrictions on its use.

Defendants have no absolute right to probation. Nor may a defendant in all courts be forced to accept probation. Nevertheless, the probation agreement between court and probationer appears to be somewhat analogous to a voluntary contact not to be lightly violated by either party. A federal status of 1958 allows judge in certain instance to precede a probationary term with a maximum sentence of six months in a short-term institution. This practice, unfortunately found in a number of States as well as, has been condemned as inconsistent with the purpose of probation.

3.5 PRE-SENTENCE INVESTIGATIONS AND INTAKE CONTROL

The process of determining which individuals shall be "screened" for special attention because of their misbehavior begins long before any case gets to court. It involves

what we have previously called the discretion of police, but earlier it is within the discretion of parents, school teachers, clinics, and many social agencies to decide how serious behavior is and what steps shall be taken to repress or help children. In juvenile cases in particular, and perhaps ideally in all cases, a community may be organized to make such decisions in an orderly way with definite goals both of social protection and individual and social welfare in mind. Where there is a coordinating council, a council of social agencies, and a confidential exchange supplemented, perhaps, by a special group concerned with behavior problems, screening of cases needing court reference can be made through these agencies. Even when the police have to make immediate arrest or where official complaints are lodged with States' attorneys or probation officers, many cases may sometimes first be referred to such private and public clearing houses before they are brought to court. Such complete organization is rare but is being approximated here and there. With or without community organization, cases brought to court must be investigated to see which need official court attention and which do not.

Adequate investigation is vital to effective court action and effective probation work. The decision to grant or to deny probation should be based upon facts peculiar to each case. It is necessary to know "the probable causes of the situation, the resources of the society applicable to the moral, economic, and social – and the resources of society applicable to the offender's particular case. Although pre-probation investigation is mentioned in the laws of at least two-thirds of the States, in only a few is it absolutely mandatory, and it is still far from general, especially in adult cases. Most specialists prefer that officer who would later supervise a case also make the investigation. One writer, however, has made a strong argument for separating these functions on the grounds that pre-sentence investigation serves purposes other than probation alone and is not in itself part of the probationary process of constructive and rehabilitative treatment.

3.6 CONDITION OF PROBATION AND THEIR VIOLATIONS

A particular difficult aspect of probation and parole work is the problem of dealing with the offender vis-à-vis the general conditions by which he agrees to abide, usually by signing a document containing certain stipulation. An examination of the conditions currently in effect in various jurisdictions indicates that they are products of a union between the Puritan ethic and the middle-class value system, with their emphases upon temperance, hard work, wholesome avocations and companions, moderate hours, and concern over financial obligations. Their establishment early in the history of parole and probation was probably partly motivated by the mistaken notion that wrong conduct results from wrong habits. But adopting the outward forms of the "respectable" middle-class citizen will not convert the offender into such a citizen: the tail cannot wag the dog.

Demanding that an offender adhere to rules appropriate to a class or subculture other than his own can have at least two deleterious effects on the correction process. First, anxiety can emerge to plague an officer- probationer relationship if the latter becomes fearful that his "violation" (drinking excessively, ignoring debts) will be discovered, while at the same time he can see nothing wrong with such actions it they conform to the norms of his membership or reference groups. The officer in turn worries about the significance of known "violation" and about the advisability of taking firm action with respect to them. Secondly, because heavy case loads in busy jurisdictions make close supervision difficult, many violations can occur with impunity, producing a feeling on the part of some clients that they are putting something over on their officers. Contempt for the officers and for the purposes he represents might result.

Conditions of probation suggest what must not be done and threaten possible commitment to an institution if they are done. They emphasize the authoritative element in probation. But as Irene Kawin has written, probationers can be helped by authority only when administered by those who are dispassionate, warm and understanding, and who respect personality. Moreover, probationers need assurance that acceptable behavior will reap the reward of increasing self-direction. Ultimately,

in probation as in life, rewards are more effective than punishment, and the task is not only to demonstrate that it hurts to be bad, but that it is fun to be good.

3.7 SUPERVISION OF PROBATIONERS AND PAROLEES

Probation utilizes a balance of watchful control and constructive aid, adapted to the individual case. Probation supervision is case work in an authoritative setting. Delinquents who do not need restraint do not need probation, and probationers who have achieved full self-control should be discharged, though they may still need assistance. To say this is not to deny that the restraint element makes constructive aid more difficult in some cases. Successful case work requires report. One does not easily confide in a helper who packs a potentially effective, if gloved, punch. Yet it is contended that sometimes the very authority of the probation officer makes him more respected by the probationer and gives to the latter a needed sense of security in seeking advice. The main purpose of supervision is to restore “self-control” and self-respect. Bettleheim has said that self-respect comes through discovery that one can control himself. But rarely can a man control himself without group support. Having been accepted in a constructive group, the offender discovers that social behavior is more satisfying than antisocial behavior. It is more satisfying because it brings him social status in the group. Without such group support the best efforts of the probation officer may be ineffective.

Probation officers realize the seriousness of crime and never condone it. But they also see their clients as product of their life experiences. Rapport is thus possible because of understanding and because of absence of any attitude of blame. This is non inconsistent with the use of restraint or even of a sharp scolding. Threats of commitment are probably most appropriate where there is evidence that the probationer looks upon his “easier treatment” as indicating the soft-heartedness of the court. Restrictions on freedom are necessary, but their reasonableness must always be evident. The probationer may well be told that such restrictions are for the childish, and that as he shows he is a man they will be removed.

As the United Nations Department of Social Affairs emphasizes, a probation officer may strive to relieve emotional tensions by developing appropriate emotional and interpersonal relations with the client. He seeks the client's own interpretations of his experiences and their meanings for him regardless of how illogical those interpretations may seem. Through a sympathetic and understanding attitude, the case worker creates on the part of the client a readiness to be helped. Emotional tension is reduced through the realization that someone understands and sympathizes. Comfort is also derived from realization that problems and tensions and even "shameful acts" are not unique to the individual but common to many others.

A probation officer using this approach must, of course, guard against forgetting the seriousness of the offense because he sees it through the probationer's eyes. This the officer will do by seeing the offense also from the point of view of the injured party and of society generally. He will hope and strive that the probationer will ultimately gain this larger perspective.

SELF ASSESSMENT EXERCISE 2

Examine the duties of a probation officer.

3.8 HOW SUCCESSFUL IS PROBATION

The acid test of the value of probation is, of course, its effect on recidivism. Yet that test can never be fully accurately carried out, chiefly because so many other factors influence abstention from crime and because the quality of probation changes with time and varies among different jurisdictions. All penologists seem to look upon probation as one of the most promising methods of protecting society against crime. Some years ago the Attorney General's Survey of Release Procedures concluded that the advantages of probation far exceeded its weakness. The usual court reports are concerned with the proportion of probationers not known to have committed crimes or violated the terms of the probation during a limited period of supervision. Such reports have often shown that proportion to be as high as 75 to 85 per cent. Such statements probably somewhat overstate the success of probation even in our best systems,

although those doing the best work will sometimes show a higher proportion of failure just because reporting is more accurate. These figures would seem to understate, however, the potential success of probation under improved conditions which rather easily be created. Chandler tells us that during the fiscal year of 1954 only about 16 per cent of federal cases on probation were reported as violators.

3.9 TYPES OF PROBATION

Types of probation includes: felony probation, house arrest, shock probation, and periodic probation.

(1) Felony Probation: Although generally probation is considered appropriate only for offenders convicted of minor offences, in some instances probation is used for serious offenders, a process referred to as felony probation. This type of probation requires intensive surveillance programmes that include intense monitoring and supervision, real constraints on movement and action and require an immediate mechanism to punish infractions (Reid, 1999).

(2) House Arrest Probation

House arrest probation may be combined with house (or home detention or confinement). Usually offenders who are confined by house arrest are placed under specific restrictions. They may live at home or in another designed facility, but they may leave only under specific conditions (Mcshane and Krause, 1993). House arrest is accompanied be electronic monitoring in which monitors are attached to the offender.

(3) Shock Probation: This entails sending offenders to prison for a short period of time and then placing them on probation. It is assumed that this procedures will shock the offender into appropriate behavior. The purpose of shock probation is to expose offenders to the shock of prison before placing them in probation and to release them before they are influenced negatively by the prison experience.

(4) Periodic Probation: This involves a combination of probation with a jail term. The offender may be confined to jail during the night but be permitted to go to work or school during the day. The jail term might be served on weekend's basis depending on the gravity of the offence and the probation terms. The weekend alternatives has been used frequently for offenders who have been convicted of driving while intoxicated or where prison are overcrowded and the offender has a steady job.

3.10 ADVANTAGES OF PROBATION

The advantages accruing to both the individual and society under a good probation system include.

1) The delinquent comes under the personal influence of a probation officer who guides him to a life of social usefulness.
2) The probation places the responsibility for rehabilitation where it ultimately belongs upon the individuals himself.
3) It provides an opportunity to the offender to retain his self-respect.
4) The offender remains gainfully employed while on probation, and at the same time he is able to fulfill family responsibilities.
5) Under careful supervision, he is able to avoid some of the social stigma associated with imprisonment and become a youthful citizen again.
6) It helps to decongest the prison and all its negative consequences.
7) Since probation enables the offender to remain in employment, it also make the offender to pay fines and cost or to contribute to victims' compensation funds.

3.11 DISADVANTAGE OF PROBATION

1) Crime committed by probationers reduces the safety and security of society.
2) It is not possible to predict with accuracy who will harm society while on probation.

4.0 CONCLUSION

The original scope of probation was to advise, assist, and befriend offenders whom the court decided to release on probation instead of discriminate committal to prison, offender is released on conditional liberty to live in the community. Release is granted in lieu of punishment which is suspended by giving a chance to the offender to return

and re-educate himself. The system attached great importance to the influence of home and social environment and involved in selective process. Probation being a significant branch of correction treatment from the point of view of criminology was based on the idea that punishment certainly did not reform men or protects society, and was offend as an alternative method for achieving the real end of justice.

5.0 SUMMARY

Probation and parole are the frequently used alternative to prison and probably the most controversial. Probation is a sentence that does not involve confinement but may involve conditions imposed by the court, usually under the supervision of probation officer. The primary purpose of probation is to prevent contamination in the prison or institution.

6.0 TUTOR MARKED ASSIGNMENTS

(1) Mention the various types of probation you know.

(2) Discuss the advantages and disadvantages of probation.

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MODULE 3

Unit 1 Theoretical Framework of the Prisons System
Unit 2 Purposes and Goals of the Criminal Sanction
Unit 3 The Choice of a Sanction
Unit 4 Issues on Capital Punishment (Death Penalty)

UNIT 1: THEORETICAL FRAMEWORK OF THE PRISONS SYSTEM

CONTENTS

1.0 Introduction
2.0 Objectives
3.0 Main Contents
    3.1 System Perspective
    3.2 Symbolic Interactionism Perspective
    3.3 Social Process Perspective
4.0 Conclusion
5.0 Summary
6.0 Tutor Marked Assignments
7.0 References/Further Reading

1.0 INTRODUCTION

This unit focuses on theoretical framework and there is need to know what a theory is all about before we go further. A theory is an explanation or a set of assumptions that attempt to explain why or how things work or are related to each other. For example, a theory of crime attempts to explain why or how certain things are related to criminal behavior.

2.0 OBJECTIVES

At the end of this unit the students should be able to:

- To know the position of the system approach with regard to a sub-unit of the Criminal Justice System which is the prison.

- To use the social process perspective (labeling theory) to explain the fate of prisoners and ex-prisoners.
- To understand the position of symbolic interactionism approach to the penal system

3.0 MAIN CONTENTS

3.1 SYSTEM PERSPECTIVE

Prison is said to be the end of the assembly line of the Criminal Justice System. Therefore, the structural functional approach will be used to describe the role of prison in the administration of criminal justice. Society is said to be structured in such a way that certain institutions serve certain purposes, all for the functioning of the whole system. For instance, in the administration of criminal justice, various institutions are involved. Among these are the police who apprehend or arrest offenders. The judiciary which dispenses or adjudicates cases of violation of the law: The prison which act as a place of custody for convicted offenders. Using the structural functional approach helps to present the interrelationship between these various institutions in the administration of criminal justice.

The system theory will also come into play with emphasis on the feed back process which focuses on “recidivism as a phenomenon of prison ineffectiveness. Some elements of the system’ theory will also be use as a conceptual framework for understanding of organizational effectiveness of the prison in the administration of Criminal Justice System.

In this contest, the prison is viewed as a social system which interact interdepently. The flow of input (convicted offenders), (output discharge prisoners) is the basic starting point in the description of the system theory. The prison takes it resources from the wider society through the police and judiciary processes. The convicted offenders are then discharged from the prison on the expiration of their terms of

imprisonment as outputs into the wider society. Those who recidivates are arrested by the police tried in the court of law and then send back to prison.

The channel which the inmate goes back to the prison could be term the feedback process. The feed back can be viewed as information which reflects the outcome of an act or series of an act in the organization.

The process of inputs, outputs and feedback is manifested by the prison system. In the course of imprisonment, the prisoners in this context function as inputs and are eventually discharge as an output into the wider society. While the ex-convicts are regarded as social misfit, their rejection and discrimination against employment which have given vent to the increasing rate of recidivists is a pointer to the fact that the outputs are rejected by the larger society. This portrays the ineffectiveness of imprisonment as a penalty crime.

SYSTEM THEORY APPLIED TO CRIMINAL JUSTICE SYSTEM WHICH PRISONS IS THE END OF THE ASSEMBLY LINE

Table 1

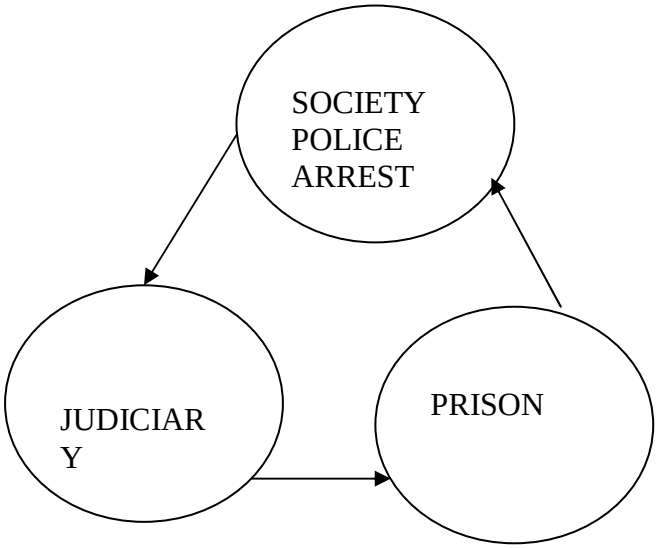
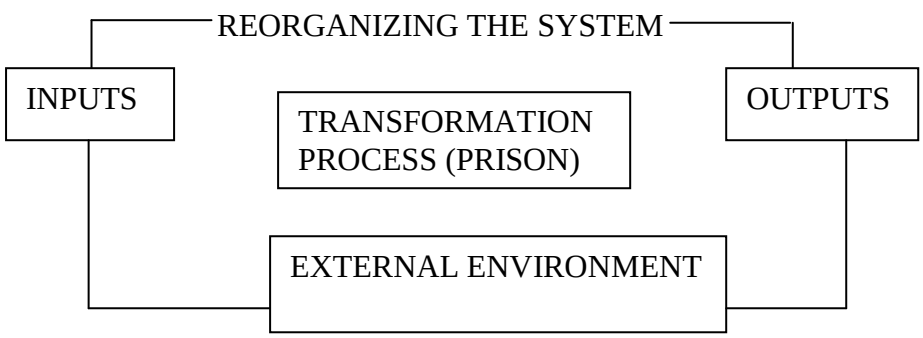


Table 2

INPUTS – OUTPUTS MODEL



This is adopted from Koontz et. al management (1984 p:18). The diagrams show the fundamental elements of the organization as a system.

SELF ASSESSMENT EXERCISE 1

Discuss the system perspective of punishment.

3.2 SYMBOLIC INTERACTIONISM PERSPECTIVE

A complementary perspective is provided in an essay by the American philosopher and social psychologist George Herbert Mead entitled “The psychology of punitive justice’ (Mead, 1918). In this essay, Mead perceptively discusses the symbolic meaning of the criminal law and punitive justice to members of the society. The characteristic societal response to the criminal is to punish him, and mead attempts to account for the particular forms of social organization which reflect society’s hostility towards the criminal and their implications. The two most frequent justifications for punishment of the offenders are retribution and deterrence.

Initially we justify punishment by arguing that the criminal deserves to be punished simply because he has committed the crime. By committing the crime he has given members of society the right to inflict retributive punishment. The justification of deterrence is one of social expedience, and it is through this that we decide the severity and form of the punishment. The emphasis shifts from simple retribution to the idea of prevention though deterrence. We believe that we can effect some kind of commensurability between the severity of the punishment, the assumed deterrent fear which we believe it inspires in both the offender himself and future potential offenders, and the extend to which we feel aggrieved by the criminal’s actions.

The penal process, firstly arouse in law – abiding members of the community “the inhibitions which make rebellion impossible for them’ and secondly, of stigmatizing the offender either by removing him from the community in the extreme case or by

some lesser form of stigmatization arising from the ritual public labeling process. The judicial process which provides the offender with an official criminal record serves to label and stigmatize him effectively as an enemy of the community. Such stigmatization may have far reaching implication for the offender's identity and moral career.

Mead goes to suggest that the deterrent and retributive attitude cannot be reconciled with the principles or treatment and reformation of the criminal. The aims of punishment, on the one hand, and eradication of the causes of crime on the other, seem to be mutually exclusive. In Mead's terms, as long as the social organization is dominated by the attitude of hostility the individuals or groups who are the objects of this organization will remain enemies. It is quite impossible psychologically to hate the sin and love the sinner.

Mead in his work, also spoke on the problems or role conflicts facing social worker employed in the prison service. Social workers are firstly officers and servants of the criminal court, they are thus regarded by convicted offenders as punitive agents, and they may often be directly involved in the enforcement of the civil and criminal law. Because of these irreconcilable phenomenon, reformative measure is hard to implement.

Mead's discussion of society punitive reaction to crime as manifested in the penal system centres on the meanings given to crime and criminals by the members of the certain hostile responses and how these responses are crystallized and institutionalized in system of punitive justice. The social or symbolic meaning given to criminals and their acts because of their hostile characters, preclude the possibility on non punitive methods of treatment based on psychological and sociological understanding of the criminal.

SELF ASSESSMENT EXERCISE 2

Discuss the symbolic interactionism perspective of punishment.

3.3 SOCIAL PROCESS PERSPECTIVE

This theory first emerge in the writing of Edwin Lemert (1951). Other labeling theorists of importance are Howard Becker (1963) John Kitsuse labeling theory concentrate on the reactions of others to deviance.

Labeling theorist focus on the sanctioning and labeling of deviance rather than on deviance itself because they see society's reactions as important than the individual's deviance. Howard Becker (1963) explains that deviance is a consequence of the application by others of rules and sanctions to an offender". The ex-convict is one to whom the label has successfully been applied.

Labeling a person as ex-convict defines him as peculiar. Once a person has been labeled he acquires a master –status. A master – status is one upon which all other statuses depend. For example, once a person is in prison, all other attitudes towards him and evaluations of him would depend on that status. His old friends who use to accept him freely will reject him.

Even from his point of view a person's self concept derives from responses of others to him, that is how they essentially regard him. Where a person already expects others to behave towards him in a particular manner, his own action are already geared towards his expectation of him, hence a situation of self – fulfilling prophesy arises. That is because he already expect them to behave to him in a particular manner, he has himself behaved in a manner which will evoke the reaction expected.

Biesanz and Biesanz (1974) contend that society does not only punish deviant people through formal means such as imprisonment but it put label on them. This has several implication firstly, it allows the society at large to recognize which people are deviant. Secondly, it increases the punishment suffered by the deviants by making their deviance public knowledge, public knowledge of their deviance has the effect of making it harder for them to function in the "normal" world. Thirdly, after repeated, instances of being caught and labeled, the deviant individuals are likely to accept the

label as part of their self-concepts As more and more legitimate avenues become closed to them. They must increase turn toward deviance.

In addition, although punishment such as a prison term is finite, the label lingers on. The thief becomes an ex-convict.

SELF ASSESSMENT EXERCISE 3

Discuss the social process perspective of punishment.

4.0 CONCLUSION

Theory is therefore important because most of what is done in criminal justice is based on criminological theory. Whether we or the people who propose and implement policies based on the theory know it or not, you should bear in mind that failure to understand the theoretical basis of criminal justice policies leads to at least two undesirable consequences. First, if the criminal justice policy makers do not know the theory or theories on which their proposed policies are based, then they will be unaware of the problems that are likely to undermine the success of the policies. Much time and money could be saved if criminal justice policies were based on a thorough theoretical understanding.

5.0 SUMMARY

All the three theoretical perspective has shed light on the working activities and response of the Criminal Justice System to an offender it has exposed the contradiction between the retributive aim of punishment and treatment of the criminal. These theories has not only explain criminal behavior but also explanations of related institutions and individual police, behavior of attorneys, prosecutors, judges, correctional personnel, victims offenders and other actors in the Criminal Justice System.

6.0 TUTOR MARKED ASSIGNMENTS

Recidivism is partially the result of societal labeling of ex-convicts. Discuss.

7.0 REFERENCES/FURTHER READING

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UNIT 2: PURPOSES AND GOALS OF THE CRIMINAL SANCTION

CONTENTS

1.0 Introduction
2.0 Objectives
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    3.1 Retribution
    3.1.1 History
    3.1.2 Just Deserts
    3.2 Deterrence
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5.0 Summary
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1.0 INTRODUCTION

In this unit we shall examine the purposes and goals of the criminal sanction. Four traditional philosophies have moulded the types of sentences in use today,. Retribution, deterrence, incapacitation and rehabilitation. Another mixed goals combines elements of several philosophies. All this concept will be analyzed in this unit.

2.0 OBJECTIVES

At the end of this unit the students should be able to:

- Know the purposes and goals of the criminal sanction.
- Understand what each of the concept mean.
- Know the historical background of each concept.
- Understand other mixed goals philosophies.

3.0 MAIN CONTENTS

3.1 RETRIBUTION

Three elements – a proportionate penalty, a penalty that is deserved, and a penalty that expresses the moral condemnation of society – capture the essence of the conception of retribution.

3.1.1 History

It may be surmised, although evidence is scarce, that some of the earliest tribal societies reacted quite fiercely to wrongs that threatened the continued existence of the tribe. In the laws of early literate societies we find a limit commonly imposed on unbridled vengeance. The Mosaic laws (about 1200 B.C) are a prime example: Punishment should be comparable to the harm inflicted, no more, no less ("an eye for an eye"). This distinct advance in civilization is called the "law of retaliation." The same idea is expressed by the term retribution, from the Latin 'to give back," to respond in kind. The concept of retribution has been with us ever since.

In the age of Enlightenment (the late eighteenth century) it became the hallmark of criminal legislation. In determining the punishments in their Penal Codes, legislatures were to take into account the perceived gravity of seriousness of each offenses; and punishments no longer had to be in kind. Murder commanded a more severe punishment than robbery, and robbery a more severe punishment than larceny, yet blinding of a person (felonious assault) no longer required blinding of the offender. Alternate sanctions (especially imprisonment) had taken the place of in-kind sanctions.

3.1.2 Just Deserts: In the early part of this century, attitudes began to change. This was a period of great expectations, of advances in medicine and in psychology. Especially in the United States, anything seemed possible, even rehabilitation, or the use of education, and vocational and psychological counseling to transform criminals into law-abiding citizens. In this climate, the classic retributive idea seemed to be inherently flawed. Retribution was based on the assumption that all offenders who violate the same provision of the penal law deserve the same punishment. But behavioral scientist pointed out that no two offenders who commit the same crime are completely alike in motivation, personality, intelligence, and potential for rehabilitation. As a result, rehabilitation was the dominant influence on sanctions, until the late 1970s. At that time dissatisfaction with some of the practice associated with the rehabilitative ideal, as well as disappointment with the result of rehabilitative programs, led scholars such as Andrew von Hirsch, Richard Singer, and others to promote a return to retribution. Yet their conception of retribution was different and perhaps more elaborate than earlier models. It focused on the notion of desert, and is thus called just deserts.

Underlying the concept of just deserts is the proposition that the punishment must be based on the gravity of the offense and the culpability or blameworthiness of the perpetrator. Just-desert advocates argue that court simply do not have the capacity to determine who be successfully deterred or reformed and who cannot. Parole boards are not prepared to make sound decisions as to which offenders are good risks for release and which are not. Finally, the notion of rehabilitation was premised on the ability of prison- “correctional” institutions- to correct or rehabilitate; but they fail to do so in most cases. Therefore, it is argued, there are few choices but to return to a system of retribution, which at the bare minimum guarantees like sentences for like crimes. Any rehabilitative efforts in prison should be made only within the terms of proportionate sentence, and with the consent of the inmates.

The just-desert approach has been successful in minimizing disparities in sentences and in curbing judicial arbitrariness. But it has problems as well. It has been blamed

for prison overcrowding. It has been attacked for its insensitivity to the social problems that lead a large proportion of offenders to crime. It has been criticized for its refuse to acknowledge the fact that education or re-education, in the broadest sense, can affect values, attitudes, and behavior. It also has been called unscientific because of its rejection of scientific efforts to identify and selectively incapacitate habitual or chronic offenders. Critics have characterized the concept as superficial for its rejection of the rehabilitative ideal, and for ignoring the fact that rehabilitation has been condemned on the basis of inadequate or flawed evaluations.

Just-desert theorists have reasonable answers to these criticisms. They are not insensitive to the social problems that promote crime, but feel strongly that defendants should be sentenced on the basis of the crime they have committed, rather than their social background. They are not insensitive to the utility of education, but contend that a defendant's ability to grow intellectually should not influence the sentencing decision. Why should judges be forward-looking in fashioning a sanction, when the sentence must reflect a crime that was committed in the past? Finally, theorists have not condemned rehabilitation on the basis of flawed evaluations. Rather, they have dismissed rehabilitation on the basis of its irrelevance to the nature of the crime that was committed, and the culpability of the offender at the time of the crime.

3.2 Deterrence

What would happen if there is no cost associated with illegal activity? According to some scholars, if we disbanded all law enforcement agencies and removed all sanctions from the penal laws, the result would be " a crime wave of unprecedented proportions. The very existence of the Criminal Justice System, it has been argued, has a strong general deterrent effect, ensuring obedience in those who otherwise would resort to crime. Thus, the basic principle underlying **deterrence** theory is that people will refrain from engaging in criminal activity because of the consequences associated with detection.

Contemporary notions of the deterrent effect of the criminal law and sanctions grew out of the philosophies of Cesare Beccaria in ltaly and Jeremy Bentham in England.

They emphasized the importance of making punishment certain swift, and sufficiently severe to be a deterrent. Deterrence could be best achieved if the laws and the potential sanctions associated with violations were made known to the public reading of the law in the legislature, the distribution of printed copies, publicity by the media, or even by town cries in the villages.

3.2.1 Types of Deterrence. A distinction is often made between two types of deterrence. General deterrence refers to the effect that the criminal law with its punishments has on people in general. Those considering whether to commit a crime will be deterred by knowing that law prohibits certain behavior and that those who have broken the law have paid a penalty for it. Special deterrence, some times called specific deterrence, reflects punishment that deters an offender from engaging in additional criminal behavior, because of the disagreeable experience of a past punishment.

3.2.2 Effectiveness: If the advocates of deterrence are correct, potential offenders should be affected by the relative certainty that punishment will result from the commission of a crime. Indeed, research has shown that certainty of punishment is more important than either the severity of swiftness of a sanction in achieving the goal of deterrence. For common street crimes, then, a police presence increases the chances of capture and supplies an important component of deterrence. A would-be burglar might decide not to break into a house on a block where a patrol officer is stationed. (Of course, the burglar may then decide to move to another block without police presence, which means that the crime has merely been displaced). One way to evaluate the effectiveness of deterrence, therefore, is to examine the degree to which a police presence affects the extent of crime. Research on the effect of police strikes in the 1970s on the crimes rates of eleven American cities provided raises crime rates. The evidence on the effects of intensified policing is no clearer. In 1983, New York City’s transit police force was strengthened to combat subway crime. Additional officers were posted in subway stations and on virtually all trains between 8p.m. and 4a.m. The results were inconclusive.

What about the deterrence effect of criminal sanctions? Researchers have studied the effects of increasing the threatened punishments for some crimes. Massachusetts mandated a minimum prison term of one year for carrying a firearm without a permit. This law had a measurable deterrent effect, although studies in both Detroit and Florida, which likewise imposed mandatory sentences for firearm law violations, indicate that such penalties did not lead to declining incidence of the violent crimes measured, such as homicide or robbery. The severity of possible sanctions also does not appear to deter people from drinking and driving. In recent years, several jurisdictions have enacted statues calling for mandatory jail sentences for those convicted of drinking and driving offenses. Evaluations of the effect of these laws reveal that drivers are not deterred by the threat of jail, although the threat of a lesser formal sanction, such as license suspension, or even moral disapproval may deter some people from drinking and driving.

In a study of deterrence by the Criminal Law Education and Research Center at New York University, three types of warning stickers were attached to parking meters in three comparable areas. One sticker threatened a $50 fine for the use of slugs in parking meters. The second threatened a $250 fine and three months Imprisonment. The third threatened a $1,000 fine and one year in prison. Slug use decreased substantially where the threatened sanction was lowest and thus equipped with slug rejection devices and coin-view windows that revealed what had been inserted into the meter had been installed, slug use decreased substantially. These meters made it fairly easy to determine who had used a slug: it was likely to be person whose car was parked at the meter. A recent experiment with cable television subscribers who had tampered with their cable service in order to receive cable channels they had not paid for showed similar result. A threat of legal sanctions conveyed by a warning letter was sufficient to deter offenders from tampering with their service again after the company removed the illegal devices.

Overall, research results are still inconclusive, largely because the opportunities for making controlled studied are extremely limited. Early studies tended to support the hypothesis that crime rates will be lower in places where the threat of punishment is great. Subsequent work, which focused on individuals' perceptions of the risk of sanctions, found that certainly is more important than severity of punishment in people's decision-making about engaging in criminal acts.

The methodology of most of the early research was though to present problems that made the conclusions questionable. Most recently, studies considered by some to be methodologically more sophisticated have revealed that in fact informal sanctions are more influential than formal penalties is shaping individual behavior. Factors such as the disapproval of relatives and friends, jeopardizing of past accomplishments and future achievements like educational or employment goals, personal moral beliefs, and community condemnation have more of a deterrent effect than the threat of arrest or subsequent punishment, but obviously only when and where community standards and norms are shared.

SELF ASSESSEMENT EXERCISE 1

Discuss types of deterrence you know?

3.3 INCAPACITATION

How many times have you heard expression, "Lock'em up and throw away the key"? It captures the frustration law-abiding people feel about the problem of crime in America. It reflects a belief that society is best off when criminals are housed in prisons, or incapacitated, for long periods. This strategy has obvious appeal- locking up offenders prevent them from committing additional crimes in the community, at least during the course of their confinement. Yet according to some scholars, long sentences imposed for the purpose of incapacitation may be unjust, unnecessary, counterproductive, and inappropriate:

- Unjust if other offenders who have committed the same crime receive shorter sentences
- Unnecessary if the offender is not likely to offend again
- Counterproductive whenever prison increases the risk of subsequent or habitaual criminal behavior
- Inappropriate if the offender has committed an offense entailing insignificant harm to the community.

Studies examining the effects of incapacitation have come to differing conclusions. Some researchers, for example, suggest that the crime rate could be reduced by as much as 15 percent if every convicted felon were imprisoned for one year. Other project between a 4 percent and 80 percent reduction in violent crime rates if everyone convicted of a violent crime served five years in prison.

3.3.1 Strategies

The best interpretation of these is that a collective incapacitation policy – in which many offenders would be imprisoned for long periods – would achieve only modest reductions in the crime rate, while fostering an enormous increase in the size of the prison population. Between 1973 and 1982, the U.S. prison population nearly doubled, while the crime rate rose 28 percent.

Some believe that a policy of selective incapacitation, or the targeting of high-risk, repeat offenders for rigorous persecution and incarceration, may be worth pursuing. Researchers at the Rank Corporation used self-report data from inmates to identify characteristics of serious repeat offenders. They then devised a scale composed of seven items (including prior convictions, history of drug use, and history of employment) to predict future offender. This scale could be used as sentencing or identify those who should be selectively incapacitated for longer or shorter periods.

3.3.2 Effectiveness

Use of this predictive scale was intended to result in shorter prison items for low-rate and medium-rate offenders and longer terms for high rate offenders. If implemented, such a strategy should, according to researchers, reduce California's robbery rate 15 percent while lowering its prison population by 5 percent. When these estimate were made, they stirred controversy among policymakers and researchers. Critics charged that:

- The scale resulted in a number of "false positives": as many as 55 to 60 percent of those predicted to be high-rate offenders on the basis of the scale turned out not to be. The opposite problem – predicting low rates of crimes for people who subsequently offended at high rates – was less pronounce but still occurred.
- The scale used information on several factors, such as employment data and juvenile delinquency history, that may be obtainable through self-reports but generally is not available at the time of sentences thereby reducing its usefulness.
- The calculations of reduction in crime rates have been criticized on methodological grounds and may be much lower than claimed.
- Imposition of different sentences for the same offense violates the notion of just deserts.
- A selective incapacitation policy punishes people not just for past behavior.

3.4 REHABILITATION

The retribution philosophy dominated the practice of punishment, in America and elsewhere, up to the late nineteenth century. But in the late nineteenth and early twentieth centuries, positivist theories about the causes of crime became popular and influential. Theorists and practitioners alike moved away from retribution and toward rehabilitation. Some have called this a move from crime-base to offender-based punishment.

As a sentencing rationale, rehabilitation is based on the notion that through a correctional intervention (educational and vocational training and psychotherapeutic

programs), an offender may be changed. This change should result in the offender's ability to return to society in some productive, meaningful capacity. Consequently, sentences must be individualized. A judge might select a sentence that includes probation or imprisonment of indeterminate length. The parole board decides when the convict should be released and under what conditions.

In the 1970s, rehabilitation came under attack. The dramatic rise in crime rates at the end of the 1960s led conservatives to point to rehabilitation as a failed policy that treated offenders too leniently and did nothing to deter them. Liberals objected to a coercive treatment strategy intended to "habilitate" people so that they would conform to the dominant culture's values and norms. Researchers attacked the rehabilitative ideal as a colossal practical failure. An examination of some 400 evaluations of treatment programs, published in an article entitled "what works?", concluded that "with few and isolated exceptions, the rehabilitative efforts that have been reported so far have had no appreciable effect on recidivism." In short, the answer to the question, "what works?," was "nothing." After this devastating analysis of rehabilitation, other scholars published similar findings and conclusions, although the picture they painted was a bit less bleak.

There is still no agreement on the effectiveness of rehabilitation, but more recent analyses of treatment evaluations conclude that some programs do in fact work – if only for a select number of offenders. But successful programs require a careful matching of individual needs and program attributes, and that is very difficult to achieve in practice.

SELF ASSESSEMENT EXERCISE 2

What do you understand by rehabilitation?

3.4.1 Mixed Goals

Judges often employs a combination or mix of sentencing philosophies in justifying their selection of a sanction. When Judge Kimba M. Wood sentenced legendary junk-bond trader Michael R. Milken in November 1990, she turned the court room into a classroom. Judge Wood defended her choice of a ten-year prison sentence, significant fines, and a sentence of community service by explaining a series of goals that would be achieved by this sentence:

- Special deterrence – Archieved by barring Mr. Milken from working in the securities industry and by the significant fines imposed
- General deterrence – Achieved by the imposition of a long prison term
- Retribution – Achieved by the combination of a prison term and a fine
- Rehabilitation – Achieved by requiring community service

Judge Wood's sentence, which she later reduced to two years, was a well-crafted effort. It is fair to say most sentences are not nearly as well tailored for lack of time and talent. Of course, the goals of deterrence, retribution and rehabilitation, integrated by Judge Wood, are not necessarily compatible. For example, a long prison term may be proportional to the crime committed (retribution), but incompatible with the goal of rehabilitation. The problem of integrating the goals of punishment has concerned theoreticians and researchers alike. Some researchers have suggested that judges employ a two-stage approach. If the intention is both to punish and to rehabilitate, a defendant might be sentenced to a term of incarceration followed by a term in a community-based correctional setting.

Most state legislatures, unconcerned with theoretical considerations, simply enacted the mixed sentencing goals of the Model Penal Code into legislation, letting judges worry about how to reconcile potential conflicts. The code mandates the following sentencing goals:

1. To prevent and condemn the commission of offenses
2. To promote the correction and rehabilitation of offenders

3. To ensure the public safety by preventing the commission of the offenses through the deterrent influence of sentences imposed and the confinement of offenders when required in the interest of public protection.

SELF ASSESSMENT EXERCISE 3

Discuss on various forms of incapacitation you know.

4.0 CONCLUSION

Criminal sanction is all about punishment. Punishment is an important aspect of law since for every criminal law there is punishment attached to it. It is regarded as the infliction of pain or suffering, or the deprivation of something valuable in relation to someone who has committed a crime or other rules.

5.0 SUMMARY

Punishment can be justified in terms of retribution, deterrence, incapacitation, rehabilitation and restitution. Retribution present crimes as acts which deserve punishment. Deterrence focuses attention on prevention. Incapacitation is meant to prevent future crimes by making it imposable for those already identified with criminal behavior to continue with their activities. By rehabilitation, attempt is made to prevent crime by changing the personality of the offender. Restitution is synonymous with reparation or indemnity.

6.0 TUTOR MARKED ASSIGNMENTS

Explain the retribution philosophy of punishment.

7.0 REFERENCES/FURTHER READING

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UNIT 3: THE CHOICE OF A SANCTION

CONTENTS

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2.0 Objectives
3.0 Main Contents
- 3.1 Various Forms of Sanction
- 3.2 Factors that Determine the Choice of a Sanction
- 3.3 Structuring Sentences
- 3.3.1 Indeterminate Sentences
- 3.3.2 Mandatory Sentence
- 3.4 Sentencing Guidelines

4.0 Conclusion
5.0 Summary
6.0 Tutor Marked Assignments
7.0 References/Further Reading

1.0 INTRODUCTION

In this unit we shall examined the forms of criminal sanctions at the disposition of the sentencing judge. Also the factors that determine the choice of a sanction We shall also focus attention on different methods to structure sentencing decisions.

2.0 OBJECTIVES

At the end of this unit the students should be able to:

- Know the forms of criminal sanctions.
- Understand the factors that determine the choice of a sanction.

- Know a number of different methods to structure sentencing decisions.
- Have good knowledge of sentencing guideline.

3.0 MAIN CONTENTS

3.1 VARIOUS FORMS OF SANCTION

In all jurisdictions, the forms of criminal sanctions at the disposition of the sentencing judge are specified by legislation. These forms include institutional sanctions – time to be served in prison or jail**;** and non-institutional sanctions – fines and forfeiture of the proceeds of crime, service of the sentence in the community in the form of probation or parole. Recently the arsenal of punishments has been considerably enlarged by the creation of mixed sanctions. Judge now have a variety of options:

- Death penalty: Courts may impose a sentence of death for any offense designated a capital crime, for example, first-degree murder.
- Incarceration: The defendant may be sentenced to serve a term in a local jail, state prison, or federal prison.
- Probation: The defendant may be sentenced to a period of probationary supervision within the community.
- Split Sentence: A judge may split the sentence between a period of incarceration and a period of probation.
- Restitution: an offender may be required to provide financial reimbursement to cover the cost of a victim's losses.
- Community Service: An offender may be required to spend a period of time performing public service work.
- Fine: An offender may be required to pay a certain sum of money as a penalty and/or as an alternative to or in conjunction with incarceration.

SELF ASSESSEMENT EXERCISE 1

Discuss various forms of sanction.

3.2 FACTORS THAT DETERMINE THE CHOICE OF A SANCTION

What factors determine the choice of a sanction? Within the range of options imposed by the legislature, judge are given discretion guided by their preference for one or more of the sentencing philosophies discussed earlier. But judges often subscribe to different philosophies for different offenders. Faced with an offender who has a long record of felony arrests and convictions, a judge may place greater emphasis on the incapacitative function of punishment and sentence the offender to a long period of incarceration. The same judge may decide that an offender with no prior record may very well succeed in being "rehabilitated,' and therefore order a sentence that involves some type of treatment program.

Research has shown that the most important factors affecting a judge's sentencing decisions are the severity of the offense and criminal history of the offender. Offender severity is usually measured not only by the statutory classification (for instances, classes of felonies) but also by non-statutory aspects of the crime, such as the amount of harm inflicted, the value of property lost or damage, the motive of the offender, and whether a deadly weapon was used in the commission of the crime. A first-time offender who has committed a relatively minor offense is likely to get a more lenient sentence than a repeat offender.

Judge receives information about the nature of the offense and the offender in a **pre-sentence investigation report** prepared by a probation officer. In this report, a probation officer will provide details of the crime and information about the offender, including a history of any prior offenses. The pre-sentence investigation report may also contain a recommendation of an appropriate sentence.

A recent innovation growing out of the victims' rights movement in the sentencing process is the consideration of statements by the victim, known as "Victim Impact Statements" (VIS). Twenty-six States have mandated the use of VIS in criminal cases, while another twenty-two States have adopted so-called "victim bills of rights" that include recognition of the right of a victim to present a VIS. In the VIS, the victim

provides a statement about the extent of economic, physical, or psychological harm suffered as a result of the victimization. The victim also can make a recommendation about the type of sentence an offender should receive. Usually the VIS is incorporated into the pre-sentence investigation report written by the probation officer. Research has revealed that a judge's choice of a sentence is influence much more by legal considerations than by victim preferences in cases where VIS were presented.

3.3 STRUCTURING SENTENCES

Legislators have devised a number of different methods to structure sentencing decisions. Strategies differ from State, and some States even have different sentencing structures to cover different types of offenses.

3.3.1 Indeterminate Sentences

Sentences for which the legislature allows the judge to impose a minimum and/or a maximum term, the actual length of service depending on the discretion of corrections officials.

Indeterminate sentences had a fixed minimum, but no fixed or predetermined end. However, indeterminate sentences statutes may allow the judge to fix a maximum or both a minimum and a maximum. The important aspect of the indeterminate sentences is that the prisoner's actual prison term is undetermined above the minimum and below the maximum, and depends entirely on the discretion of the correctional authorities, especially the parole board. Members of a parole board periodically review the record of an offender behavior while the offender is under correctional supervision to decide if, in their opinion, release is appropriate.

While indeterminate sentences may accommodate goals of retribution, deterrence, and incapacitation, the guiding principle behind them is rehabilitation: The indeterminance of a sentence provides flexibility for the offender to demonstrate that he or she has been rehabilitated, at which time the parole board will, at least in theory, authorize a release. Rather than the sentence being the same for every offender, indeterminate sentencing is said to have the advantage of allowing for individualized sentencing on

the basis of the offender's background, the circumstances of the crime, and the offender's behavior while incarcerated.

Indeterminate sentences were subjected to extensive criticisms during the 1970s, fueled by prisoner uprising that demonstrated their discontent with the conditions of their imprisonment, and particularly the widely varying length of sentences for like crimes. In 1970 the American Friends Service Committee published a report entitled Struggle for Justice that galvanized opposition to indeterminate sentences and led eventually to a reconsideration of sentencing practices that had been throughout the country. Chief among the complaints were the following:

- Individual sentences based on the characteristics of the offender instead of the crime have led to variations in sanction that many believe are attributable to extralegal factors such as the offender's sex, ethnic origin, or socioeconomic status.
- Indeterminate sentences represent a particularly cruel injustice to prisoners, suspending them in a nether world of uncertainty, dependent on what many believed were the arbitrary decisions of parole boards. The uncertain release date was depicted not as an incentive to reform, but as a technique to frustrate inmates.
- The emerging research on rehabilitation programs indicated that they were ineffective in achieving their goals. Furthermore, the underlying assumption behind rehabilitation – that criminals are "sick" and need "treatment" – was ill-conceived and arrogant, especially since correctional officials had no effective means of treating the supposed sickness.
- Indeterminate sentencing in many cases meant that sentences were really given not by judge but by parole boards, a questionable shifting of authority.

The solution, as many saw it, was to switch to definite, or determinate, sentences based on the amount of harm inflicted by the offense. The result was widespread change in sentencing structures. In fact, between 1975 and 1985, all fifty States and the District of Columbia considered legislation to change their existing indeterminate

sentencing structures. Some States sought to limit indeterminate sentences by giving parole boards guidelines to follow in making release decisions. Other turned to determinate sentences.

3.3.2 Determinate Sentences

In 1975 Maine became the first State to abolish its parole board, thereby removing the support for indeterminate sentencing. For nearly twenty years, judges in Maine have sentenced offenders to prison terms of fixed length, called determinate (or flat) sentences. All offenders sentenced under such a scheme must serve the entire length of sentences, less any “good time” accrued while in prison. Early release on parole is unavailable.

Determinate sentencing plans vary from State to State. In Maine, as stated, the legislature simply eliminated parole. The result: Judges resorted to what has been referred to as “judicial parole,” a practice in which an offender is given a split sentence consisting of a period of incarceration followed by probationary supervision upon release. Revocation of probation rests with the judge, who thus fulfills the role previously held by the parole board. Other States, such as California and North Carolina, have specific standards for sentences set by the legislature, including aggravating and mitigating factors that must be taken into account in sentencing.

3.3.3 Mandatory Sentences

Determinate sentences should be distinguished from mandatory sentences, meaning sentences for given crimes that are fixed by the legislature, from which the judge may not deviate. Laws that require mandatory sentences for certain offenses have been passed in forty-nine States. Most commonly they are used for violent and serious offenses; crimes involving the use of a firearm; violations of drinking and driving statutes; and increasingly, certain drug offenses. Most mandatory sentencing statutes prescribe a minimum period of incarceration for offenders whose crimes and prior record fall within specific categories (although some require incarceration even for first-time offenders).

Mandatory sentences have been justified on the basis of their deterrence value. But such sentences do not appear to have a significant deterrence effect. Furthermore, the severity of the sentences is such that police, judges, and prosecutors have been found to alter their practices to avoid the possibility of a mandatory sentence in cases where they believed the sentences would be too harsh for the crime involved. Finally, new evidence suggests that mandatory sentences may disproportionately affect minorities.

3.4 SENTENCING GUIDELINES

Sentencing guidelines provide a relatively fixed punishment that corresponds with prevailing notions of harm and allows for upward or downward adjustment of the sentence on the basis of specific aggravating or mitigating circumstances. In the United States, the movement toward sentencing guidelines began with a plea by Federal District Judge Marvin E. Frankel in 1972 for an independent sentencing commission to study sentences and assist in the formulation and enactment of detailed guidelines for use by judges. Since then a number of States have adopted guidelines and several have created sentencing commissions, independence agencies authorized by state legislatures to create guidelines. The best-known state sentencing commissions are those of Minnesota, Washington, and Pennsylvania. In 1984 the Unites States Sentencing Commission was established by Congress, and in 1987 it delivered it guidelines for the sentencing of individual defendants. In November 1991, Congress adopted guidelines proposed by the Sentencing Commission for organizations, especially for corporations.

At the crux of all guidelines is a sentencing grid, most often in the form of a matrix, in which a ranking of the severity of the offense is combined with a defendant's criminal history or other characteristics to arrive at a recommended sentence or sentence range. Guidelines usually allow mitigating or aggravating circumstances associated with the specific offense. They typically indicate which offenses should be sanctioned by a prison term (the "in/out" decision) and the length of the sentence. a judge simply calculates a defendant's history and the severity of the offense, plus or minus

mitigating or aggravating circumstances (where allowed), and, with the exactness of a computer, has a sentence to impose. In practice, some guidelines can be fairly complicated to use because of the number of factors that must be included in calculating the sentence. Every U.S probation office and U.S. attorney's office has been provided with a computer program to assist in calculating recommended sentences in accordance with the federal sentencing guidelines.

SELF ASSESSMENT EXERCISE 2

What do you understand by institution a sanction and non institutional sanction?

4.0 CONCLUSION

At the end of this unit, students should have a broader understanding of criminal sanction or issues bordering on penology. Every criminal policy at the disposition of the judge are specified by the legislation of that particular jurisdictions, Legislators as earlier asserted, have devised a number of different methods to structure sentencing. Decisions strategies differ from State, and some State even have different sentencing structure to cover different types of offenses.

5.0 SUMMARY

We have been able to discuss choice of sanction as an act of jurisdictional legislation. We have seen that there are basically two forms of sanction, which are institutional sanctions. at the end, we focused our attention on different methods to structure sentencing decisions.

6.0 TUTOR MARKED ASSIGNMENTS

Discuss different sentencing structure you know.

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UNIT 4: ISSUES ON CAPITAL PUNISHMENT (DEATH PENALTY)

CONTENTS

1.0 Introduction
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4.0 Conclusion
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1.0 INTRODUCTION

Capital punishment can be defined as the putting to death people who have been judged to have committed certain extremely heinous crime, Henting (1973:3). The use of capital punishment has been a permanent feature in society since the earliest civilization and continues to be used as a form of punishment in many countries today. Capital punishment prescribed by law for violators of its provision was viewed as serving diverse purposes:

(i) To deprive the offender of his life which would permanently curtailed his or her criminal activities.

(ii) To serve as an object of lesson to other potential lawbreakers. A positive means of converting a potential offender into a consciously law abiding person.

(iii) To satisfy the community or state demand for what is called retributive, retaliation, atonement. Capital punishment had also been defined as a deterrent to crime, Sellin (1997:22).

2.0 OBJECTIVES

The objectives of this unit is to

- Explain to the students the different effect of capital punishment
- To exposed students to the controversies surrounding capital punishment.
- To understand the views of supporters and opposers of death penalty.
- To help the students ascertain if death penalty actually deter crime.
- To make students know the history of death penalty laws
- To make students understand what constitute death penalty offences in Nigeria.
- Explain the mode of death penalty execution in Nigeria.

3.0 MAIN CONTENTS

3.1 DIFFERENT EFFECT OF CAPITAL PUNISHMENT

George Scott (1950) has said that the question of capital punishment falls between two stools: if it proves deterrent, it risks executing the innocent; if it protects the innocent perfectly, it is used so seldom that it fails to deter. The question again is not merely whether capital punishment deters potentials murders but whether it does so more effectively than other penalties or methods. All thorough studies are said to have concluded that the death penalty is inconsequential as a deterrent.

A number of nonscientific arguments have been presented for the death penalty. Thus it has been said to be justified by the scriptures, to be a natural expression of emotion

of vengeance, or to be “just” in cases of murder in terms of the balanced-account theory of punishment.

If the death penalty really appreciably decreases murder, if there is no equally effective substitute, and if its by-product are not equally injurious to society, penology will support the death penalty. But it necessity is seriously questioned. The fear of death may be the most intense of all fears; but fear of death is fear of certain, imminent death, and courage is not confined to those who are engaged in meritorious deeds, One cannot argue from any terror of the murderer on the morning of execution to the deterrent effect of fear of problematic execution at the moment of the crime.

Abolition of the death penalty has sometimes been followed by an increase in murder, sometimes not, and the important point is that changes in either direction have usually paralleled similar trends in States with the opposite policy

It is also important to note that differences in the prevalence of murder vary greatly within any State, though the legal penalty is the same throughout its jurisdiction. The fact supports the principal conclusion of all careful studies. The major cause of murder is not the presence or absence of death penalty, but social relations conducive to tensions preceding the act or strong desires to have someone out of the way.

Less significant are other arguments. Many criminals are said to be hopeless cases and better put out of the way instead of incurring expense to the State. The same argument, as Sutherland (1945) points out, would apply to many other dependent and pathological classes. It also applies to many criminals for whom capital punishment has never been suggested. It is usually a sufficient reply that the injury to humanitarian sentiments involved in wholesale killing of social ineffective would far more than offset the saving in money.

Capital punishment has also been opposed on the ground that it is irreparable. The number of innocent among the accused who have been executed cannot be known.

There have been authentic cases of such miscarriage of justice. Their number has probably been very small in democracies like the United States, except, perhaps, in the case of the Negro, where the gathering of incontrovertible evidence may not have been as painstaking as in the case of white. The number has undoubtedly been greater than is known, however, because prosecuting attorneys are presumably not inclined to give more publicity than necessary to their own mistake of this sort. Pollak tells us that the causes of such errors, aside from prejudice against some minority group or class, have been use of circumstantial evidence, false identification, false confessions forced by mistreatment, false promises of immunity, and convictions of persons suffering from severe mental disorders.

A prominent lawyer, after careful study, has concluded the existence of the death penalty tended to destroy the proper administration of justice and hinder its improvement. With the death penalty, sentences tend to be based on emotions rather than upon rational consideration either of facts or of the consequences of punishment or release. Capital punishment has stood in the way of such reforms in law and procedure as critics have recommended. This has been true because, with the death penalty, judges have been inclined to allow the accused otherwise indefensible technical defenses and urge that these be retained in the law.

SELF ASSESSMENT EXERCISE 1

Discuss the different effects of capital punishment.

Finally, the effect of the death penalty on the general public is a most important question. Yet this effect can only be surmised. Not only a same solution of the crime problem, but also a generally happy social existence, seems to depend not a little upon the reduction of hatred and violence to a minimum. Moreover, the society which values life should not readily take it. It would seem, then, that only absolutely incontrovertible evidence that the abolition of capital punishment will mean a significant increase in murder would suffice to justify its retention. The evidence, to say the least, is not incontrovertible.

3.2 THE DETERRENCE ARGUMENT

Social scientists have long debated whether and to what extent executions deter murder. The debate focuses on two questions. Do would-be murders decide not to kill out of fear of being put to death? If the threat of execution is in fact a deterrent, would the threat of life imprisonment be just as effective?

The results of studies designed to answer these questions are inconclusive. Thorsten Sellin, Hans Zeisel, Williams C. Bailey, and Ruth D. Peterson, for example, have found little evidence that homicide rates are affected by executions. On the other hand, Isaac Ehrlich, an economist, has found what does appear to be a deterrent effect, specifically, that each execution prevents between eight and twenty murders. His study, however, has been criticized on a number of methodological grounds. Recent research on the deterrent effect of the death penalty has focused on the relationship between publicity about executions and homicide rates. If deterrence works, the argument goes, then publicized executions should result in lower numbers of murders because of heightened perception of the risks of being sentenced to death. Here again, the results of research are equivocal, with some showing that publicity does have some deterrent effects (albeit much weaker than other factors associated with the homicide rate), and others concluding that neither newspaper nor television coverage of executions has had any deterrent effect.

The legal scholar Charles L. Black has noted that It is extremely difficult to design methodologically sound deterrence studies. How can one estimate the number of people who did not commit murder in a jurisdiction with a death penalty or in one without a death penalty? How can we know that a would-be killer decide against the act of murder? According to Black,

After all possible inquiry, we do not know, and for systematic and easily visible reasons cannot know, what the truth about this "deterrent" effect may be… A "scientific" – that is to say, a soundly based – conclusion is simply impossible, and no methodological path out of this tangle suggests itself.

3.3 THE DISCRIMINATION ARGUMENT

In the early 1970s Marvin Wolfgang and Mark Riedel identified an anomaly in the use of the death penalty. Since the 1950s it had become clear that death sentences in some southern States fell disproportionately on black who had been convicted of the rape of white women. Wolfgang and Riedel noted, "Of the 3,859 persons executed for all crimes since 1930, 54.6 percent have been black or members of other racial minority groups. Of the 455 executed for rape alone 89.5 percent have been non-white.

Though the discrimination question has been at the core of legal challenges to the constitutionality of many death sentences, it remained in the background until the legal scholar David Baldus and his colleague conducted a comprehensive and methodologically sound analysis of discrimination in capital sentencing in Fulton Country, Georgia. This study, which clearly and unequivocally demonstrated that a black defendant is eleven times more likely to be sentenced to death for killing a white person than a white for killing a black, was presented to the United States Supreme Court in McKlesky Kemp (1985). Warren McKlesky asked the Supreme Court to invalidate the Georgia capital punishment statute because of this proven discrimination. The Court refused to do so because defense attorneys had not shown that Mcklesky himself had been discriminated against. Further, the court ruled that if there is such racial bias, it is at a tolerable level. But a level that is tolerable is difficult to specify. For over fifty years research on sentencing disparity has found racial discrimination in both capital and non-capital cases. This is not to suggest that all judges discriminate. Rather, as it has been said, some judges discriminate and some do not. Furthermore, differences based on race are not solely the result of judicial decision making. Research has found evidence that prosecutors are more likely to request the death penalty for black killers of white people.

3.4 OTHER ARGUMENT

Other arguments have been advanced for and against the death penalty. They are based on everything from religious concerns to a calculation of the cost of imprisonment. Table lists of those arguments and gives the rationale for them.

Argument Against and For the Death Penalty

Arguments	Rationale
AGAINST	
Arbitrary use argument	With over 2,600 inmates on death row, the process by which an inmates is selected to die is entirely arbitrary; it is not determined by the seriousness of the crime committed or any other objective measure.
Mistake Argument	Studies have documented cases in which individuals were wrongly convicted and thus executed in error. It is impossible to be entirely certain that a person is truly guilty. Are we willing to permit mistakes?
Religious Argument	Organizations representing most of the major religious have called for an end to the death penalty. Inter-religious task forces have voiced concern over issue of ethic and guilt in the putting to death of fellow human beings.
Cost-Benefit Argument	The cost of appeals and maintenance of a person on death row is higher than the cost maintaining a prisoner sentenced to life imprisonment – approximately $3 million.
Risk Argument	Convicted murderers behave well in prison and, if paroled, rarely commit violent offenses.
Morality Argument	Examinations of the relation between moral development and attitudes towards capital punishment show that the more developed one's sense of morality,

	the less likely one is to favor the death penalty.
FOR	
Economic Argument	The cost of maintaining an inmate in prison for life places an unfair burden on taxpayers and the State.
Retribution Argument	Any individual who kills another human being must pay for the crime.
Community Protection Argument	It is always possible that a person on death row may escape and kill again, or may kill another inmate or correctional officer. Thus the community cannot be fully protected unless the person is executed.
Public Opinion Argument	Standards of decency, the criteria by which courts judge the humaneness of a punishment, are continually evolving. Two decades ago public opinion was not in favor of the death penalty. Today three-quarters of Americans favor capital punishment.

SELF ASSESSMENT EXERCISE 2

Discuss the pros and cons of death penalty.

3.5 HISTORY OF DEATH PENALTY LAWS

The first established death penalty laws date as far as the 18th century B.C in the code of King Hammaurabi of Babylon which codified the death penalty for 25 different crimes. The death penalty was also part of the 14th century B.C's Hittile Code, the 7th century B.C's Dragonian Code of Athens, which made death, the only punishment for all crimes and the 5th century B.C's Roman law of the twelve tablets. Death sentences were carried out by such means as crucifixion, drowning, beating, to death, burning alive and impaled beheading.

In the 10th century A.D, hanging became the usual method of execution in Britain. The number of capital crimes in Britain continued to rise through out the next two centuries. By the 1700s, 222 crimes were punishable by death in Britain including stealing, cutting down a tree and robbing a rabbit warren.

Because of the severity of the punishment of death many juries would not convict defendant if the offense was not serious. This led to reforms of Britain's death penalty from 1823 to 1837; the death penalty was eliminated for over 100 of the 222 crime punishable by death (Randa, 1997)

3.6 EARLY QUESTIONS ABOUT THE DEATH PENALTY: COLONIAL TIMES

Those who did not support the death penalty found support in he writings of European theorists Montesquieu, Voltaire and Benthan and English Duckers John Bellers and John Howard. However, it was Cesare Beccaria's (1767) essay, on crimes and punishment that had an especially strong impact throughout the world. In the essay Beccaria theorized that there was no justification for the state's taking of a life. The essay gave abolitionists an authoritative voice and renewed energy, one result of which was the abolition of the death penalty in Austria and Tuscany (schabas 1997).

The introduction of death penalty into Nigerian statute books could be said to be direct imitation of British laws because of colonial interests. Just as Britain influenced America's use of the death penalty as her past colony, Nigeria having been a colony of Britain was also similarly influenced.

3.7 HISTORY OF DEATH PENALTY LAWS IN NIGERIA

Prior to the colonization of Nigeria the various ethnic groups numbering more than 200 had various rules of conduct, which guided their day-to-day activities. There was punishment for various offences and the penalty meted out was not homogenous. In the Eastern part of the country, the highest punishment given by the community elders for the most serious crimes such as murder or slave trading was banishment. Capital punishment was practiced in Northern part of the country which was predominantly a Muslim community. In the western part of the country inhabited be predominantly Yorubas, capital punishment was practiced in crimes like murder and disrespect to the

Oba (traditional ruler). Other group had similar practices but capital punishment was rarely applied in most cases.

In 1914, the British Government amalgamated the Northern Protectorate with the Southern Protectorate to form the colony and protectorate of Nigeria. The Supreme Court ordinance No.6 of 1914 established the Supreme Court with jurisdiction to administer the common law of England, doctrine of equity and the statute of general application, which were in force in England on January 1, 1900. The English laws so imported and provisions on capital punishment.

Presently, there are 3 major laws coexisting in Nigeria, they include the following: the Criminal Code and the accompanying Criminal Procedure Act (CPA), the Penal Code Act and the accompanying Criminal Procedure Code (CPC) and the Sharia Penal Legislations including both laws defining the criminal offences and their punishments as well as those States that adopted them the accompanying Criminal Procedure Codes.

The three systems have provisions creating offences and punishments and criminal procedures depending on the State in which the law is applied and the religion of the accused. The criminal code relates to States in the North and Southern part of the country, the Penal Code relates to the States in the North and the Sharia penal law is applicable to Muslims in the States which adopted it and also for non Muslims who have agreed to be bound by it.

The Sharia Penal Code is largely influenced by the Quran. The Penal Code formally operational in the Northern state has by the recent adoption of the Sharia Penal Code either replaced in part or in full the Penal Code applicable to Muslim.

3.8 DEATH PENALTY OFFENCES IN NIGERIA

The following offences attract capital punishment under the provision of the criminal and Penal Code of Nigeria.

(1) Armed Robbery-Section 402(2) (a) (b) Criminal Code act (cc) cap 77 Laws of the Federation (LFN) 1990.
(2) Murder-Section 319 (1), CSS 221 of the Penal Code (PC), Cap 345 LFN.
(3) (a) Treason-Section 37(1) and 38 of the criminal code, section 410 and 411 of the Penal Code.
(b) Conspiracy to Treason-Section 37(2) CC 38 CC.
(c) Instigating invasion of Nigeria-section 38 Cc.
(4) Treachery-Section 47A (1) of the criminal code.
(5) Fabricating false and evidence leading to the conviction to death of an innocent person section 515 (2) of the Penal Code.
(6) Aiding suicide of a child or lunatic 227 of the Penal Code.
(7) Robbery and forearms Degree No.5 of 1984
(8) Under the various Sharia penal laws applicable to 12 States in the Northern Nigeria, these offences carry the death penalty. (a) Zina (adultery) (b) rape (c) sodomy (d) incest (e) witchcraft and juju offences.

SELF ASSESSMENT EXERCISE 3

Discuss the history of death penalty laws in Nigeria.

Military rules in Nigeria are synonymous with undemocratic rule and practices. During military regimes, a large section of the fundamental rights under cap 4 of the constitution was suspended. The various military administrations have enacted decrees that have provisions relating to capital offences. They include the following:

(1) Decree No. 10 of 1985 on drug trafficking and other related matters.
(2) Counterfeit (special provision) Decree No. 22 of 1974.
(3) Special Tribunal (Miscellaneous offences) Decree No. 26 of 1984.
(4) Decrees No 20 of 1984 on pipeline and power supply vandalization.
(5) Robbery and Firearms Decree No. 5 of 1984, formally robbery and Firearms Decree of 1970.

Most of the Decrees have been repealed but during the years they were in force, they took a great toll of the lives of Nigerians. They were enforced by special military tribunals and the fairness of such trails was very much in doubt. Of historical significance is the execution of Ken Saro Wiwa and Four others who were executed hours after their conviction without any right of appeal. The trail was by public opinion so unfair that the lawyer who represented the accused walked out of the court because of the apparent unfairness in the trial.

3.9 MODE OF DEATH PENALTY EXECUTION IN NIGERIA

There are three major modes of execution in Nigeria. They include:

(a) Hanging: This is the most common form of execution in Nigeria. A rope is tied round the neck of the convict and he is made to drop a certain distance and this forces the rope to tighten forcefully and excruciatingly so much so that it causes death by damage to the spinal cord or asphyxiation.

(b) Shooting: In Nigeria, special tribunals such as the Robbery and Firearms Tribunals may sentence a person to death penalty by firing squad. This method of execution which leaves the dead convict a battered and bloody mess, is a bequest of military rule in Nigeria.

(c) Stoning: execution by stoning is carried out only in Islamic States and under Sharia Penal Laws. If a married Muslim commits adultery, then Rajam (Stoning to death) is the penalty. Rajam is not Koranic but was practiced by Prophet Mohammed. A man is to be buried up to his waist and a woman to above her chest. The offender is toned with big stones until confirmed death.

4.0 CONCLUSION

Putting to death people who have been judged to have committed certain extremely heinous crimes for the purpose of deterring other potential offenders has been a practice of ancient standing. But in the later half of the 20th century, it has become a very controversial issue and it still persist up to this modern time. Capital punishment as a sentencing option preoccupies the thinking of policy makers and general public.

Many countries has abolished it while some countries have retained capital punishment without any clear evidence that it promote public safety.

5.0 SUMMARY

It has been shown in this unit that the issue of capital punishment has conflicting views since the question of deterrence has not made great impact on the rate of crime being committed as that carry the death penalty after knowing that the offence attracts capital punishment.

6.0 TUTOR MARKED ASSIGNMENT

Discuss on capital punishment as a general deterrent to crime commission.

7.0 REFERENCES/FURTHER READING

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MODULE 4

Unit 1 Sentencing Practices
Unit 2 The Inmates Social Code and Functions
Unit 3 Re-socialization within Walls
Unit 4 The Pains of Imprisonment
Unit 5 Prisonization

UNIT 1: SENTENCING PRACTICES

CONTENTS

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1.0 INTRODUCTION

In this unit you will be exposed to factors that determine the sentences meted out by judges to convicted offenders. You will agree with me that sometimes judges differ on the severity of sentences meted out to an offender with similar crime and past records in crime. This unit will expose you to a wide range of sentencing practices.

2.0 OBJECTIVES

At the end of this unit the students should be able to:

- Know why gravity of sentencing on offender of similar crime and background differ.
- Know the psychologic, sociologic and judicial factors that influence sentencing.
- Understand the method use by the sentencing officer.

1.0 MAIN CONTENTS

3.1 THE PROBLEM

What determines the severity of the sentences meted out by judges to convicted offenders? How consistent are different judges attached to the same court in sentencing offenders whose crimes and past records in crime are similar? Prior investigations of these questions have presented a picture of sentencing process that is highly incongruent with the legalistic conception of the law as a rational science They convey the notion that the deliberations of the sentencing judge are unduly influenced by his prejudices against certain classes of persons or by personality factors stemming from his social origins and life experience. None of them, however, has undertaken a systemic study of the sentencing process as a whole. Their investigations centre primarily upon the influence of psychologic and sociologic factors on sentencing while judicial factors are neglected. Thus in comparing different categories of offenders with respect to the gravity of the penalties received, they do not give due consideration to possible differences among them in the legal make-up of the cases. The controls which are imposed for variations in the gravity of the offenses or in the recidivism of the convicted offenders are conjectural and lack precision and completeness. The research summarized in this article has sought to present a more balanced outline of the sentencing process by investigating the criteria of sentencing more comprehensively than hitherto has been done.

3.2 THE METHOD

Legal Factors

The crime, the number of bills of indictment on which the offender is convicted, and the prior criminal record.

Non-legal factors: Sex, age, race, and place of birth.

Factors in the Criminal Prosecution attorney, and the plea of the defendant.

The type of sentences in their severity are imprisonment, probation, fine, and suspended sentence. The measure of the severity of prison sentences adopted for

purposes of this study is the minimum term which, for reasons pertaining to procedures of release from prison, is a more realistic estimate of the actual weight of the sentence than the maximum term or some point between the two limits. Prison sentences are classified according to whether the minimum term is 12 months or more, 3-11½ months, or under 3 months. The first and second categories consist of commitments to the state penitentiary and to the county prison (or workhouse) respectively. Minimum terms of less then 3 months are generally fixed at the period of days spent in detention awaiting the completion of trial where-upon the defendant is released on a bench parole. Although prison sentences in form, they are equivalent to probation in substance; hence they are combined with probation, fines, and suspensions into the category of “non-imprisonment.”

3.3 THE FINDINGS

Legal factors

The Crime: The penal statutes which set the maximum permissible penalties for the various crimes provide an official measure of the relative gravity of the different kinds of offenses. The judges, however, apply this scale somewhat loosely. As the accompanying table shows, there are many discrepancies between the statutory ranks of the various crimes and the ranks upon the proportion of penitentiary sentences imposed for each type of crime. Burglary and statutory rape, for example, rank higher according to statute but lower in the severity of the sentences imposed than narcotics violations or felonious assault. In other instances, crimes of the same statutory rank receive widely dissimilar sentences. This observation raises the question: What are the standards by which the judges rank the gravity of the various crimes and which prevail over the statutory scale of crimes? An analysis of the data on the distribution of sentences for the various types of crimes indicates that they consist of three variables, each an aspect of the offender-victim relationship, described as follows:

The specificity of the Victim: Of broadest range, taking in the entire continuum of crimes, is whether the victim of an offence is diffuse (the public) or specific (a person

or business). Crimes against the public which do not involve a specific victim, such as the liquor and gambling violations, receive the lowest penalties of all. those which entail a potential physical threat to a possible victim, carrying concealed deadly weapons and drunken driving, receive the next higher penalties.

Personal Contact Between the Offender and the Victim: Where the victim is specific but the element of personal contact is not germane to the definition of the crime, as in property crimes of misdemeanor grade and felonious crimes against personal property (except fraud), the penalties are less severe than where personal contact is implicit in the definition of the crime. Where personal contact is lacking but is a potentiality inherent in the nature of the criminal act, as in burglary (the illegal entry of a premises with the intent to commit a felony, the sentences are heavier. Fraud and statutory rape, crimes which involve personal contact between the offender and the victim, are more stringently punished than any of the preceding ones.

Bodily Harm: Among crimes involving personal contact between the offender and his victim, those including the element of bodily harm receive higher penalties than those lacking it. The least severely punished of these is narcotic drug violations wherein bodily injury is presumed to be a by-product of the criminal act rather than an intended result. Ranking next higher is robbery, in which the element of bodily harm enters the offender's designs but is secondary to the intent to deprive the victim of his property. The sentences for felonious crimes against the person wherein the essence of the offense is menace or violence directed at the victims, are higher yet. An finally, the degree of bodily harm intended and the degree inflicted are important criteria as revealed by the differences between felonious assault and homicide in the proportion of penitentiary sentences dealt out. (See Table below)

The deprivation of these standards for weighting the gravity of the various crimes is implicit in the data of the Table. Within the separate categories of felonies and misdemeanors, the offenders-victim relationship in each type of crime receiving a higher proportion of penitentiary sentences than another entails a greater degree of

personalization which follows a gradient of the extent to which the element of bodily injury enters into the definition of the crime. Thus is appears that the present-day administrators of the criminal law, compared to the legislators who framed the penal statutes, place a relatively higher premium on personality values than upon property values. This conclusion finds additional supports in the observation that in theft cases differences in the values of stolen property do not affect the severity of the sentences which the judges impose.

The Number of Bills of Indictment: This variable reflects the number of separate criminal acts for which a defendant is convicted in the same legal action. The data show that in each crime category, except felonious homicide, there is a marked association between the number of bills of indictment for which a verdict of guilty is found and the severity of the sentences. For the cases as a whole, defendants charged in one, two, three, and four or more bills of indictment receive penitentiary sentences in 15.2 percent, 27.1 percent, 40.4 percent and 57.8 percent of cases, respectively.

Percentage of Cases in Each Crime Category Receiving Penitentiary Sentences

Crime	Maximum Sentence (in year) According to Statute	Percentage of penitentiary Sentences
Felonies		
Homicide	12-Life	96.0
Felonies assault	5-10	58.5
Robbery	10-20	45.2
Narcotics	5 (for 1st offense)	39.9
Fraud	5	38.1
Statutory rape	15	35.6
Burglary	20	29.1
Personal property	5 (except forgery: 10)	19.4
Misdemeanors		
Person	2-3	16.7
Property	2-3	15.7

Public: drunken driving, carrying concealed weapons	1-3	7.5
Public: Other	1-3	3.1

The Prior Criminal Record: The criterion of recidivism showing the greatest association with variations in the severity of the sentences is the number of prior convictions of felonies; defendants with none, one, two, three, four or more of prior convictions of felonies receive penitentiary sentences in 14.4 percent, 27.0 percent, 33.9 percent, and 50.7 percent of cases, respectively. In cases involving prior convictions of felonies, prior convictions of crimes at the misdemeanors level have no effect upon the severity sentence. But in cases lacking prior felonies conviction, the number of prior conviction of misdemeanors resulting in penitentiary sentences significantly influences the severity of the sentences. In case involving no prior convictions of felonies and no prior convictions of misdemeanors resulting in penitentiary sentences, the number of prior convictions of misdemeanors disposed of by milder penalties becomes a significant criterion for sentencing. The number of arrests not resulting in convictions and the recency of the last prior convictions of a felony have no effects upon the sentences. In short, the judges tend to use the highest criterion in the prior criminal record which is applicable to a case, ignore those which are lesser or irrelevant.

Factors Affecting the Length of Penitentiary Sentences: Since the length of the minimum terms of penitentiary sentences ranges broadly from one year to life imprisonment, a separate analysis was made for this group of cases. The findings are briefly summarized as follows:

The rank order of gravity of the crimes according to the term of the minimum penitentiary sentences imposed is similar to the rank order based upon the severity of the sentences generally. A single exception is the reduction in the position of crimes of felonious assault from next to the highest crime of felony grade to next to the

lowest. This shift is most likely to be due to the relatively low statutory ceilings on the maximum terms of imprisonment for these offenses (5-10 years). The effect of the prior criminal record on the length of penitentiary sentences is negligible. This implies that, once the offenses achieve a high level of gravity, the condition of the offender is no longer concern of the sentencing judge. The number of bills of indictment in the accusation continues to exert a strong effect upon the severity of the sentences except within the categories of felonious assault and homicide. It is likely that the utter gravity of these offenses tends to overshadow the influence of other factors upon the judges deliberations.

3.3.2 Non-legal Factors

Sex: The female defendants receive significantly milder sentences than the men; but the women's offenses involve a smaller proportion of serious crimes.

Age: The cases are classified into three age groups: under 21, 21-29, and over 29. A preliminary analysis shows that the offenders in the under 21 category are favored with greater leniency than the older offenders. However, there are crucial differences among the three age groups in the variables that constitute the legal criteria for sentencing.

Race: The initial investigation of the differences in sentences according to race shows that the whites receive generally milder penalties than the Negroes. The greatest difference is in the proportion of probations, whites receiving this proportion in 20.1 per cent of cases, and Negroes in 12.8 per cent of cases. However, there are marked differences between the two groups in age distribution – a much larger proportion of the whites is in the younger age categories. Thus-recalling that younger offenders have lesser prior criminal records than older offenders – there is likely to be a higher proportion of recidivists among the negroes. Moreover, within each age category, there are marked differences between whites and Negroes in the proportions of the various types of crimes.

Place of Birth: The effect of nativity upon variation in the severity of sentences is explored by comparing the sentences of Negroes born in the northern sates with the sentences of those who have migrated from the South. The differences obtained are too slight to be of any consequence.

3.3.3 Factors in the Criminal Prosecution: The judge. The effect of the "personal equation" on the dispensation of criminal justice is investigated by determining the extent to which the judges differ among themselves in sentencing cases of similar gravity. The gravity of the cases is controlled by assigning to each case a score based upon the observed relationship between each of the legal criteria for sentencing and the severity of the sentences – the higher the score, the more serious the case. The sentencing records of the eighteen judges are compared within three categories of cases: high-score cases, intermediate-score cases, and low-score cases.

The results yielded by the procedure described above show that the cases at each level of gravity there are statistically significant differences among the judges in the severity of the sentences imposed. However, the degree of disparity is not uniform at all levels of cases. In the category of low-score cases, two groups of judges emerge: six impose sentences of "non-imprisonment" in no more than half of their respective cases, and twelve impose such sentences in more than half of their respective cases. In the cases of intermediate gravity, three groups of judges take form. One group of three judges metes out penitentiary sentences in the range of 0.0 per cent to 11.8 per cent; the range for the second group of eight judges is 18.4 per cent to 34.2 per cent, and for a third group of six judges, it is 38.0 per cent to 57.1 per cent. Within the high-score cases, the major division occurs between the fourteen judges who sentence over half of their respective cases to penitentiary terms and the four who impose such sentences in less than half of their cases. Within each of the subgroups in the three score categories, there are no statistically significant differences among the judges in sentencing.

The Prosecuting Attorney: In view of the importance attached to the role of the prosecuting attorney in the American legal system, it is reasonable to suppose that a judge's sentences may vary according to differences among district attorneys in the quality or vigor of their presentations. A statistical test of this hypothesis is made by analyzing the dispositions of each of seven judges. In all instances the differences in the prosecuting attorneys have a negligible effect.

The Plea: The belief is prevalent that offenders who plead guilty and thereby save the state the expense of lengthy trial, receive lighter sentences than those who plead not guilty and are subsequently convicted. Surprisingly, the data offer no evidence that differences in plea affect the severity of the sentences. Only in cases of convictions of crimes against personal property, which are commonly accompanied by offers to make restitution, is it clear that the defendants accrue any benefit by a plea of guilty.

SELF ASSESSMENT EXERCISE

What do you understand by sentencing practices?

4.0 CONCLUSION

The results of the investigation of the influence of legal and non-legal factors upon variations in the severity of the sentences offer the reassurance that the deliberations of the sentencing judges are not at the mercy of passions and prejudices but rather mirror the operation of rational processes. The criteria for sentencing recognized in the law, the nature of the offense and the offender's prior criminal record, make a decisive contribution to the determination of the weight of the penalties; and in applying these criteria, the judges display a sensibility for the relative importance of each. The marked variations in sentences according to sex, age, and race are due to differences in criminal behavior patterns associated with these bio-social variables, not to hidden prejudice.

5.0 SUMMARY

In this unit, you have learned the reasons why judges apply different sentencing to offender that have similar crime and criminal background. You have been exposed to the psychologic, sociologic and legal factors that influence the gravity of sentencing.

6.0 TUTOR MARKED ASSIGNMENTS

Discuss the legal and non-legal factors that influence the sentencing of convicted offenders.

7.0 REFERENCES/FURTHER READING

Bohn, R. M. and Haley, K. N (2002) Introduction to criminal justice, 3rd edition, McGraw Hill

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UNIT 2: THE INMATES SOCIAL CODE AND ITS FUNCTIONS

CONTENTS

1.0 Introduction
2.0 Objectives
3.0 Main Contents
3.1 Highlight on the Issues
4.0 Conclusion
5.0 Summary
6.0 Tutor Marked Assignments
7.0 References/Further Reading

1.0 INTRODUCTION

In this unit you will be exposed to the inmates social code and its functions. The inmate world is characterize with prevailing values and norms which guide their behavior while in prisons. This unit will take you into an excursion of the inmate social world.

2.0 OBJECTIVES

At the end of this unit the students should be able to:

- Understand the pervasive value system that characterize the inmate social world.
- Understand why such values and norms are held by the inmates.
- Know the inmate relationship with its fellow inmate.
- Know the inmate relationship with the correction officials.

3.0 MAIN CONTENTS

3.1 HIGHLIGHT ON THE ISSUES

Despite the number and diversity of prison population observers of such groups have reported only one strikingly pervasive value system. This value system of prisoners

commonly takes the form of an explicit code, in which brief normative imperatives are held forth as guides for the behaviors of the inmate in his relations with fellow prisoners and custodians. The maxims are usually asserted with great vehemence by the inmates population, and violations call forth a diversity of sanctions ranging from ostracism to physical violence.

Examination of many descriptions of prison life suggests that the chief tenets of the inmate code can be classified roughly into five major groups:

(1) There are those maxims that caution: Don't interfere with inmate interests, which center of course in serving the least possible time and enjoying the greatest possible number of pleasures and privileges while in prison. The most inflexible directive in this category is concerned with betrayal of a fellow captive to the institutional officials: Never rat on a con. In general, no qualification or mitigating circumstance is recognize; and no grievance against another inmates – even thought it is justified in the eyes of the inmate population – is to be taken to officials for settlement. Other specifics include: Don't be nosy; don't have a loose lip, keep off a man's back; don't put a guy on the spot. In brief and positively put: Be loyal to your class – the cons. Prisoners must present a unified front against their guards no matter how much this may cost in terms of personal sacrifice.

(2) There are explicit injunctions to refrain from quarrels or arguments with fellow prisoners: Don't lose your head. Emphasis is placed on the curtailment of effect; emotional frictions are to be minimized and the irritants of daily life ignored. Maxims often heard include: Play it cool and do your own time. As we shall see, there are impotent distinctions in this category, depending on whether the prisoner has been subjected to legitimate provocation; but in general a definite value is placed on curbing feuds and grudges.

(3) Prisoners assert that inmates should not take advantage of one another by means of force, fraud, or chicanery: don't exploit inmates. This sum up several directives: Don't break your word; don't steal from the cons; don't sell favors; don't be a racketeer; don't welsh on debts. More positively, it is argued that inmates should

share scares goods in a balanced reciprocity of “gifts” of “favors” rather than sell to the highest bidder or selfishly monopolize any amenities: Be rights.

(4) There are rules that serve as their central theme the maintenance of self: Don’t weaken. Dignity and the ability to withstand frustration or threatening situations without complaining or resorting to subservience are widely acclaimed. The prisoner should be able to “take it” and to maintain his integrity in the face of privation. When confronted with wrongfully aggressive behaviors whether of inmates or officials, the prisoner should show courage. Although starring a fight runs counter to the inmate code, retreating from a fight started by someone else is equally reprehensible. Some of these maxims are: Don’t whine; don’t cop out (cry guilty); don’t suck around. Prescriptively put: Be tough; be a man.

(5) Prisoners express a variety of maxims that forbid according to prestige or respect to the custodians or the world for which they stand: Don’t be a sucker. Guards are backs or screws and are to be treated with constant suspicion and distrust. In any situation of conflict between officials and prisoners, the former are automatically to be considered in the wrong. furthermore, inmate should not allow themselves to become committed to the values of hard work and submission to duly constituted authority-values prescribed (if not followed) by screws-for thus an inmate would become a sucker in a world where the law-abiding are usually hypocrites and the true path to success lies in forming a “connection.” The positive maxim is: Be sharp.

The isolation of the prisoner from the free community means that he has been rejected by society. His rejection is underscored in some prisons by his shaven head; in almost all, by his uniform and the degradation of no longer having a name but a number. The prisoner is confronted daily with the fact that he has been stripped of his membership in society at large, and now stands condemned as an outcast, an outlaw, a deviant so dangerous that he must be kept behind closely guarded walls and watched both day and night. He has lost the privilege of being trusted and his every act is viewed with suspicion by the guards, the surrogates of the conforming social order. Constantly aware of lawful society’s disapproval, his picture of himself challenged by frequent reminders of his moral unworthiness, the inmate must find some way to ward off these attacks and avoid their introjections.

In addition, it should be remembered that the offender has been drawn from a society in which personal possessions and material achievement are closely linked with concepts of personal worth by numerous cultural definitions. In the prison, however, the inmate finds himself reduced to a level of living near bare subsistence, and whatever physical discomforts this deprivation may entail, it apparently has deeper psychological significance as a basic attack on the prisoner's conception of his own personal adequacy.

No less important, perhaps, is the ego threat that is created by the deprivation of hetero-sexual relationships. In the tense atmosphere of the prison, with its perversions and constant references to the problems of sexual frustration, even those inmates who do not engage in overt homosexuality suffer acute attacks of anxiety about their own masculinity. These anxieties may arise from a prisoner's unconscious fear of latent homosexual tendencies in himself, which might be activated by his prolonged heterosexual deprivation and the importunity of others; or at a more conscious level he may feel that his masculinity is threatened because he can see himself as a man – in the full sense – only in a world that also contains women. In either case the inmate is confronted with the fact that the celibacy imposed on him by society means more than simple physiological frustration: an essential component of his self-conception, his status as male, is called into question.

Rejected, impoverished, and figuratively castrated, the prisoner must face still further indignity in the extensive social control exercised by the custodians. The many details of the inmate's life, ranging from the hours of sleeping to the route to work and the job itself, are subject to a vast number of regulations made by prison officials. The inmate is stripped of his autonomy; hence , to other pains of imprisonment we must add the pressure to define himself as week, helpless, and dependent. Individuals under guard are exposed to the bitter ego threat of losing their identification with the normal adult role.

The remaining significant feature of the inmate's social environment is the presence of other imprisoned criminals. Murderers, rapists, thieves, confidence men, and sexual deviants are the inmate's constant companions, and this enforced intimacy may prove to be disquieting even for the hardened recidivist. As an inmate has said, "the worst thing about prison is you have to live with other prisoners." Crowded into a small area with men who have long records of physical assaults, thievery, and so on (and who may be expected to continue in the path of deviant social behavior in the future), the inmate is deprived of the sense of security that we more or less take off for granted in the free community. Although the anxieties created by such a situation do not necessarily involve an attack on the individual's sense of personal worth – as we are using the concept – the problems of self-protection in a society composed exclusively of criminals constitute one of the inadvertent rigors of confinement.

In short, imprisonment "punishes" the offender in a variety of ways extending far beyond the simple fact of incarceration. However just or necessary such punishments may be, their importance for our present analysis lies in the fact that they form a set of harsh social conditions to which the population of prisoners must respond or adapt itself. The inmate feels that the deprivations and frustrations of prison life, with their implications for the destruction of his self-esteem, somehow must be alleviated. It is, we suggest, as an answer to this need that the functional significance of the inmate code or system of values exhibited so frequently by men in prison can best be understood.

As we have pointed out, the dominant theme of the inmate code is group cohesion, with a "war of all against all" – in which each man seeks his own gain without considering the rights or claims of others-as the theoretical antipode. But if a war of all against all is likely to make life "solitary, poor, nasty, brutish, and short" for men with freedom, as Hobbes suggested, it is doubly so for men in custody. Even those who are most successful in exploiting their fellow prisoners will find it a dangerous and nerve-wracking game, for they cannot escape the company of their victims. No man can assure the safety of either his person or his possessions, and eventually the winner is certain to lose to a more skillful exploiter. Furthermore, the victims hold the

trump card, since a word to the officials is frequently all that is required to ruin the most dominating figure in the inmate population. A large share of the “extra” goods that enter the inmate social system must do so as the result of illicit conniving against the officials which often requires lengthy and extensive cooperation and trust; in a state of complete conflict the resources of the system will be diminished. Mutual abhorrence or indifference will feed the emotional frictions arising from interaction under compression. And as rejection by others is a fundamental problem, a state of mutual alienation is worse than useless as a solution to the threats created by the inmate’s status as an outcast.

As a population of prisoners moves toward a state of mutual antagonism, then, the many problems of prison life becomes more acute. On the other hand, as a population of prisoners moves in the direction of solidarity, as demanded by the inmate code, the pains of imprisonment become less sever. They cannot be eliminated, it is true, but their consequences at least can be partially neutralized. A cohesive inmate society provides the prisoner with a meaningful social group with which he can identify himself and which will support him in his struggles against his condemners. Thus it permits him to escape at least in part the fearful isolation of the convicted offender. Inmate solidarity, in the form of toleration of the many irritants of life in confinement, helps to solve the problems of personal security posed by the involuntary intimacy of men noteworthy for their seriously antisocial behavior in the past.

SELF ASSESSMENT EXERCISE

Discuss the functions of inmates social code.

4.0 CONCLUSION

In this unit you have learned that the value system of prisoners commonly takes the form of an explicit code, in which brief normative imperatives are held forth as guides for the behaviors of inmate in his relations with fellow prisoners and custodians. This values and norms are set up to deal with the anxieties and frustration that pervade prison life.

5.0 SUMMARY

In this unit, we have advanced a step further in classifying the inmates social code into five major groups: This will be summarize as Don't interfere with inmate interest: Refrain from quarrel or arguments with fellow prisoners: Don't break your word or steal from an inmates: maintain your integrity in the face of privation. Don't put total trust on the guard. All these are cohesively put as the inmates social code.

6.0 TUTOR MARKED ASSIGNMENTS

The inmate's social code has been classified into five major group. Discuss.

7.0 REFERENCES/FURTHER READING

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UNIT 3: RESOCIALIZATION WITHIN WALLS

CONTENTS

1.0 Introduction
2.0 Objectives
3.0 Main Contents
    3.1 Overview
    3.2 Inmate Social System
    3.3 Characteristics of the System
    3.4 Possession of Power
    3.5 Evasion of Rules
4.0 Conclusion
5.0 Summary
6.0 Tutor Marked Assignments
7.0 References/Further Reading

1.0 INTRODUCTION

In this unit we will focus on the effect of the prison regime upon inmate behavior. The effect of group relations prisoners have had before commitment. The attitudes and values they bring with them as they enter prison. Also, the culture and structure of inmate society and re-socialization within the wall.

2.0 OBJECTIVES

At the end of this unit the students should be able to:

- Know the nature of prison social structures.
- Know the effect of prison regime upon inmate behavior.
- Know the potentialities for socialization of types of inmate population.
- Know the forms of treatment and types of institutional programmes to be applied.

3.0 MAIN CONTENTS

3.1 OVERVIEW

As the concept “socialization” implies group membership, so the derivative concept, “re-socialization,” implies changes in group memberships. Many findings in the social origins of individual’s behavior suggest that the problem of reshaping the antisocial attitudes and values of offenders is related to the possibility of altering the patterns of group membership which they bring with them into the prison. The question therefore arises, to what extent does the prison community provide opportunities for altering the socialization process which contributed to the criminal behavior of those incarcerated in it? A necessary starting point for this inquiry would appear to be an examination of the prison community as a functional social unit.

A prison is a physical structure in a geographical location where a number of people, living under highly specialized conditions, utilize the resources and adjust to the alternative presented to them by a unique kind of social environment. The people creating and enmeshed in this environment include administrative, custodial, and professional employees, habitual petty thieves, one-time offenders, gangsters, professional racketeers, psychotics, pre-psychotics, neurotics, and psychopaths all living under extreme conditions of physical and psychological compression. The formal administrative structure of the prison may be comprehended in a brief glance at its Table of organization. This Table reveals a series of bureaucratically arranged positions with the warden at the top and formal flow of power downward from his position. A penetrating glance at the social structure of the prison reveals an ongoing complex of processes that can neither be described nor anticipated by a static enumeration of formal powers and functions. For interacting with this formal administrative structure – and in many ways independent of it – is another social structure, the inmate social system, which has evolved a complex of adaptational processes with which inmates attempts to cope with the major problems of institutional living.

3.2 INMATE SOCIAL SYSTEM

Observation suggests that the major problems with which the inmate social system attempts to cope center about the theme of social rejection. In many ways, the inmate social system may be viewed as providing a way of life which enables the inmate to avoid the devastating psychological effects of internalizing and converting social rejection into self-rejection. In either, it permits the inmate to reject his rejectors rather than himself. If it is valid to assume that the major adjustive function of the inmate social system is to protect its members from the effects of internalizing social rejection, then it would seem to follow that the usages of this system are most beneficial to those who have, in the process, become most independent of the larger society's values in their definitions and evaluations of themselves. We might also expect to find that those individuals whose self-evaluations are still relatively dependent on the values of the larger, non-criminal and whose supportive human relationships are still largely with its members would have the most difficulty in adjusting to a social system whose major values are based on the rejection of that larger society.

If these inferences are correct, we may only conclude that the inmate social system is most supportive and protective to those inmates who are most criminally acculturated – and conversely, most threatening and disruptive to those whose loyalties and personal identifications are still with the non-criminal world. Observation supports this conclusion. The non-acculturated offender is rejected not only by the society which defines him as a person, but he suffers the double jeopardy of rejection from the sub-society in which he is now forced to live. In effect, he is denied membership in both. The adaptive inmate, on the other hand, is not only protected from loss of the group membership which defined him as a person, but he is placed in an environment where that membership is assured and his personal adjustment consequently powerfully bolstered. Continued group acceptance of these individuals is based upon their adherence to inmate codes and values.

3.3 CHARACTERISTICS OF THE SYSTEM

The first and most obvious characteristic of the inmate social system is the absence of escape routes from it. The offender is not only incarcerated in a physical prison without exit; he is enmeshed in a human environment and a pattern of usages from which the only escape is psychological withdrawal. Another aspect of the inmate social system is its rigidly hierarchical character, in which vertical mobility, while possible, is highly difficult. The causes of this immobilizing rigidity are various.

The numbers of roles an individual may play are severely limited and, once assigned, are maintained – particularly at the lower status levels – with enormous group pressure. The degree to which the individual can partake in the selection of his role is similarly limited and conditional. From the moment the new inmate arrives from the court or the country jail, he is exposed to a series of very direct defining experiences. It is of interest to note that those inmates who participate in and administer these experiences are frequently those who recognize that the inmate is somewhat near their level, a perception which stimulates anxiety in them. For example, an obviously tough professional hoodlum will create no special problem to the majority of the lower status inmates who, responding to minimal clues, will either avoid him or immediately acknowledge his higher status. The arrival of this inmate, however, will pose a threat to the wing's chief "bad man," who will be expected to challenge the newcomer to a battle of mutual definitions.

3.4 POSSESSION OF POWER

The dominating value of the inmate social system seems to be the possession and exercise of coercive power. There are probably no relationship functions which have escaped the influence of this factor. Even usages of mutual aid have been contaminated and made subservient to it. To illustrate: one way to proclaim possessive rights over another inmate is help him in some way, usually by material aid. New inmates, unaware of the subversive motivations behind these services, are quickly apprised of their coercive character. Once an inmate has accepted any material symbol of service it is understood that the donor of these gifts has thereby established personal rights over the receiver

3.5 EVASION OF RULES

Like every other social organization, the inmates system provides not only rules and sanctions for their violation but also methods for evading those rules and escaping the sanctions. The disruptive forces inherent in the basic personal value (personal domination through the exertion of coercive power) have generated techniques for the violation of the most fundamental ordinances in support of group unity. The power of these disruptive forces is indicated by the fact that even the most sacred rule of the inmate code, the law against squealing, is daily violated and evaded with impunity. Contrary to the propaganda generated by the more solemn of the inmate clergy in defense of their code, informers and betrayers require little or no seduction by prison officials. Actually the main administrative problem presented by informers is not gaining them but avoiding them, since they come as volunteers from all levels of the inmate hierarchy.

SELF ASSESSMENT EXERCISE

Discuss the inmates social system.

4.0 CONCLUSION

Students who have gone through this unit should be able to understand the concepts socialization and re-socialization knowing fully that a person before he becomes a prisoner must have belong to different group which definitely shaped their behavior. Knowledge of the peer-group origins of a vast amount of our criminal patterns on the outside has strongly suggested constructive use of natural or planned inmate subgroups for the purpose of socialization. Finally, we must not fail to note that a program of socialization ideally begins in childhood and continues all along the line to the final effort to fit the ex-prisoner into the life of the community into which he is released. It is appropriate to stress the institutional level of the program, however, because inmates at least may be more fully controlled on the inside than for example when on parole on the outside.

5.0 SUMMARY

We have been able to discuss on how the prison inmates are made to alter the socialization which they received outside through re-socialization. The prison can only achieved this change in value through the utilization of group therapy, treatment and institutional program.

6.0 TUTOR MARKED ASSIGNMENTS

Discuss how the prison help in re-socializing the inmates.

7.0 REFERENCES/FURTHER READING

Bohn, R. M. and Haley, K. N (2002) Introduction to Criminal Justice, 3rd edition, McGraw Hill

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UNIT 4: THE PAIN OF IMPRISONMENT

CONTENTS

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2.0 Objectives
3.0 Main Contents
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    3.2 Deprivation of Good and Services
    3.3 Deprivation of Heterosexual Relationship
    3.4 Deprivation of Autonomy
    3.5 Deprivation of Security
4.0 Conclusion
5.0 Summary
6.0 Tutor Marked Assignments
7.0 References/Further Reading

1.0 INTRODUCTION

The unit examines the pain of imprisonment. This entails the various deprivation suffered by the prison inmates.

2.0 OBJECTIVES

At the end of this unit the students should be able to:

- Know the various deprivations the imprisonment entails.
- Appreciate a crime free life and more inclined to obeying the law.
- Know how this deprivation affects the inmates on discharged from prison.

3.0 MAIN CONTENTS

3.1 THE DEPRIVATION OF LIBERTY

Of all the painful conditions imposed on the inmates of the prison, none is more immediately obvious than the loss of liberty. The prisoner must live in a world shrunk to thirteen and a half acres and within this restricted area his freedom of movement is

further confined by a strict system of passes, the military formations in moving from one point within the institution to another, and the demand that the remain in his cell until given permission to do otherwise. In short, the prisoner's loss of liberty is a double one – first, by confinement to the institution and second, by confinement within the institution.

The mere fact that the individual's movements are restricted, however, is far less serious than the inmate is cut off from family, relatives, and friends, not in the self-isolation of the hermit or the misanthrope, but in the involuntary seclusion of the outlaw.

3.2 THE DEPRIVATION OF GOODS AND SERVICES

There are admittedly many problems in attempting to compare the standard of living existing in the free community and the standard of living which is supposed to be the lot of the inmate in prison. How, for example, do we interpret the fact that a covering for the floor of a cell usually consists of a scrap from a discarded blanket and that even this possession is forbidden by the prison authorities? What meaning do we attach to the fact that no inmate owns a common piece of furniture, such as a chair, but only a homemade stool? What is the value of a suit of clothing which is also a convict's uniform with a stripe and a stenciled number? The answers are far from simple although there are a number of prison officials who will argue that some inmates are better off in prison, in strictly material terms, than they could ever hope to be in the rough-and-tumble economic life of the free community. Possibly this is so, but at least it has never been claimed by the inmates that the goods and services provided the prisoner are equal to or better than the goods and services which the prisoner could obtain if he were left to his own devices outside the walls. The average inmate finds himself in a harshly Spartan environment which he defines as painfully depriving.

3.3 THE DEPRIVATION OF HETEROSEXUAL RELATIONSHIPS

The inmate of the prison does not enjoy the privilege of so-called conjugal visits. And in those brief times when the prisoner is allowed to see his wife, mistress, or female friends," the woman must sit on one side of a plate glass window and the prisoner on the other, communicating by means of a phone under the scrutiny of a guard. If the inmate, then, is rejected and impoverished by the facts of his imprisonment, he is also figuratively castrated by his involuntary celibacy. It is clear that the lack of heterosexual intercourse is a frustrating experience for the imprisoned criminal and that it is frustration which weighs heavily and painfully on his mind during his prolonged confinement. There are, of course, some "habitual" homosexuals in the prison – men who were homosexuals before their arrival and who continue their particular form of deviant behavior within the all-male society of the custodial institution. For these inmates, perhaps, the deprivation of heterosexual intercourse cannot be counted as one of the pains of imprisonment. They are few in number, however, and are only too apt to be victimized or raped by aggressive prisoners who have turned to homosexuality as a temporary means of relieving their frustration.

In addition to these problems stemming from sexual frustration per se, the deprivation of heterosexual relationships carries with it another threat to the prisoner's image of himself – more diffuse, perhaps, and more difficult to state precisely and yet no less disturbing. The inmate is shut off from the world of women which by its very polarity gives the male world much of its meaning. Like most men, the inmate must search for his identity not simply within himself but also in the picture of himself which he finds reflected in the eyes of others; and since a significant half of his audience is denied him, the inmate's self image is in danger of becoming half complete, fractured, a monochrome without the hues of reality. The prisoner's looking-glass self, in short – to use Cooley's fine phrase – is only that portion of the prisoner's personality and this partial identity is made hazy by the lack of contrast.

3.4 THE DEPRIVATION OF AUTONOMY

We have noted before that the inmate suffers from what we have called a loss of autonomy in that he is subjected to a vast body of rules and commands which are

designed to control his behavior in minute detail. To the casual observer, however, it might seem that the many areas of life in which self-determination is withheld, such as the language used in a letter, the hours of sleeping and eating, or the route to work, are relatively unimportant. Perhaps it might be argued, as in the case of materials deprivation, that the inmate in prisons is not much worse off than the individual in the free community who is regulated in a great many aspects of his life by the iron fist of custom. It could even be argued, as some writers have done, that for a number of imprisoned criminals the extensive control of the custodians provides a welcome escape from freedom and that the prison officials thus supply an external Super-Ego which serves to reduce the anxieties arising from an awareness of deviant impulses. But from the viewpoint of the inmate population, it is precisely the triviality of much of the official's control which often proves to be most galling. Regulation by a bureaucratic staff is felt far differently than regulation by custom. And even though a few prisoners do welcome the strict regime of the custodians as a means of checking their own aberrant behavior which they would like to curb but cannot, most prisoners look on the matter in a different light. Most prisoners, in fact, express an intense hostility against their far-reaching dependence on the decisions of their captors and the restricted ability to make choices must be included among the pains of imprisonment along with restrictions of physical liberty, the possession of goods and services, and heterosexual relationships.

3.5 THE DEPRIVATION OF SECURITY

However strange it may appear that society has chosen to reduce the criminality of the offender by forcing him to associate with more than a thousand other criminals for years on end, there is one meaning of this involuntary union which is obvious – the individual prisoner is thrown into prolonged intimacy with other men who in many cases have a long history of violent, aggressive behavior. It is a situation which can prove to be anxiety-provoking even for the hardened recidivist.

The fact that the imprisoned criminal sometimes views his fellow prisoners as "vicious" or "dangerous" may seem a trifle unreasonable. Other inmates, after all, are

men like himself, bearing the legal stigma of conviction. But even if the individual prisoner believes that he himself is not the sort of person who is likely to attack or exploit weaker and less resourceful fellow captives, he is apt to view others with more suspicion. And if he himself is prepared to commit crimes while in prison, he is likely to feel that many others will be at least equally ready.

While it is true that every prisoner does not live in the constant fear of being robbed or beaten, the constant companionship of thieves, rapists, murderers, and aggressive homosexuals is far from reassuring.

An important aspect of this disturbingly problematical world is the fact that the inmate is acutely aware that sooner or later he will be "tested" that someone will "push" him to see how far they go and that he must be prepared to fight for the safety of his person and his possessions. If he should fail, he will thereafter be an object of contempt, constantly in danger of being attacked by other inmates who view him as an obvious victim, as a man who cannot or will not defend his rights. And yet if he succeeds, he may well becomes a target for the prisoner who wishes to prove himself, who seeks to enhance his own prestige by defeating the man with a reputation for toughness. Thus both success and failure in defending one's self against the aggressions of fellow captives may serve to provoke fresh attacks and no man stands assured of the future.

The prisoner's loss of security arouses acute anxiety, in short, not just because violent acts of aggression and exploitation occur but also because behavior constantly calls into question the individual's ability to cope with it, in terms of his own inner resources, his courage, his "nerve." Can he stand up and take it? Will it prove to be tough enough? These uncertainties constitute an ego threat for the individual forced to live in prolonged intimacy with criminals, regardless of the nature or extent of his own criminality.

SELF ASSESSMENT EXERCISE

Discuss how the pain suffered by prison inmates could be mitigated.

4.0 CONCLUSION

From this unit, students of criminology should have a broader knowledge of the pain embedded in Institutional custody. With this knowledge the students might suggest a more acceptable form of punishment like the Deinstitutionalization of sentences. This will go a long way to improve on Criminal Justice System

5.0 SUMMARY

We have been able to discuss the various pain of imprisonment, ranging from (a) The deprivation of liberty (b) The deprivation of goods and services (c) The deprivation of Heterosexual relationships (d) The deprivation of autonomy and finally (e) The deprivation of security.

6.0 TUTOR MARKED ASSIGNMENTS

Discuss the various deprivation suffered by the prison inmate.

7.0 REFERENCES/FURTHER READING

Bohn, R. M. and Haley, K. N (2002) Introduction to Criminal Justice, 3rd edition, McGraw Hill

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UNIT 5: PRISONIZATION

CONTENTS

1.0 Introduction
2.0 Objectives
3.0 Main Contents
3.1 Highlight of the Issues
4.0 Conclusion
5.0 Summary
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1.0 INTRODUCTION

In this unit we shall examine the concept of prisonization which according to Donald Clemmer (1950) is the taking on in greater or less degree of the folkways, moves, customs and general culture of the penitentiary. We shall also examine the phases of prisonization and factors that influences it.

2.0 OBJECTIVES

At the end of this unit the students should be able to:

- Know the meaning of prisonization.
- Know the various phases of prisonization.
- Know the factors that influence prisonization.
- Know the effects of Prisonization to the incarcerated individual.

3.0 MAIN CONTENTS

3.1 HIGHLIGHT OF THE ISSUES

When a person or group of ingress penetrates and fuses with another group, assimilation may be said to have taken place. The concept is most profitably applied to immigrant groups and perhaps it is not the best term by which to designate similar processes which occur in prison. Assimilation implies that a process of acculturation

occurs in one group whose members originally were quite different from those of the group with whom they mix. It implies that the assimilated come to share the sentiments, memories, and traditions of the static group. It is evident that the men who come to prison are not greatly different from the ones already there so far as broad culture influences are concerned: All speak the same language, all have a similar national heritage, all have been stigmatized, and so on. While the differences of regional conditioning are not to be overlooked, it is doubtful if the interactions which lead the professional offender to have a "we-feeling" with the naïve offender from Coalville can be referred to as assimilation – although the processes furnishing the development of such an understanding are similar to it. The term assimilation describes a slow, gradual, more or less unconscious process during which a person learns enough of the culture of a social unit into which he is placed to make him characteristic of it. While we shall continue to use this general meaning, we recognize that in the strictest sense assimilation is not the correct term. So as we use the term Americanization to describe a greater or less degree of the immigrant's integration into the American scheme of life, we may use the term prisonization to indicate the taking on in greater or less degree of the folkways, mores, customs, and general culture of the penitentiary. Prisonization is similar to assimilation, and its meaning will be come clearer as we proceed.

Every man who enters the penitentiary undergoes prisonization to some extent. The first and most obvious integrative step concerns his status. He becomes at once an anonymous figure in a subordinate group. A number replaces a name. He wears the clothes of the other members of the subordinate group. He is questioned and admonished. He soon learns the warden is all-powerful. He soon learns the ranks, titles, and authority of various officials. And whether he uses the prison slang and argot or not, he comes to know its meanings. Even though a new man may hold himself aloof from other inmates and remain a solitary figure, he finds himself within a few months referring to or thinking of keepers as "screws," the physician as the" croaker" and using the local nicknames to designate persons. He follows the examples

already set in wearing his cap. He learns to eat in haste and in obtaining food he imitates the tricks of those near him.

After the new arrival recovers from the effects of the swallowing-up process, he assigned a new meaning to conditions he had previously taken for granted. The fact that food, shelter, clothing, and a work activity had been given him originally made no especially impression. It is only after some weeks or months that there comes to him a new interpretation of these necessities of life. This new conception results from mingling with other men and it places emphasis on the fact that the environment should administer to him. This point is intangible and difficult to describe in so far as it is only a subtle and minute change in attitude from the taken-for-granted perception. Exhaustive questioning of hundreds of men reveals that this slight change in attitude is a fundamental step in the process we are calling prisonization. Supplemental to it is the almost universal desire on the part of the man, after a period of some months, to get a good job so, as he says, “I can do my time without any trouble and get out of here.” A good job usually means a comfortable job of a more or less isolated kind in which conflicts with other men are not likely to develop. The desire for a comfortable job is not peculiar to the prison community, to be sure, but it seems to be a phase of prisonization in the following way. When men have served time before entering the penitentiary they look the situation over and almost immediately express a desire for a certain kind of work. When strictly first offenders come to prison, however, they seldom express a desire for a particular kind of work, but are willing to do anything and frequently say, “I’ll do any kind of work they put me at and you won’t have any trouble from me.” Within a period of a few months, however, these same men, who had no choice of work, develop preference and make their desires known. They “wise up,” as the inmates say, or in other words, by association they become prisonized.

In various other ways men new to prison slip into the existing patterns. They learn to gamble or learn new ways to gamble. Some, for the first time in their lives, take to abnormal sex behavior. Many of them learn to distrust and hate the officers, the parole board, and sometimes each other, and they become acquainted with the dogmas and

mores existing in the community. But these changes do not occur in every man. However, every man is subject to certain influences which we may call the universal factors of prisonization.

Acceptance of an inferior role, accumulation of facts concerning the organization of the prison, the development of somewhat new habits of eating, dressing, working, sleeping, the adoption of local language, the recognition that nothing is owed to the environment for supplying of needs, and the eventual desire for a good job are aspects of prisonization which are operative for all inmates. It is not these aspect, however, which concern us most but they are important because of their universality, especially among men who have served many years. That is, even if no other factor of the prison culture touches the personality of an inmate of many years residence, the influences of these universal factors are sufficient to make a man characteristic of the penal community and probably so disrupt his personality that a happy adjustment in any community becomes next to impossible. On the other hand, if inmates who are incarcerated for only short periods, such as a year or so, do not become integrated into the culture except in so far as these universal factors of prisonization are concerned, they do not seem to be so characteristic of the penal community and are able when released to take up a new mode of life without much difficulty.

The phases of prisonization which concern us most are the influences which breed or deepen criminality and anti-sociality and make the inmate characteristic of the criminalistic ideology in the prison community. As it has been said, every man feels the influences of what we have called the universal factors, but not every man becomes prisonized in and by other phases of the culture. Whether or not complete prisonization takes place depends first on the man himself, that is, his susceptibility to a culture which depends, we think, primarily on the type of relationships he had before imprisonment, i.e, his personality. A second determinant affecting complete prisonization refers to the kind and extent of relationships which an inmate has with persons outside the walls. A third determinant refers to whether or not a man becomes affiliated in prison primary or semi-primary groups and this is related to the two points

already mentioned. Yet a fourth determinant depends simply on chance, a chance placement in work gang, cell house, and with cellmate. A fifth determinant pertains to whether or not a man accepts the dogmas or codes of the prison culture. Other determinants depend on age, criminality, nationality, race, regional conditioning, and every determinant is more or less interrelated with every other one.

With knowledge of these determinants we can hypothetically construct schemata of prisonization which may serve to illustrate its extremes. In the least or lowest degree of prisonization the following factors may be enumerated:

1. A short sentence, thus a brief subjection to the universal factors of prisonization.
2. A fairly stable personality made stable by an adequacy of positive and “socialized” relationships during pre-penal life.
3. The continuance of positive relationship with persons outside the walls.
4. Refusal or inability to integrate into a prison primary group or semi-primary group, while yet maintaining a symbiotic balance in relations with other men.
5. Refusal to accept blindly the dogmas and codes of the population and willingness, under certain situations, to aid officials, thus making for identification with the free community.
6. A chance placement with a cellmate and workmates who do not posse leadership qualities and who are also not completely integrated into the prison culture.
7. Refraining from abnormal sex behavior, and excessive gambling, and a ready willingness to engage seriously in work and re-creative activities.

Other factors no doubt have an influencing force in obstructing the process of prisonization, but the seven points mentioned seem outstanding.

In the highest or greatest degree of prisonization the following factors may be enumerated:

1. A sentence of many years, thus a long subjection to the universal factors of prisonization.
2. A somewhat unstable personality made unstable by an inadequacy of "socialized" relations before commitment, but possessing, none the less, a capacity for strong convictions and a particular kind of loyalty.
3. A dearth of positive relations with persons outside the walls.
4. A readiness and a capacity for integration into a prison-primary group.
5. A blind, or almost blind, acceptance of the dogmas and mores of the primary group and the general penal population.
6. A chance placement with other persons of a similar orientation.
7. A readiness to participate in gambling and abnormal sex behavior.

We can see in these two extremes the degrees with which the prisonization process operates. No suggestion is intended that a high correlation exist between either extreme of prisonization and criminality. It is quite possible that the inmate who fails to integrate in the prison culture may be and may continue to be much more criminalistic than the inmate who becomes completely prisonized. The trends are probably otherwise, however, as our study of group life suggests. To determine prisonization, every case must be appraised for itself. Of the two degrees presented in the schemes it is probable that more men approach the complete degree than the least degree of prisonization, but it is also probable that the majority of inmates become prisonized in some respects and not in others. It is the varying degrees of prisonization among the 2,300 men that contribute to the disassociation which is so common. The culture is made complex, not only by the constantly changing population, but by these differences in the tempo and degree of prisonization.

Assimilation, as the concept is customarily applied, is always a slow, gradual process, but prisonalization, as we use the term here is usually slow, but not necessarily so. The speed with which prisonization occurs depends on the personality of the man involved, his crime, age, home, neighborhood, intelligence, the situation into which he is placed in prison and other less obvious influences. The process does not

necessarily proceed in an orderly or measured fashion but tends to be irregular. In some cases we have found the process working in a cycle. The amount and speed of prisonization can be judged only by the behavior and attitudes of the men, and these vary from man to man and in the same man from time to time. It is the excessive number of changes in orientation which the men undergo which makes generalization about the process so difficult.

In the free communities where the daily life of the inhabitants Is not controlled in every detail, some authors have reported a natural gravitation to social levels. The matter of chance still remains a factor, of course, in open society but not nearly so much so as in the prison. For example, two associates in a particular crime may enter the prison at the same time. Let us say that their criminality, their intelligence, and their background are more or less the same. Each is interviewed by the deputy warden and assigned to a job. It so happens that a certain office is in need of a porter. Of the two associates the man whom the deputy warden happens to see first may be assigned to that job while the one he interviews last is assigned to the quarry. The inmate who becomes the office porter associates with but four or five other men, none of whom, let us suppose, are basically prisonized. The new porter adapts himself to them and takes up their interests. His speed of prisonization will be slow and he may never become completely integrated into the prison culture. His associate, on the other hand, works in the quarry and mingles with a hundred men. The odds are three to five that he will become integrated into a primary or semi-primary group. When he is admitted into the competitive and personal relationships of informal group life we can be sure that, in spite of some dissociation, he is becoming prisonized and will approach the complete degree.

Even if the two associates were assigned to the same work unit, differences in the tempo of prisonization might result if one, for example, worked shoulder to shoulder with a “complete solitary man,” or a “Hoosier.” whatever else may be said of the tempo of the process, it is always faster when the contacts are primary, providing the persons contacted in a primary way are themselves integrated beyond the minimal into

the prison culture. Other factors, of course, influence the speed of integration. The inmate whose wife divorces him may turn for response and recognition to his immediate associates. When the memories of pre-penal experience cease to be satisfying or practically useful, a barrier to prisonization has been removed.

Some men become prisonized to the highest degree, or to a degree approaching it, but then reject their entire orientation and show, neither by behavior nor attitudes, that the any sort of integration has taken place. They slip out of group life. They ignore the codes and dogmas and they fall into a reverie or stupor or become "solitary men." After some months or even years of playing this role they may again affiliate with a group and behave as other prisonized inmates do.

Determination of the degree of prisonization and the speed with which it occurs can be learned best through the study of specific cases. The innumerable variables and the methodological difficulties which arise in learning what particular stage of prisonization a man has reached, prohibit the use of quantitative methods. It would be a great help to penology and to parole boards in particular, if the student of prisons could say that inmate so-and-so was prisonized to $x^3 + 9y$ degrees, and such a degree was highly correlated with a specific type of criminality. The day will no doubt come when phenomena of this kind can be measured, but it is not yet here. For the present we must bend our efforts to system of actuarial prediction, and work for refinements in this line. Actuarial procedures do not ignore criteria of attitudes, but they make no effort as yet to conjure with such abstruse phenomena as prisonization. It is the contention of this writer that parole prediction methods which do not give as much study and attention to a man's role in the prison community as is given to his adjustment in the free community cannot be of much utility. Indeed, earnest belief in this idea has been a propelling force in preparing the present volume which, it is hoped, will bring some aspects of the prisoner's world into clearer relief.

SELF ASSESSMENT EXERCISE

Mention the phases of prisonization you know.

4.0 CONCLUSION

From this unit, you have learnt that prisonalization can breed or deepen criminality which means the inmates characteristic of the criminalistic ideology in the prison community. The prisoners always evolve some informal "subculture" which basic purpose is to cater, informally, for the "welfare" of the inmates. The various values and norms of the subculture are subversive of the prison authorities required behavior. Yet almost every new prisoner get "initiated" into the subculture on arrival and almost every prisoner who wants tolerable or bearable prison life subscribes to it. Thus, almost every prisoner by the time of release get "prisonalized" that is they internalized the deviant values of "successful" prison existence and survival. The consequence her again is further criminalization of the offender.

5.0 SUMMARY

We have been able to discuss what prisonalization is all about. We have also looked at factors that may influence prisonalization and the various phases of prisonalization. The consequent effects of prisonalization on the individual and the society was equally dwelt on.

6.0 TUTOR MARKED ASSIGNMENTS

Discuss the factors that will increase the rate of prisonalization.

7.0 REFERENCES/FURTHER READING

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MODULE 5

Unit 1 Standard Minimum Rules for the Treatment of Prisoners
Unit 2 Limitation of Treatment in Prisons
Unit 3 Classification as Part of Treatment in the prison System
Unit 4 Group Therapy with Offenders
Unit 5 Modification of the Criminal Value System

UNIT 1: STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS

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1.0 INTRODUCTION

The original idea for universal standards related to the treatment of prisoners was conceived by the International Penal and Penitentiary Commission, which prepared a set of rules endorsed by the League of Nations in 1934. The Commission was dissolved in 1951, when the United Nations assumed leadership for the promotion of international work in the Commission's field. Before transferring its responsibilities to the United Nations, however, the Commission revised the text of the rules, for submission to the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Geneva in 1955. The Congress unanimously adopted the new rules on 30 August, and recommended their approval by the Economic and Social Council.

After further discussion, the Council approved the Standard Minimum Rules for the Treatment of Prisoners (resolution 663 CI (XXIV) of 31 July 1957), as adopted by the First Congress. The Rules set out what is accepted to be good general principle and practice in the treatment of prisoners. They represent the minimum conditions which are accepted as suitable by the United Nations and, as such, are also intended to guard against mistreatment, particularly in connection with the enforcement of discipline and the use of instruments of restraint in penal institutions. The first part of this pamphlet contains the text of the Standard Minimum Rules.

2.0 OBJECTIVES

At the end of this unit the students should be able to:

- Know the idea and philosophy behind the standard minimum rules for the treatment of prisoners.
- Know the details of each of the provision.
- Appreciate rules that guide the handling and treatment of prisoners.
- Know how prison administration has been able to implement this provision.

3.0 MAIN CONTENTS

3.1 REGISTER

(1) In every place where persons are imprisoned there shall be kept a bound registration book with numbered pages which shall be entered in respect of each prisoner received:

(a) Information concerning his identity;

(b) The reasons for his commitment and the authority therefore;

(c) The day and hour of his admission and release.

(2) No person shall be received in an institution without a valid commitment order of which the details shall have previously entered in the register.

3.2 SEPARATION OF CATEGORIES

The different categories of prisoners shall be kept in separate institutions or parts of institutions taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment. Thus,

(a) Men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women the whole of the premises allocated to women shall be entirely separate;

(b) Untried prisoners shall be kept separate from convicted prisoners;

(c) Persons imprisoned for debt and other civil prisoners shall be kept separate from persons imprisoned by reason of criminal offence;

(d) Young prisoners shall be kept separate from adults.

3.3 ACCOMMODATION

(1) Where sleeping accommodation is in individual cells of rooms, each prisoner shall occupy by night a cell or room by himself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room.

(2) Where dormitories are used, they shall be occupied by prisoners carefully selected as being regular supervision by night, in keeping with the nature of the institutions.

All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.

In all places where prisoners are required to live or work,

(a) The windows shall be large enough to enable the prisoners to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation;

(b) Artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight.

The sanitary installations shall be adequate to enable every prisoners to comply with the needs of nature when necessary and in a clean and decent manner.

Adequate bathing and shower installations shall be provided so that every prisoners may be enabled and required to have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperature climate.

All parts of an institution regularly used by prisoners shall be properly maintained and kept scrupulously clean at all times.

SELF ASSESSEMENT EXERCISE 1

Discuss the accommodation requirement for the treatment of prisoners.

3.4 PERSONAL HYGIENE

Prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness.

In order that prisoners may maintain a good appearance compatible with their self-respect, facilities shall be provided for the proper care of the hair and beard, and men shall be enabled to shave regularly.

3.5 CLOTHING AND BEDDING

(1) Every prisoners who is clothing suitable for the climate and adequate to keep him in good health. Such clothing shall in no manner be degrading or humiliating.

(2) All clothing shall be clean and kept in proper condition. Under-clothing shall be changed and washed as often as necessary for the maintenance of hygiene.

(3) In exceptional circumstances, whenever a prisoners is removed outside the institution for an authorized purpose, he shall be allowed to wear his own clothing or other inconspicuous clothing.

If prisoners are allowed to wear their own clothing, arrangements shall be made on their admission to the institution to ensure that it shall be clean and fit for use.

Every prisoners shall, in accordance with local or national standards, be provided with a separate bed, and with separate and sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness.

3.6 FOOD

(1) Every prisoners shall be provided by the administration at the usual hours with food or nutritional value adequate for health and strength, of wholesome quality and well prepared and served.

(2) Drinking water shall be available to every prisoner whenever he needs it.

3.7 EXERCISE AND SPORT

(1) Every prisoners who is not employed in out-door work shall have at least one hour of suitable exercise in the open air daily if the weather permits.

(2) Young prisoners and others of suitable age and physique, shall receive physical and recreational training during the period of exercise. To this end, space, installations and equipment should be provided.

3.8 MEDICAL SERVICES

(1) At every institution there shall be available the services who should have some knowledge of psychiatry. The medical services should be organized in close relationship to the general health administration of the community or nation. They shall include a psychiatric service for the diagnosis and, in proper cases, the treatment of States of mental abnormality.

(2) Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical suppliers shall be proper for the medical care and there shall be a staff suitably trained officers.

(3) The services of a qualified dental officer shall be available to every prisoner.
(1) In women's institutions there shall be special accommodation for all necessary pre-natal and post-natal care and treatment. arrangement shall be made wherever practicable for children to be born in a hospital outside the institution. If a child is born in prison, this fact shall not be mentioned in the birth certificate.

(2) Where nursing infants are allowed to remain in the institution with their mothers, provision shall be made for a nursery staffed by qualified persons, where the infants shall be placed when they are not in the care of their mothers.

The medical officer shall see and examine every prisoner as soon as possible after his admission and thereafter as necessary, with a view particularly to the discovery of physical or mental illness and the taking of all necessary measures; the segregation of prisoners suspected of infectious or contagious conditions; the noting of physical or mental defects which might hamper rehabilitation, and the determination of the physical capacity of every prisoner for work.

(1) The medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed.

(2) The medical officer shall report to the director whenever he or mental health has been or will be injuriously affected by continued imprisonment or by any condition of imprisonment.

(1) The medical officer shall regularly inspect and advise the director upon:

(a) The quantity, quality preparation and service of food;

(b) The hygiene and cleanliness of the institution and the prisoners;

(c) The sanitation, eating, lighting and ventilation of the institution;

(d) The suitability and cleanliness of the prisoners' clothing and bedding;

(e) The observance of the rules concerning physical education and sports, in cases where there is no technical personnel in charge of these activities.

(2) The director shall take into consideration the reports and advice that the medical officer submits according to rules 25 (2) and 26 and, in case he concurs with the recommendations made, shall take immediate steps to give effect to those recommendations; if they are not within his competence or if he does not concur with them, he shall immediately submit his own report and the advice of the medical officer to higher authority.

SELF ASSESSMENT EXERCISE 2

Discuss on the medical services resolution on the treatment of prisoners

3.9 DISCIPLINE AND PUNISHMENT

Discipline and order shall be maintained with firmness, but with no more restriction than is necessary for safe custody and well-ordered community life.

(1) No prisoners shall be employed, in the service of the institution, in any disciplinary capacity.

(2) This rule shall not, however, impede the proper functioning of systems based on self-government, under which specified social, educational or sport activities or responsibilities are entrusted, under supervision, to prisoners who are formed into groups for the purposes of treatment.

The following shall always be determined by the law or by the regulation of the competent administrative authority:
(a) Conduct constituting an indiscipline
(b) The types and duration of punishment which may be inflicted;
(c) The authority competent to impose such punishment.

(1) No prisoner shall be punished except in accordance with the terms of such law or regulation, and never twice for the same offence.

(2) No prisoner shall be punished unless he has been informed of the offence alleged against him and given a proper opportunity of presenting his defence. The competent authority shall conduct a thorough examination of the case.

(3) Where necessary and practicable the prisoner shall be allowed to make his defence through an interpreter.

Corporal punishment, punishment by placing in a dark cell, and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offences.

(1) Punishment by close confinement or reduction of diet shall never be inflicted unless the medical officer has examined the prisoner and certified in writing that he is fit to sustain it.

(2) The same shall apply to any other punishment that may be prejudicial to the physical or mental health of a prisoner. In no case may such punishment be contrary to or depart from the principle stated in rule 31.

(3) The medical officer shall visit daily prisoner undergoing such punishments and shall advise the director if he considers the termination or alteration of the punishment necessary on grounds of physical or mental health.

SELF ASSESSEMENT EXERCISE 3

Minimum standard is specify for discipline and punishment of prisoners. Discuss.

3.10 INSTRUMENTS OF RESTRAINT

Instruments of restraint, such as handcuffs, chains, irons and strait-jackets, shall never be applied as a punishment. Furthermore, chains or irons shall not be used as restraints. Other instruments of restraints shall not be used except in the following circumstances:

(a) As a precaution against escape during a transfer, provided that they shall be removed when the prisoner appears before a judicial body

(b) On medical grounds by direction of the medical officer;

(c) By order of the director, if other methods of control fail, in order to prevent a prisoner from injuring himself or others or from damaging property; in such instances the director shall at once consult the medical officer and report to the higher administrative.

The patterns and manner of use of instruments of restraint shall be decided by the central prison administration. Such instruments must not be applied for any longer than is strictly necessary.

3.11 INFORMATION TO AND COMPLAINTS BY PRISONERS

(1) Every prisoner on admission shall be provided with written information about the regulations governing the treatment of prisoners of his category, the disciplinary requirements of the institution, the authorized methods of seeking information and making complaints, and all such other matters as are necessary to enable him to understand both his rights and his obligations and to adapt himself to the life of the institution.

(2) If a prisoner is illiterate, the aforesaid information shall be conveyed to him orally.

(1) Every prisoner shall have the opportunity each week day of making requests of complaints to the director of the institution or the officer authorized to represent him.

(2) It shall be possible to make requests or complaints to the inspector of prisons during his inspection. The prisoner shall have the opportunity to talk to the inspector or to any other inspecting officer without the director or other members of the staff being present.

(3) Every prisoner shall be allowed to make a request or complaints, without censorship as to substance but in proper form, to the central prison administration, the judicial authority or other proper authorities through approved channels.

(4) Unless it is evidently frivolous or groundless, every request or complaints shall be promptly dealt with and applied to without undue delay.

3.12 CONTACT WITH THE OUTSIDE WORLD

Prisoner shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits.

(1) Prisoners who are foreign nationals shall be allowed reasonable facilities to communicate with the diplomatic and consular representatives of the State to which they belong.

(2) Prisoners who are nationals of State without diplomatic or consular representation in the country and refugees or stateless persons shall be allowed similar facilities to communicate with the diplomatic representative of the State which takes charge of their interests or any national or international authority whose task it is to protect such persons.

Prisoners shall be kept informed regularly of the more important items of news by the reading of newspapers, periodicals or special institutional publications, by hearing wireless transmissions, by lectures or by any similar means as authorized or controlled by the administration.

3.13 BOOKS

Every institution shall have a library for the use of all categories of prisoners, adequately stocked with both recreational and instructional books, and prisoners shall be encouraged to make full use of it.

3.14 RELIGION

(1) If the institution contains a sufficient number of prisoners of the same religion, a qualified representative of that religion shall be appointed or approved. If the number of prisoner justifies it and conditions permit, the arrangement should be on a full-time basis.

(2) A qualified representative appointed or approved under paragraph (1) shall be allowed to hold regular services and to pay pastoral visits in private to prisoners of his religion at proper times.

(3) Access to a qualified representative of any religion shall not be refused to any prisoner. On the other hand, if any prisoner should object to a visit of any religious representative, his attitude shall be fully respected.

So far as practicable, every prisoner shall allowed to satisfy the needs of his religious life by attending the services provided in the institution and having in his possession the books of religious observance and instruction of his denomination.

3.15 RETENTION OF PRISONERS' PROPERTY

(1) All money, valuable clothing and other effects belongings to a prisoner which under the regulations of the institution he is not allowed to retain shall on his admission to the institution be placed in safe custody. An inventory thereof shall be signed by the prisoner. Steps shall be taken to keep them in good condition.

(2) On the release of the prisoner all such articles and money shall be returned to him except in so far as he has been authorized to spend money or send any such property out of the institution, or it has been found necessary on hygienic grounds to destroy any article of clothing. The prisoner shall sign a receipt for the articles and money returned to him.

(3) Any money or effects received for a prisoner from outside shall be treated in the same way.

(4) If a prisoner brings in any drugs or medicine, the medical officer shall decide what use shall be made of them.

3.16 NOTIFICATION OF DEATH, ILLNESS, TRANSFER, ETC.

(1) Upon the death or serious illness of, or serious injury to a prisoner, or his removal to an institution for the treatment of mental affections, the director shall at once inform the spouse, if the prisoner is married or the nearest relative and shall in any event inform any other person previously designated by the prisoner.

(2) A prisoner shall be informed at once of death or serious illness of any near relative. In case of the critical illness of a near relative, the prisoner should be authorized, whenever circumstance allow, to go to his bedside either under escort or alone.

(3)Every prisoner shall have the right to inform at once his family of his imprisonment or his transfer to another institution.

3.17 REMOVAL OF PRISONERS

(1) When prisoner are being removed to or from an institution, they shall be exposed to public view as little as possible, and proper safeguards shall be adopted to protect them from insult, curiosity and publicity in any form.

(2) The transport of prisoners in conveyances with inadequate ventilation or light, or in any way which would subject them to unnecessary physical hardship, shall be prohibited.

(3) The transport of prisoners shall be carried out at the expense of the administrations and equal conditions shall obtain for all of them.

3.18 INSTITUTIONAL PERSONNEL

(1) The prison administration shall provide for the careful selection of every grade of the personnel, since it is on their integrity, humanity, professional capacity and the proper administration of the institutions depends.

(2) The prison administration shall constantly seek to awaken and maintain in the minds both of the personnel and of the public the conviction that this work is a social service of great importance, and to this end all appropriate means of informing the public should be used.

(3) To secure the foregoing ends, personnel shall be appointed on a full-time basis as professional prison officers and have civil service status with security of tenure subject only to good conduct, efficiency and physical fitness. Salaries shall be adequate to attract and retain suitable men and women; employment benefits and conditions of service shall be favorable in view of the exacting nature of the work.

(1) The personnel shall process an adequate standard of education and intelligence.
(2) Before entering on duty, the personnel shall be given a course of training in their general and specific duties and be required to pass theoretical and practical tests.
(3) After entering on duty and during their career, the personnel shall maintain and improve their knowledge and professional capacity by attending course of in-service training to be organized at suitable intervals.

All members of the personnel shall at times so conduct themselves and perform their duties as to influence the prisoners for good by their examples and to command their respect.

(1) So far as possible, the personnel shall include a sufficient number of specialists such as psychiatrists, psychologists, social workers, teachers, and trade instructors.
(2) The services of social workers, teachers and trade instructors shall be secured on a permanent basis, without thereby excluding part-time or voluntary workers.

(1) The director of an institution should be adequately qualified for his task by character, administrative ability, suitable training and experience.
(2) He shall devote his entire time to official duties and shall not be appointed on a part-time basis.
(3) He shall reside on the premises of the institution or in its immediate vicinity.
(4) When two or more institution are under the authority of one director, he shall visit each of them at frequent intervals. A responsible resident official shall be in charge of each of these institutions.

(1) The director, his deputy, and the majority of the other personnel of the institution shall be able to speak the language of the greatest number of prisoners, or a language understood by the greatest number of them.
(2) Whenever necessary, the services of an interpreter shall be used.

(1) In institutions which are large enough to require the services of one more full-time medical officers, at least one of them shall reside on the premises of the institution or in its immediate vicinity.
(2) In other institution the medical officer shall visit daily and shall reside near enough to be able to attend without delay in cases of urgency.

(1) In an institution for both men and women, the part of the institution set aside for women shall be under the authority of a responsible women officer who shall have the custody of the keys of all that part of the institution.
(2) No male member of the staff shall enter the part of the institution set aside for women officer.
(3) Women prisoners shall be attended and supervised only by women officers. This does not, however, preclude male members of the staff, particularly doctors and teachers, from carrying out their professional duties in institutions or parts of institutions set aside for women.

(1) Officers of the institutions shall not, in their relation with the prisoners, use force except in self-defence or in cases of attempted escape, or active or passive physical resistance to an order based on law or regulations. Officers who have recourse to force must use no more than is strictly necessary and must report the incident immediately to the director of the institution.
(2) Prison officers shall be given special physical training to enable them to restrain aggressive prisoners.
(3) Except in special circumstances, staff performing duties which bring them into direct contact with prisoners should not be armed. Furthermore, staff should in no circumstances be provided with arms unless they have been trained in their use.

3.19 INSPECTION

There shall be a regular inspection of penal institutions and services by qualified and experienced inspectors appointed by a competent authority. Their task shall be in particular to ensure that these institutions are administered in accordance with existing laws and regulations and with a view to bringing about the objectives of penal and correctional services.

3.20 RULES APPLICABLE TO SPECIAL CATEGORIES

3.20.1 Prisoners Under Sentence

Guiding Principle

The guiding principles hereafter are intended to show the spirit in which penal institutions should be administered and the purposes at which they should aim, in accordance with the declaration made under Preliminary Observation 1 of the present text.

Imprisonment and other measures which result in cutting off an offender from the outside world are afflictive by the very fact of taking from the person the right of self-determination by depriving him of his liberty. Therefore the prison system shall not, except as incidental to justifiable segregation or the maintenance of discipline, aggravate the suffering inherent in such a situation.

The purpose and justification of a sentence of Imprisonment or a similar measure deprivative of liberty is ultimately to protect society against crime. This end can only be achieved if the period of imprisonment is used to ensure, so far as possible, that upon his return to society the offender is not only willing but able to lead a law-abiding and self-supporting life.

To this end, the institution should utilize all the remedial, educational, moral, spiritual and other forces and forms of assistance which are appropriate and available, and should seek to apply them according to the individual treatment needs of the prisoners.

(1) The regime of the institution should seek to minimize any differences between prison life and life at liberty which tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings.
(2) Before the completion of the sentence, it is desirable that the necessary steps be taken to ensure for the prisoner a gradual return to life in society. This aim may be achieved, depending on the case, by a pre-release regime organized in the appropriate institution, or by release on trail under some kind of supervision which must not be entrusted to the police but should be combined with effective social aid.
The treatment of prisoners should emphasize not their exclusion from the community, but their continuing part in it. Community agencies should, therefore, be enlisted wherever possible to assist the staff of the institution in the task of social rehabilitation of the prisoners. There should be in connection with every institution social workers charged with the duty of maintaining and improving all desirable relations of a prisoner with his family and with valuable social agencies. Step should be taken to safeguard, to the maximum extent compatible with the law and the sentence, the right relating to civil interests, social rights and other social benefits of prisoners.

The medical services of the institution shall seek to detect and shall treat any physical or mental illnesses or defects which may hampers a prisoner’s rehabilitation. All necessary medical, surgical and psychiatric services shall be provided to that end.

(1) The fulfillment of these principles requires individualization of treatment and for this purpose a flexible system of classifying prisoners in groups; it is therefore desirable that such groups should be distributed in separate institutions suitable for the treatment of each group/
(2) These institutions need nor provide the same degree of security for every group. It is desirable to provide varying degrees of security according to the needs of different

groups. Open institutions, by the very fact that they provide no physical security against escape but rely on the self-discipline of the inmates, provide the conditions most favourable to rehabilitation for carefully selected prisoners.

(3) It is desirable that the number of prisoners in closed institutions should not be so large that the individualization of treatment is hindered. In some countries it is considered that the population of such institutions should not exceed five hundred. In open institutions the population should be as small as possible.

The duty of society does not end with a prisoner's release. There should, therefore, be governmental or private agencies capable of lending the released prisoner efficient after-care directed towards the lessening of prejudice against him and towards his social rehabilitation.

3.20.2 TREATMENT

The treatment of persons sentenced to imprisonment or a similar measure shall have as its purpose, so far as the length of the sentence permits, to establish in them the will to lead law-abiding and self-supporting lives after their release and to fit them to do so. The treatment shall be such as will encourage their self-respect and develop their sense of responsibility.

(1) To these ends, all appropriate means shall be used, including religious care in the countries where this is possible, education, vocational, guidance and training, social casework, employment, counseling, physical development and strengthening of moral character, in accordance with the individual needs of each prisoner, taking account of his social and criminal history, his physical and mental capacities and aptitudes, his personal temperament, the length of his sentence and his prospect after release.

(2) For every prisoner with a sentence of suitable length, the director shall receive, as soon as possible after his admission, full reports on all the matters referred to in the foregoing paragraph. Such reports shall always include a report by a medical officer, wherever possible qualified in psychiatry, on the physical and mental condition of the prisoner.

(3) The reports and other relevant documents shall be placed in an individual file. This file shall be kept up to date and classified in such a way that it can be consulted whenever the need arises.

3.20.3 Classification and Individualization

The purposes of classification shall be:

(a) To separate from others those prisoners who, by reason of their criminal records or bad characters, are likely to exercise a bad influence;

(b) To divide the prisoners into classes in order to facilitate their treatment with a view to their social rehabilitation.

So far as possible separate institutions or separate sections of an institution shall be used for the treatment of the different classes of prisoners.

As soon as possible after admission and after a study of the personality of each prisoner with a sentence of suitable length, a programme of treatment shall be prepared for him in the light of the knowledge obtained about his individual needs, his capacities and dispositions.

3.20.4 Privileges

System of privileges appropriate for the different classes of prisoners and the different methods of treatment shall be established at every institution, in order to encourage good conducts, develop a sense of responsibility and secure the interest and co-operation of the prisoners in their treatment.

3.20.5 Work

(1) Prison labor must not be of an afflictive nature.

(2) All prisoners under sentences shall be required to work, subject to their physical and mental fitness as determined by the medical officer.

(3) Sufficient work of a useful nature shall be provided to keep prisoners actively employed for a normal working day.
(4) So far as possible the work provided shall be such as will maintain or increase the prisoner's ability to earn an honest living after release.
(5) Vocational training in useful trades shall be provided for prisoners able to profit thereby and especially for young prisoners.
(6) Within the limits compatible with proper vocational selection and with the requirements of institution the prisoners shall be able to choose the type of work they wish to perform.

(1) The organization and methods of work in the institutions shall resemble as closely as possible those of similar work outside institutions, so as to prepare prisoners for the conditions of normal occupational life.
(2) The interests of the prisoners and of their vocational training, however, must be subordinated to the purpose of making a financial profit from an industry in the institution.

(1) Preferably institutional industries and farms should be operated directly by the administration and not by private contractors.
(2) Where prisoners are employed in work not controlled by the administration, they shall always be under the supervision of the institution's personnel. Unless the work is for other departments of the government the full normal wages for such work shall be paid to the administration by the persons to whom the labor is supplied, account being taken of the output of the prisoners.

(1) The precaution laid down to protect the safety and health of free workmen shall be equally observed in institutions.
(2) Provision shall be made to indemnify prisoners against industrial injury, including occupational disease, on terms not less favorable than those extended by law to free workmen.

(1) The maximum daily and weekly working hours of the prisoners shall be fixed by law or by administrative regulation, taking unto account local rules or custom in regard to the employment of free workmen.
(2) The hours so fixed shall leave one rest day a week and sufficient time for education and other activities required as part of the treatment and rehabilitation of the prisoners.

(1) There shall be a system of equitable remuneration of the work of prisoners.
(2) Under the system prisoners shall be allowed to spend at least a part of their earning on approved articles for their own use and to send a part of their earning to their family.

3.20.6 Education and Recreation

(1) Provision shall be made for the further education of all prisoners capable of profiting thereby, including religious instruction in the countries where this is possible. The education of illiterates and young prisoners shall be compulsory and special attention shall be paid to it by the administration.
(2) So far as practicable, the education of prisoner shall be integrated with the educational system of the country so that after their release they may continue their education without difficulty.

Recreational and cultural activities shall be provided in all institutions for the benefit of the mental and physical health of prisoners.

3.20.7 Social relations and after-care

Special attention shall be paid to the maintenance and improvement of such relations between a prisoner and his family as are desirable in the best interests of both.

From the beginning of a prisoner's sentence consideration shall be given to his future after release and he shall be encouraged and assisted to maintain or establish such relations with persons or agencies outside the institution as may promote the best interests of his family and his own social rehabilitations.

(1) Services and agencies, governmental or otherwise, which assist released prisoners to reestablish themselves in society shall ensure, so far as is possible and necessary, that released prisoners be provided with appropriate documents and identification papers, have suitable homes and work to go to, are suitably and adequately clothed having regard to the climate and season, and have sufficient means to reach their destination and maintain themselves in the period immediately following their release.

(2) The approved representatives of such agencies shall have all necessary access to the institution and to prisoners and shall be taken into consolation as to the future of a prisoners from the beginning of his sentence.

(3) It is desirable that the activities of such agencies shall be centralized or coordinated as far as possible in order to secure the best use of their efforts.

3.20.8 Insane and Mentally Abnormal Prisoners

(1) Persons who are found to be insane shall not be detained in prisons and arrangements shall be made to remove them to mental institutions as soon as possible.

(2) Prisoners who suffer from other mental diseases or abnormalities shall be observed and treated in specialized institutions under medical management

(3) During their stay in a prison, such prisoners shall be placed under the special supervision of a medical officer.

(4) The medical psychiatric service of the penal institutions shall provide for psychiatric treatment of all other prisoner who are in need of such treatment.

It is desirable that steps should be taken, by arrangement with the appropriate agencies, to ensure if necessary the continuation of psychiatric treatment after release and the provision of social psychiatric after-care.

3.20.9 Prisoners Under Arrest or Awaiting Trial

(1) persons arrested or imprisoned by reason of criminal charge against them, who are detained either in police custody or in prison custody (jail) but have not yet been tried and sentenced, will be referred to as “untried prisoners’ hereinafter in these rules.
(2) Un-convicted prisoners are presumed to be innocent and shall be treated as such.
(3) Without prejudice to legal rules for the protection of individual liberty prescribing the procedure to be observed in respect of untried prisoners, these prisoners shall benefit by a special regime which is described in the following rules in its essential requirements only.

(1) Untried prisoners shall be kept separate from convicted prisoners.
(2) Young untried prisoners shall be kept separate from adults and shall in principles be detained in separate institutions.

Untried prisoners shall sleep singly in separate rooms, with the reservation of different local custom in respect of the climate.

Within the limits compatible with the good order of the institution, untried prisoners may, if they so desire, have their food procured at their own expense from the outside, either through the administration or through their family or friends. Otherwise, the administration shall provide their food.

(1) An untried prisoners shall be allowed to wear his own clothing if it is clean and suitable.
(2) If he wears prison dress, it shall be different from that supplied to convicted prisoners.

An untried prisoners shall always be offered opportunity to work, but shall not be required to work. If he choose to work, he shall be paid for it.

An untried prisoners shall be allowed to procure at his own expense or at the expense of a third party such books, newspapers, writing materials and other means of

occupation as are compatible with the interest of the administration of justice and the security and good order of the institution.

An untried prisoners shall be allowed to be visited and treated by his own doctor or dentist if there is reasonable ground for his application and he is able to pay any expenses incurred.

An untried prisoners shall be allowed to inform immediately his family of his detention and shall be given all reasonable facilities for communicating with his family and friends, and for receiving visits from them, subject only to such restrictions and supervision as are necessary in the interests of the administration of justice and of the security and good order of the institution.

For the purposes of his defence, an untried prisoner shall be allowed to apply for free legal aid where such aid is available, and to receive visits from his legal adviser with a view to his defence and to prepare and hand to him confidential instructions. For these Purpose, he shall if he so desires be supplied with writing material. Interviews between the prisoners and his legal adviser may be within sight but not within the hearing of a police or institution official.

3.20.10 Civil Prisoners

In countries where the law permits imprisonment for debt or by order of a court under any other non-criminal process, persons so imprisoned shall not be subjected to any greater restriction or severity and is necessary to ensure safe custody and good order. Their treatment shall be not less favorable than that of untried prisoners, with the reservation, however, that they may possibly be required to work.

3.20.11 Persons Arrested or Imprisoned without Charge

Without prejudice to the provisions of articles 9 of the International Covenant on Civil and Political Rights, person arrested or imprisoned without charge shall be accorded the same protection as that of under part I and part II, section C. Relevant provisions

of part II, section A, shall likewise be applicable where their application may be conducive to the benefits of this special group of persons in custody, provided that no measures shall be taken implying that reeducation or rehabilitation is in any way appropriate to persons not convicted of any criminal offence.

4.0 CONCLUSION

For the fact that a person is in prison does not defined him or her out of humanity. He still retained certain fundamental right and this right must not be denied them. It is in view of this the United Nation organization resolved to approved the standard minimum rules for the treatment of prisoners,. It behoove on every civilized nation to adopt and implement this standard in their countries penitentiary:

5.0 SUMMARY

We have seen from the unit that prisoners are still entitled to some basic fundamental rights. The United Nation in 1955 through the standard minimum rules for treatment of offenders stipulate how prisoners are to be treated in all aspect of their life. The treatment start from the day a person is sentenced to prison custody to when he is discharged from prison. even as an ex-convict the UN-Council still make provision for their treatment.

6.0 TUTOR MARKED ASSIGNMENTS

Discuss extensively the standard minimum rules for the treatment of offenders.

7.0 REFERENCES/FURTHER READING

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UNIT 2: LIMITATION OF TREATMENT IN PRISONS

CONTENTS

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1.0 INTRODUCTION

In this unit we examine the limitation of treatment in prisons. We will also focus on what correctional officers should do in order to achieve their treatment task and avoid conflict that might arise within the system.

2.0 OBJECTIVES

At the end of this unit the students should be able to:

- Know what treatment of inmate is all about.
- Know the limitation encounter in treatment
- Know the organization of treatment and resulting conflicts.
- How to address the conflict that might arises in the course of treatment and security.
- Understand the roles of non professional employees in reformation and rehabilitation program

3.0 MAIN CONTENTS

3.1 ORGANIZATION OF TREATMENT AND RESULTING CONFLICTS

The premises on which individualized institutional treatment is based imply organizational chaos, for time schedules, coordination of activities, and group norms are disdained. If each inmate were handled individually, according to his needs, in a setting in which formal regulations were viewed as undesirable, motivating inmates to perform and maintenance and housekeeping activities and otherwise to be cooperative in the production and custodial programs of the prison would be impossible. The organizational necessities of coordination, cooperation, and integration could not be achieved. In reality, such disorganization cannot be tolerated. Any prison must maintain the minimum conditions of orderliness and security that are demanded by groups outside the prison and dictated by other than theoretical considerations. Administrators of treatment-oriented prisons, therefore, must work out a system for reconciling their commitments to their administrative role. They must rely on guards and other nonprofessional employees for carrying out administrative policy; yet the conflict between organizational and professional ideologies is such that administrative rules cannot be clearly formulated, instructions rules and “understanding” cannot be achieved by invoking punitive measures for nonconformity.

3.2 ROLES OF NON PROFESSIONAL EMPLOYEES

As professionals the members of the administrative staff are expected to be experts at “doing something” rehabilitative to inmates. The institutional program ideally becomes one in which nonprofessional employees, who remain as custodians or foreman**,** assist the professional staff in this rehabilitative work. Hence the administrative job becomes one of modifying all the roles in the institution so that they include treatment but are not treatment roles, and integrating them in an organization whose aim is rehabilitation. This is usually what is meant when professionals say, as one official did, that their goal is “coordination of all the institution’s facilities in a program of individualized treatment.”

Once this commitment has been made, treatment becomes organizational since procedures assuring coordination must be developed. However, in the “pure” view of treatment (what takes place in the psychotherapeutic interchange), there are no positive directives for its organization, nor for integrating the institution’s three subsidiary organizations so that the treatment job gets done. Furthermore, application of the clinical on which non-punitive individualized treatment is based is restricted by various limitations on the professional staff’s activities. For example they have time for psychotherapeutic interviews with only a small minority of the inmates. If the program is to affect many inmates there must be assistance from nonprofessional staff, especially from the guards. The implication is that the guard must do more than guard.

These are two principal views of what guards should do: (1) They should act as referral agents for the professionally trained staff – discuss inmates’ problems with them, in a broad sense diagnose surface problems of adjustment, and on the basis of amateur diagnoses refer each inmate to the proper professional personnel. This plan is favored by treatment personnel when they are acting in professional rather than administrative roles. Counseling and treatment are professional tasks for qualified personnel. (2) As administrators, the treatment specialists are likely to take the position that the guards should participate more in treatment: Under professional direction they should deal with inmates’ minor emotional problems, advise and encourage them to “talk out” their difficulties with the law and with institutionalization, and inspire them by personal example to lead law-abiding lives.

3.3 CONCEPTIONS OF DEVIATIONS BY INMATES AND EMPLOYEES

Since coordination and direction of guards’ activities are necessary if this general plan for treatment is to be effective, formal and explicit rules for the administration of policy would be expected. However, the premises of individualized treatment make it practically impossible for administrators to state explicitly what guards should do to make relationships with inmates therapeutic. This may be illustrated by the consequences of viewing inmates as patients or client. In the interests of extra

theoretical concepts such as “justice,” some rules for inmate must be maintained, but violations of rules are ascribed to inability to conform, rather than to deliberate intent. Deviations from prison rules, like deviations that result in arrest for crime, are viewed as the consequence of psychological illness, not intentional badness. This is highly significant, for when nonconformity is viewed as unintentional in our culture the response is one of “treatment” or “educational,” whereas the response to intentional nonconformity is punishment and close surveillance. Since inmate deviation from custodial and work rules is unintentional, the, guards and foremen must be non-punitive and “professional” in their handling of it.

This expectation regarding the conduct of employees makes it necessary for professional administrators to rely on professional authority rather than administrative rules (enforced by punishment) for diffusing the treatment orientation to the nonprofessional employees. The establishment of professional authority in reference to proper views of inmate deviation (through in-service training sessions in which psychologists are the faculty, and guards and foremen the students gives the treatment personnel the same authority in handling employee relationships. The authority that in custodial prisons rests on rank or position is supplemented by authority based on technical competence in the professional function of the organizations.

3.4 ENFORCEMENT OF EXPECTATION

In custodial prisons, employees are expected to conform to the rules for their behavior because it is their duty; In treatment-oriented prisons, however, decision making is decentralized and they are expected to think for themselves, to use discretion, and to be “professional” and flexible. Rather than rules, there are mere expectations that each employee will accept professional standards and make decisions consistent with them.

It is significant for the functioning of the total organization that the expectation cannot be effectively communicated to employees or enforced. There are four principal reasons for this difficulty. First, as indicated previously, the professional treatment ideology has no positive implications for administration, and professional

administrators thus cannot devise specific rules for the professional conduct of nonprofessionals. “Administration” in the usual sense of securing compliance with pre-existing rules cannot be achieved. Violation of specific rules for treatment becomes impossible. But the clinical theory does have the important negative implication that guards and foremen are not to do anything that will increase inmates’ emotional problems. The general order to guards and foremen therefore is to “relax.” Understandings based on this negative order cannot be enforced by punishing violations, however, because that in itself would violate the theoretical premises. The failure of employees to behave according to expectations must, like inmates’ deviations from rules, be viewed as unintentional; guards who are punitive or repressive must be considered unable to exhibit affective neutrality in relation to inmates because of some personality characteristic. The usual diagnoses are “rigid,” “Punitive,” “sadistic,” “maladjusted,” and “neurotic” terms that are used somewhat opprobriously. But such difficulties call for education and therapy, not punishment. Imposition of punishment would be illegitimate and most inconsistent, for employees would be punished for behaving punitively.

Second, institutional organization itself blocks the communication processes necessary for correction of unintentional deviation from the negative understandings derived from the treatment ideology – i.e., educating and administrating, therapy to non professional employees. Professionals who do not have enough time for necessary diagnosis and therapeutic interviews with inmates of course do not have time to “treat” employees. Even if legislators could be persuaded to provide funds for enough professional personnel to administer therapy to both groups, non professional employees would have to be relieved of some of their duties in order to participate. Since this is not feasible in an organization that must be custodial and productive, non professional supervisors from the custodial and industrial hierarchies must be relied on for diffusion of the treatment orientation. The limited effectiveness of this system is discussed below.

Third, supervisor, guards and foremen are not trained for social work or psychiatric practice, nor are they prepared to receive a professional education even if there were time to provide it. They cannot be expected to understand the theoretical premises on which they are expected to operate. Because of their different general orientations toward prison work, on basic requirement for acceptance of administrative directions – the understanding of communication – is absent.

Fourth, and perhaps most important, while non professional employees are relaxing so as to contribute to inmate rehabilitation, they are also expected to maintain order and to see that inmates perform the work tasks necessary to the continued functioning of the institution. Inmates are not only perceived as in need of treatment, but also, significantly, as in need of justice and control. As professionals, front office workers may think that nonconformity to institutional rules is usually the result of “acting out” emotional conflicts and problems. For example, aggressive behavior by inmates is to be expected as a response to even those minimal restrictions that must be imposed if the institution is to perform a non-punitive incapacitating function in, in the manner of a mental hospital. Yet as administrators these workers recognize that aggression cannot be tolerated in an institution where hundreds of inmates live in close association, for security might be threatened. Direct attempts are made to channel aggressions through grudge fights, athletics, painting, and other “media of expression” but there also are specific rules for inmates conduct, violation of which is threatened with punishment. Disciplinary courts are established on the assumption that, whatever the cause, aggression that is not channeled will be reported and punished, not treated. Similarity, stealing, homosexuality, and refusal to work might be viewed as the consequence of personal problems which are treatable; nevertheless, any such offenses reported to the court are punished even if the punishment interferes with treatment.

It should be emphasized that disciplinary courts are seldom considered either therapeutic or consistent with the ideology of individualized treatment. They exist in deference to the necessity for order and justice and can operate only if the

administrators make the traditional assumption that deviation is deliberate and that recalcitrant inmates can be reformed and other inmates deterred by punishment. We have emphasized that professional administrators are likely to take the position that nonconformity is an unintentional consequence of emotional disturbance and therefore should not be punished. But they also know that if riots and other disorders are to be prevented, inmates who violate rules must be handled “justly”; and this practice rests on the assumption that the defendant who is found guilty will be made to suffer. Intention, responsibility for deviation, and punishment as a consequence of deviation are assumed in the definition of “maintaining discipline.” In a situation where “discipline” is required, then, expectations that guards will behave professionally cannot be stipulated or enforced: they cannot be explicitly instructed to behave therapeutically and to handle deviation as if it were unintentional. Yet, if the treatment ideology is to be maintained, neither can they be ordered to report all deviations to the disciplinary court for punishment. They can only be instructed to be professional, to relax, and to use discretion in reporting violations of rules to the court. This directive decentralizes decision making without providing explicit criteria on which decisions are to be based.

SELF ASSESSMENT EXERCISE

Discuss factors that limit treatment objectives of imprisonment.

4.0 CONCLUSION

From this unit student of criminology should be able to know the limitation correctional officers encountered in the course of their job. However, this unit also expressed what prison administrator ought to do to achieved their goal and avoid conflict that might likely arises between organization and professional ideologies.

5.0 SUMMARY

We have been able to discuss the organization of treatment and resulting conflicts in our prisons. The roles of professional and non profession was also highlighted and the

need for mutual cooperation was emphasized on. This mutual assistance is necessary if the treatment program for the inmate is to be successful.

6.0 TUTOR MARKED ASSIGNMENTS

Discuss the roles of non professional employees in the reformation and rehabilitation of prisons inmates.

7.0 REFERENCES/FURTHER READING

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UNIT 3: CLASSIFICATION AS PART OF TREATMENT IN THE PRISON SYSTEM

CONTENTS

1.0 Introduction
2.0 Objectives
3.0 Main Contents
    3.1 The Meaning of Classification
    3.2 Types of Classification Systems.
    3.3 Composition of the Classification Committee
    3.4 Admission Classification Meeting
4.0 Conclusion
5.0 Summary
6.0 Tutor Marked Assignments
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1.0 INTRODUCTION

In this unit, we shall examine the meaning of classification. The purposes of classification and the technique use in accomplishing its objectives. Types of classification will also be dwelt upon.

2.0 OBJECTIVES

At the end of this unit the students should be able to:

- Know the meaning of classification.
- Know the purposes of classification.
- Know the various techniques use in accomplishing the goal of classification.
- Know types of classification.
- Know the composition of the classification committee.
- Know admission of classification meeting.

3.0 MAIN CONTENTS

3.1 THE MEANING OF CLASSIFICATION

Classification, as used in correctional field, is a frequently misunderstood concept. The word itself adds to the confusion, implying that its sole function is to place inmates into types or categories. Even criminologists have described it as the separation of prisoners into types and the segregation of similar types into separate institutions. This is far from the concept of classification held by persons engaged in the operation of classification programs in a modern correctional institution. Classification is a method by which diagnosis, treatment program are coordinated in the individual case. It is also a method by which the treatment program is kept current with the inmate's changing needs. The major objectives of classification are, therefore, the development of an integrated and realistic program for the individual, arrived at through the coordination of diagnostic, planning, and treatment activities; and informed continuity in these activities from the time of commitment until release. It is not in itself the diagnostic, training, and treatment programs, but it is the method, the procedures, and the organization of the personnel by which these programs can be directed efficiency towards the treatment of the individual.

The purposes of classification are accomplished first, by analyzing the problems presented by the individual through the use of every available technique, such as through social investigations, medical, psychiatric, psychological examinations, educational, vocational, religious and recreational studies; second by deciding in staff conference upon a program of treatment and training based upon these analyses; third, by assuring that the program decided upon is placed into operation; and fourth, by observing the progress of the inmate under this program and by changing it when indicated.

Classification presupposes, of course, the existence of diagnostic and treatment personnel and facilities in the institution. But whether these personnel and facilities

are adequate or minimal, the principles and methods of classification are equally applicable. It has been a common misconception that a classification program is dependent upon a large staff of professional personnel and well-developed treatment facilities. Obviously, the program can be more effective when these conditions exist, but the advantages which accrue from coordination of staff functions and treatment in the individual case are applicable to the institution having only limited facilities. In fact, it is through the operation of a classification program in such a situation that diagnostic and treatment programs can be developed most rapidly.

3.2 TYPES OF CLASSIFICATION SYSTEMS

There are in operation, today three general types of classification program. The first to be developed was the so-called “classification clinic” or “bureau.” In some instances, this type of clinic was well staffed and had a variety of professional services. Elaborate studies and analyses of individual inmates were prepared with recommendations regarding treatment and training programs. However, the functions and responsibilities of the clinic stopped at this point. It was diagnostic and advisory; it was an addition to the institutional program but not an integral part of it. The administration could choose to accept or simply file the recommendations made. Very often the recommendations made were ideal in nature and did not take into consideration existing institutional facilities, and the administrative personnel tended to look upon the reports and recommendations as impractical. There was no common administrative meeting ground which would bridge the gab between diagnosis and treatment, between the professional services and the day-to-day administration. There are still a few such classification clinics in operation, but in modern correctional administration such a clinic is only one element in a classification system or program. It cannot, in and of itself, constitute a classification system.

The next and more usual types of organization is one in which both the professional and administrative personnel are involved in program planning. The professional personnel develops most or all of the diagnostic material, but the committee which makes the decisions on individual programing includes representatives of institution

departments. Usually the executive head of the institution is chairman of the committee. This might be described as the integrated classification system. It has a number of advantages over the classification clinic. Under it, the decisions of the committee become the decisions of the administration. The committee is no longer a mere advisory agency. No significant change can be made in the individual's program without referral back to the committee. There are still other advantages. The meeting together of the administrative and professional staff in the discussion of, and planning on, individual cases is an educational experience for both groups. Too frequently, in the field of prison administration, professional and administrative workers have been far apart. This has been due to the fact that neither group understood what the other had to offer in knowledge and experience. Working together has made the professional worker more practical in outlook, since the problems of prison administration become his problems. Also, he begins to recognize the abilities of the administrators. On the other hand, the administrator begins to see the professional worker as a person who has a definite contribution to make, not only to an improved rehabilitative program but to prison administration generally. Petty jealousies and irreconcilable differences of opinion tend to disappear. The staff becomes a united group; deficiencies in the institution's program are brought to the surface; and progress in developing a better program is expedited. There is probably no social institution more bound by tradition than the prison, unless it be the court. No influence has been greater in abolishing outmoded traditions in prison than that of the integrated classification program.

The third and most recent development in the field of classification is the reception diagnostic center. Under this program, convicted offenders are committed originally to a central unit for intensive study and program planning. After completion of the studies, they are sent on to appropriate institutions where classification committees take over. Only two States, New York and California, now have a fully developed reception-center program. Other States, including New Jersey and Pennsylvania, are planning such centers.

3.3 COMPOSITION OF THE CLASSIFICATION COMMITTEE

The composition of the classification committee will be dependent to some extent, of course, upon the staff available. It cannot be too strongly emphasized that the executive head of the institution should be the chairman of the committee. If the philosophy of the classification program is to permeate the institution and if the decisions of the committee are to have the authority of the administration, this is essential. Other members of the committee are the principally concerned with the diagnosis, training, treatment, and custody of the inmates. In the more fully staffed institutions they may include the associate wardens in charge of treatment and custody, the supervisor of classification, the head social worker or sociologist, the supervisor of education, the vocational supervisor or counselor, the chief medical officer, the psychiatrist, psychologist, chaplains, and officer in charge of the admission or reception unit. The larger institutions must guard against having too large a committee membership which ties up the time of too many staff members. In such instances, it may be necessary, for example, for one medical officer to represent the medical, psychiatric, and psychological services. On the other hand, in institutions with restricted staff, one committee member may need to assume the functions of more than one department. The essentials point is that the committee be representative of the various services of department so that a complete diagnosis picture can be presented and a well-rounded treatment program devised.

In the smaller institutions, the entire committee can review and act on cases considered at admission classification as well as those considered for reclassification. In the institutions with large populations, where the reclassification load is heavy, it may be necessary to form a subcommittee to handle the reclassification function. Where this is necessary, it is important that the subcommittee be representative of the various institution services.

The supervisor of classification is responsible for coordinating the work of the several departments with respect to the classification program. He schedules the meetings, determines the agenda, calls attention to discrepancies in the reports submitted, and is

responsible to the head of institutions to see that the committee recommendations are carried out.

3.4 ADMISSION CLASSIFICATION MEETING

The major purpose of the admission classification meeting is to plan a program for and with the inmate which will be realistically directed toward his rehabilitation. Up to this point he has been studied from different viewpoints. It now becomes necessary to coordinate the diagnostic materials, weigh the various factors contributing to the individual's criminal behavior, and to evaluate his potentialities and limitations. This is done through the staff-conference method.

Various methods are in the presentation of cases. In some institution, each member of the committee having a part in the preparation of the admission summary orally summarizes his section of the report. Other institutions have delegated one member, usually the supervisor of classification, to summarize the entire report, on the ground that in this way extraneous material can be better eliminated and the important points given greater emphasis. Still others rotate the entire presentation among different members of the committee. Whatever presentation method is used, it is essential that the important factors in the case be understood before consideration is given to program planning. It is also important that the inmate share in the planning of his program. This is accomplished to some extent during the interviews and examinations held during the admission period. The objectives can be fully achieved by bringing the inmate into the meeting, after the committee has agreed upon a tentative program, and frankly discussing it with him. If he has objections to parts of the program, these should be fully considered. Bringing the inmate before the committee has another advantage. It demonstrates to him that the institution is taking a real interest in planning for his future. To the argument which is sometimes heard, that the inmate is too uneasy before the committee to consider the program properly, it can be said that where the inmate has been adequately prepared for the meeting and when the interview is conducted properly, this is not the case. Under no circumstances should the classification meeting become a place to lecture or berate the inmate.

The committee recommendations should cover all important phases of the inmate's life in the institution. The first decision usually made relates to the custody classification. Institutions for adults ordinarily have three or four grades of custody: minimum, medium, maximum, with some using a close-custody category between medium and maximum. The custody classification ordinarily determines the type of supervision and the type of restrictions under which an inmate must live. For example, in an institution having cells and dormitories, inmates classified for minimum or medium custody may be permitted to live in dormitories, with more freedom of movement. Also, the custody rating may determines whether the inmate may be used in certain types of employment. For example, a man with a long sentence for a serious offense, with a previous history of escapes, and with no family ties could not properly be assigned to farm work or to a powerhouse which may be outside the confines of the institution. There are phases of the program which must be limited by the security risk which the inmate presents. The custody rating may be changed from time to time as experience with the inmate and new information about him dictate.

The next decision usually relates to the advisability of transfer to a different institution. However good the designation procedures, some inmates will be committed to an institution in which they do nor properly belong. An inmate may be committed to a reformatory when the thorough study made in the institution indicates he would be a bad influence on other inmates or too great a security risk for that institution, in which case he should be transferred to a penitentiary. Or it may be that a person committed to a penitentiary belongs in, and can benefit more from, a reformatory program. Again, a person committed to an institution for medium – or close-security prisoners may be found suitable for a minimum custody institution, such as a camp. The more common reasons for transfer are (1) to place the individual in an institution of greater or lesser custody, (2) to separate recidivists and sophisticated offenders from those inexperience in crime, (3) to place inmates requiring special medical or psychiatric treatment or training (homosexuals, narcotic addicts, and other) in institutions affording the required facilities, (4) to separate

informers from person against whom they have informed, and (5) to separate codefendants or associates who may have an adverse influence on each other. Transfer may also have to be considered for administrative reasons, such as to relieve overcrowding.

SELF ASSESSMENT EXERCISE

Give on operational definition of classification in the prison system.

4.0 CONCLUSION

From the unit, students should be able to know the meaning of classification. You should know the purposes of classification in the prison system as well as the techniques use to accomplished classification. Types of classification system has been discussed for your benefit.

5.0 SUMMARY

We have been able to discuss the operational meaning of classification, this put to rest the confusion that always characterized its meaning. We have said that classification is a method by which diagnosis treatment program are coordinated in the individual case. It is also a method by which the treatment program is kept current with the inmate's changing needs.

6.0 TUTOR MARKED ASSIGNMENTS

(1) Discuss the major objectives of classification in the prison system.

(2) Discuss types of classification systems.

7.0 REFERENCES/FURTHER READING

Bohn, R. M. and Haley, K. N (2002) Introduction to Criminal Justice, 3rd edition, McGraw Hill

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UNIT 4: GROUP THERAPY WITH OFFENDERS

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- 3.2 Guided Group Interaction
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- 3.4 Some Basic Consideration in Guided Group Interaction
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4.0 Conclusion
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1.0 INTRODUCTION

The effect of recent years to apply group therapy to the treatment of offenders has received the attention and interest of a large number of persons in the in field of correction. While the use of this method as a technique to manipulate inmate attitude is a recent development, a considerable number of correctional institutions have initiated group therapy programs.

In November 1950, the committee on group therapy and correctional agencies of the American Group Psychotherapy Association surveyed 312 penal and correctional institutions in the United States to determine the status of group therapy in these institutions. Of the 109 institutions responding to the questionnaire, 39 replied that group therapy was part of their program and 10 institutions indicated a desire to start such a program. Twenty-eight of the institutions reporting a group therapy program were male and11 were female. the survey revealed that group therapy is more frequently used in training schools (21 institutions); less frequently in reformatories, (13 institutions); and seldom imprisons (5 institutions).

2.0 OBJECTIVES

At the end of this unit the students should be able to:

- Understand issues pertaining to group therapy with offenders.
- Know the various techniques that is been applied.
- Know the role of a leader in group therapy.
- Know why group therapy for offenders is important.

3.0 MAIN CONTENTS

3.1 NO TECHNIQUES AS YET STANDARDIZED

While an extensive body of literature has developed in the area of group therapy, no technique has yet been standardized. This literature is largely in the form of descriptive, clinical reports of personal experiences with group therapy in specific situations and reveals the varying orientation of practitioners. Regarding this, one reviewer writes "…the literature on group therapy is so confusing that one think there are as many forms of group therapy as there are practitioners." In addition, much of the literature reveals what Looser refers to as "a persistent tendency to prove and justify group therapy" and lack of "uniformity in use of words and phrases. Several writers, in an effort to deal systematically with this impressionistic literature, arrange it under three basic approaches – repressive-inspirational, didactic, and analytic. The repressive-inspirational method uses the emotional appeal of the evangelistic revival meeting combined with the commercial techniques of salesmanship to urge the

participant to control himself by suppressing a social or worrisome thoughts or wishes and, at the same time, find an inspiration in life work, religion, etc. The didactic approach employs a class method in the belief that intellectual insight and verbal knowledge of psychodynamics constitute treatment. Analytically oriented group psychotherapy uses free association and intuitive interpretation of material presented by group members and urges the loosening of repression and the conscious recognition and analysis of unconscious a social wishes. This superficial description of these basic approaches is important because variations in techniques are interrelated with levels and goals in the therapy. The character of the group, the content of the discussion, and the meanings of the situation to all of the participants will depend on the initial definitions around the type of group therapy to be employed and the consistency and integrity with which its goals are pursued. The survey referred to earlier reveals many variations in the type of group therapy employed in correctional institutions is on a lecture-discussion type of group therapy (21 institutions), in which the class method is employed. Only three institutions report the use of analytic group psychotherapy and three repressive-inspiration type of group therapy. Twelve institutions report varying combinations of these three methods. It might be pointed out in this connection that the replies seem to indicate that a number of institutions replying to the questionnaire referred to recreational and occupational programs as group therapy.

3.2 GUIDED GROUP INTERACTION

This article itself with a medication of group analytic psychotherapy which Slavon correctly identifies as “a derivative group technique” guided group interaction. As the title suggests, in guided group interaction the leader is active in the discussion, especially in initial sessions and plays a supportive, guiding role throughout the course of the group’s history . Also, as the title suggests, the major emphasis is on the group and its development rather than on an attempt at exhaustive psychoanalysis of individuals in the group. Guided group interaction might be defined as using free discussion in a friendly supportive atmosphere to re-educate the delinquent to accept

the restrictions of society by finding greater personal satisfaction in conforming to social rules than following delinquent patterns.

In common with most correctional program, guided group interaction makes assumptions about the kinds of socializing experience incarcerated delinquents need and can use if they are to be helped in achieving their potential usefulness as good citizens. Guided group interaction assumes delinquents will benefit from a social experience where in concert with their peers and a leader they can freely discuss, examine, and analyze their problems of living without the threats so common in their previous learning experience. It assumes the mutual give-and-take of group discussion will stimulate the inmate to some insight into the relationship between what takes place in this learning situation and his immediate problems of living. Consequently, the relationships encountered and the material discussed at sessions must be felt by the participant as making some contribution to his critical struggle for adjustment. If participants are not degraded or excluded from the group because of their compulsive aggressive behavior, the “group climate” must be lenient, accepting, and structured to give support to all. There is freedom for persons participating to evolve their own roles, plus opportunities to develop new roles. This type of group activity requires an easy, informal atmosphere where members are democratic equals and where social controls evolve out of interaction and increased understandings. It is inevitable, if these goals are reasonably achieved, for free emotional expressions to follow and the characteristic modes of adjustment of all participants to be exposed to one another and the leader. In this process, the participant’s conception of self and others, and how these major concepts came into beings and are related to his modes of adjustments, are analyzed and discussed.

3.3 ROLE OF THE LEADER

The type of group outlined above will not suddenly come into being because some person decides to form one. Rather, members, as a result of interaction and communication, develop ways of relating to one another that make possible the analysis of behavior patterns. Inmates in correctional institutions live and participate

in an inmate social system where the values frown upon or openly disapprove of open, mature relationships with representatives of the threatening, hostile, outside world. Since to the inmate the leader is a representative of this unfriendly world, he is usually guarded and suspicious in his initial responses in the group. As group members hesitantly, later openly and defiantly, test the leader's definition of the guided group interaction situation and his role in it, hostile and aggressive reactions are directed at the world in general and particularly toward the administration of criminal justice. These aggressive reactions demand from the leader not only the highest order of leadership, but the ability to make fine discriminating judgments.

Since the entire course of the group's development is dependent on the skill and ease the leader exercise in handling these reactions, sensitively to delinquents' needs, plus ability to quickly make contact with them, seems an indispensable requirement of the group leader. The inability of the incarcerated delinquent to identify with adult figures, his quest for the leader's vulnerability, plus the tensions generated by the abnormal situation in which he lives, combine to make it necessary for the leader to sustain what Kesselman describes as the "bitter brutal attitudes of a misanthropic aggressive type of personality." The delinquent's ability "to out the leader on the spot" has been observed by many therapists. Take the simple matter of a request for a cigarette from the leader. If the leader complies with the request, it can mean that the group will look at him as "a sucker" and demand endless gratification of their infantile wishes; but to deny it means the leader is open to the charge of being a "heel who doesn't care. The only safe course in this situation as in others requiring the handling of aggressive reactions, is to turn them back to the group for their discussion.

In initial sessions, the leader will receive endless requests and demands that he correct what individual members conceive to be illogical or unfair in their treatment. During this time there is considerable ventilation of feelings, behavior becomes disorderly, discussion seems aimless, and to the outsider the group might seem like a "bull-session" where people gripe and do little else. During this period the leader gripe can use his influence to discourage idle discussion and by the simple techniques of restating and paraphrasing provocative ideas which come from the group, direct

participants to some analyses of their personal involvement in these issues. As one observer commented, “He (the leader) never lets the fire down. He rarely meets issues directly but juggles them and tosses them back to the group.” In time, the leader’s attitudes of acceptance and his failure to inflict punitive or counter aggressive acts win a few supporters in the group who soon begin to object to he views of some of the most hostile and aggressive members. A division on the basis of their attitudes develop with some for, some against, and other undecided about group participation. At this time, the first tentative examinations by the group begin with some analysis of the meaning suggested by what group and individuals have been doing during this griping and complaining period. Responses like “fooling around,” “trying to get you mad,” provide a lever for discussions which clarify the leader’s role with an increasing number of members beginning to appreciate him as an individual who reflects back to them their aggressions and hostilities by the simple device of asking provocative questions, repeating ideas expressed in the group, and summarizing to bring out significant issues. The leader uses this approach in the following summary of a group of young offenders gathered for their twelfth session.

3.4 SOME BASIC CONSIDERATIONS IN GUIDED GROUP INTERACTION

Space does not permit even a superficial examination of the many problems the group and leader must handle in their progress from a collection of individuals to group of persons capable of helping one another. The following observations on factors which serve to contribute to successful groups are offered as guides informing guided group interactions units. The care and discrimination exercised in the selection of inmates for participation in group sessions is as important as any single factor in the success or failure of the program. The literature on group therapy indicates the controversial nature of this subject and the difficulty of formulating any specific rules.

3.5 INMATE SHOULD BE SELECTED ON ABILITY TO CONTRIBUTE TO MAINTENANCE OF THE GROUP

In general, it can be stated that inmates should be selected on the basis of their ability to make some contribution to the maintenance of the therapy group. This is in keeping with Dr. Wender's observation that "…any individual who does not disturb the equilibrium of the group should not only be allowed to come to group therapy but should be encouraged to do so." Dr. Hulse formulates the criterion that "…this means that well-known and well-diagnosed patients should be selected according to their capacity for dealing with each other, working or exchanging opinions with each other without hurting each other too much. If one makes this principle the leading agent, one will have less difficulty than if one applies any rigid scheme."

3.6 LEADER AND INMATES SHOULD BE SUITED TO EACH OTHER

Not only must the inmates be selected because of their ability to work and feel at ease with one another, but it is of equal importance for the leader to find himself comfortable with his group. In other words, the leader should be suited to the inmates as well as the inmates to one another. For this reason it is probably advisable to have more than one group and more than one leader since some individuals can be profitably moved from one group to another or from one leader to another.

3.7 INMATES SHOULD BE OF SOME AGE, EDUCATIONAL LEVEL, AND INTELLIGENCE

Within the limits of the above guiding principles, it would seem that in general the inmates should be of roughly the same age general education, and intelligence. Most of the correctional institutions which responded to the survey expressed the opinion that psychopaths, homosexuals, and feeble-minded inmates do not seem to profit from experiences in therapy groups.

3.8 VOLUNTARY PARTICIPATION A DESIRABLE OBJECTIVE

The question of voluntary or involuntary attendance at the group session is of considerable importance in correctional institutions where good administrative routine requires that individuals be accounted for at all times. Also, it seems that inmates want to withdraw from the group the moment the interaction becomes personal and as one boy said, "gets under your skin." While voluntary participation is a desired objective,

the institution's routine may insist that if an individual is selected or requests to participate, he continue until discharged. This, of course, means that individuals are either in or out of the group and do not have an opportunity to absent themselves voluntarily and return when they feel a greater need for the sessions. There is also the problem, in the early stages at least, of working out some device to help the individual over his initial resistances. On method that might be used is to have all of the inmates who wish to participate in the program agree that they will attend sessions for at least 6 months and, after that, will not leave the program unless each of the group members concur in their request.

3.9 GROUPS SHOULD NOT EXCEED 20 IN NUMBER

In general, the groups should be small, probably at no time exceeding 20 inmates, although specific-purpose groups, i.e., orientation, release, can be conceivably much larger and the number of individuals handled in large measure dependant on the specific purposes. The discussion in the field reveals general agreement that too small a group increases friction between members and too complicated a web of interpersonal relationship to be handled by any one person. Ideally, a group should include between 6 to 12 inmates.

3.10 GROUPS SHOULD MEET AT REGULAR INTERVALS AND AT SPECIFIED TIMES

The group should meet at regular intervals for session of not less than 45 minutes or more than 2 hours. The time allowed for sessions might be flexible at first but the duration of the sessions should ultimately become fixed with the group's learning to accept the limits. Only serious emergencies should cause cancellation of a session. The number of sessions a week should be dependant upon a carefully arrived at program based on some estimate of individual needs. In some cases, five sessions a week is not too many and less than two sessions a week is certainly too few. Fewer than two sessions weekly denies members the opportunity to develop the feeling of kinship and understanding which makes possible the evolution of group usage patterns conductive to purposeful helping relationships.

3.11 CONTINUITY OF GROUP MEMBERSHIP IS IMPORTANT

For the same reason, there should be continuity in the group's membership because it is doubtful if a group with a large turnover will be able to develop a structure capable of providing the support the inmates feel. Also, a closed group with a definite history seems preferable to open groups if the difficult problem for groups in correctional institutions the development of common understandings so that personal material can be revealed and discussed is to be overcome. This difficult accomplishment should not be made possible by having inmates enter and leave sessions.

SELF ASSESSMENT EXERCISE

Discuss techniques of group therapy to the treatment of offenders.

4.0 CONCLUSION

The above observations are in the form of an evaluation of several years' experience with this technique with inmates in correctional institutions. It should be pointed out that guided group interaction can be but one aspect of the total rehabilitation program of an institution. Its full significance will be realized only if it is related to the total program of which it is a part. Its goal of strengthening the inmate by enabling him to find means of helping himself is reinforced and made meaningful by its integration into the total program of the institution. This not only aids and encourages fuller, more meaningful participation, but also assists in the establishment and acceptance of the program. If it is considered to be a method of curing all the ills and solving all the problems that confront correctional institutions, probably in the long run more harm than good will accompany the introduction of this technique.

5.0 SUMMARY

We have been able to discuss how the application of group therapy on treatment of offenders has received great attention and interest of a large number of persons in the field of correction. Also, a technique of group therapy has been highlighted upon.

6.0 TUTOR MARKED ASSIGNMENTS

(1) The application of group therapy to the treatment of offenders has become popular. Discuss.

(2) Discuss the role of the leader in group therapy programs.

7.0 REFERENCES/FURTHER READING

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UNIT 5: MODIFICATION OF THE CRIMINAL VALUE SYSTEM

CONTENTS

1.0 Introduction
2.0 Objectives
3.0 Main Contents
3.1 Highlight of the Issue
4.0 Conclusion
5.0 Summary
6.0 Tutor Marked Assignments
7.0 References/Further Reading

1.0 INTRODUCTION

In this unit we shall examine the modification of the criminal value system. This has to do with trying to effect changes in the criminal value system of incarcerated inmates. We shall discuss more of this in the main content of this unit.

2.0 OBJECTIVES

At the end of this unit the students should be able to:

- Know how penal administrators are trying to effect changes in the criminal values system of imprisoned inmates.
- Know the factors that might militate against modification.
- Know how rehabilitation/reformation program can modify inmates value system.

3.0 MAIN CONTENTS

3.1 HIGHLIGHT OF THE ISSUE

The central task of penal administration is to effect changes in the criminal value system of the imprisoned inmates. This task involves the additional problem of devising methods for giving equal or greater legitimacy to the conditional value

system represented by the administrative staff. It is doubtful whether it is possible to make much progress in modifying the criminal value system of the inmates until those inmates who express a willingness to control their prison behavior in terms of a conventional value system feel safe in doing so. This requires reorganization of the formal and informal social structure of the prison system. The solidarity of conventionally oriented inmates must be encouraged and protected. Opposition to the criminal value system must be both feasible and successful from the standpoint of informal prestige relations. It would also require a marked reduction in social distance between the administrative staff and the inmate body so that the prison situation would personalize the normative conflict for the inmate and provide motivation for a shift in value identification.

In most prisons today the inmate spends a major part of his time in close contact with his inmate fellows. The situation places a premium on getting along with one's fellows so that prison time may be passed as comfortably as possible. To structure the prison organization to protect those inmates striving for a conventional value orientation, it would appear necessary to employ classification and segregation procedures whose major operating criteria are based on the susceptibility of the inmate to a shift in value orientation. The administrative manipulation of rewards, favors, privileges, and punishment with view to promoting changes in value identification would be a central administrative objective. The thorough involvement of inmates in interest-provoking and educative activities has proved beneficial in restricting the dissemination of the criminally oriented prison culture by limiting the amount of time spent in idleness and prison chatter.

In a number of prison systems recent humanitarian reforms designed to alleviate the punitive aspects of person life have become improperly identified as rehabilitation programs. Such humanitarian reforms appear desirable, for they set the framework within which successful treatment programs may be instituted. These reforms in themselves, however, do not create changes in criminal value system. In that such reforms give evidence of good intentions and the desire of the prison authorities to

interest themselves in the inmate's welfare, they create the possibility of establishing relationships of trust, rapport, and conventionally motivated inmates. It is not enough, however, to set such a framework and to expect that changes in value system will follow as a matter of course. It is necessary also to deal directly with the normative conflict involved by systematically frustrating behavioral expressions of the criminal value system and promoting, rewarding, and encouraging behavioral expressions consistent with a conventional value orientation. It is likely that marked personal conflict will take place before an individual inmate is prepared to make major shift in value identification. It must become clear to the inmates that adherence to a criminal value system is a defeating and frustrating experience; whereas behavior controlled in terms of conventional norms not only will receive the support of the administration and a majority of the inmate body, but will lead to the satisfaction of personal needs, to status and prestige rewards, and to the achievement of goals which are culturally supported and sanctioned.

The achievement of such shifts in value orientation is a most difficult and stable task. It is not yet apparent what methods are most appropriate for achieving these ends. There has been no systematic evaluation of the effects of different types of treatment efforts in producing such value shifts. In fact, little is actually known about the culture of the prisoner community. Very few studies by sociologists have addressed themselves to this problem. The insights that are available come in large part from the autobiographies of convicted offenders. And these accounts are primarily descriptive in nature. Relatively little analytical work has been done on the social and cultural processes operating within the prisoner community to effect or retard shifts in criminal value orientations.

This central task of prison administration poses an extremely challenging problem for sociologists. The problem of changing criminal value orientations in a conventional direction is posed under conditions that afford almost complete control over the lives of individual inmates. The challenges occurs under conditions where the conflict in cultural values is clearly drawn. The situation does not require that sociologists simply

invent certain administrative formulas for affecting change, since it is doubtful how successful such prescriptions would be in the present state of our knowledge of these problems. Instead, it calls for exploitation of the opportunity for prison research along sociological lines. There is great need for studies dealing with problems of cultural conflicts, diffusion, accommodation, and change. It is possible that research within the prison system could provide a more rapid development of theory and knowledge concerning the relationship between personality and culture and the relationship between culture and social organization than can be secured with comparable effort in other situations in our society.

SELF ASSESSMENT EXERCISE

Why is modification of the criminal system of the prisoners desirable?

4.0 CONCLUSION

We have been able to expostulate on the modification of the criminal value system. The effort the correctional officers are expending to ensure a modification of criminal value system and the various challenges they are facing.

5.0 SUMMARY

We have been able to discuss on the need to ensure that inmate are made to imbibe the conventional value system. The prison administrators use of classification segregation, rewards, favor, privileges and punishment with a view of effecting changes in prisoners behavior has become a central administrative objective.

6.0 TUTOR MARKED ASSIGNMENTS

Modification of the criminal value system of prison inmates is a central administrative objectives of penal administrators. Discuss

7.0 REFERENCES/FURTHER READING

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MODULE 6

Unit 1 Evolution and Philosophies of Prisons System in Nigeria
Unit 2 Penological Policies of the Nigerian Criminal Justice System
Unit 3 Penal Practices in Nigeria
Unit 4 Punishment as a Deterrent: How Effectiveness Has It Been ? (A Case of Nigerian Environment)

UNIT 1: EVOLUTION AND PHILOSOPHIES OF PRISONS SYSTEM IN NIGERIA

CONTENTS

1.0 Introduction
2.0 Objectives
3.0 Main Contents
- 3.1 Overview of Nigeria Prisons System
- 3.2 History and Trends of Imprisonment in Nigeria
- 3.3 Historical Development of Prisons in Nigeria
- 3.4 Juvenile Institution
  - 3.4.1 Remand Homes
  - 3.4.2 Borstal Institution

4.0 Conclusion
5.0 Summary
6.0 Tutor Marked Assignments
7.0 References/Further Reading

1.0 INTRODUCTION

Sir Alexander Patterson (1957) surmises that “we are all in prison but in a matter of degree”. What he meant is that we are all prisoners of some sort, however, a difference in kind. Those who are constraints because of the norms and laws that demand conformity and those who have fallen foul of the laws of the land and who, after due legal processes by the court, are sent to prison to atones for their evil deeds.

With all these formal and informal constraints, pure freedom for the individual actor is very unlikely, considering all those expectation and controls that surround us.

2.0 OBJECTIVES

At the end of this unit the students should be able to:

- Know the evolution and philosophies of prisons system in Nigeria.
- Know the statutory role of the Nigerian prisons service.
- Understand the effect imprisonment have on Nigerian prison inmate.
- Know the history and trends of imprisonment in Nigeria.
- Understand the aims and philosophical perspectives of imprisonment in Nigeria.

3.0 MAIN CONTENTS

3.1 OVERVIEW OF NIGERIA PRISONS SYSTEM

Berger' (1973), a sociologist who portrayed of society as a prison begins to seem plausible in the backdrop of Patterson's assertion. Berger opines that "Our considerations of the sociological perspective have led us to a point where society looks more like a gigantic Alcatraz (a name of a prison) than anything else.

He further noted that society penetrate us as much as it envelop us. Our bondage to society is not so much established by conquest as by collusion … we are entrapped by our own social nature. The walls of our imprisonment were there before we appeared on the scene, but they are ever rebuilt by ourselves. We are therefore betrayed into captivity with our own co-operation".

In this unit I am not elucidating on the constraints which the society has imposed on individual actor due to the restrictive laws and norms but instated, on prisoners by law. Prisoners by law are offenders who have fallen foul of the laws of the and who, after due legal processes, are confined within the four walls of prison to atone for their evil deed. Society may have nothing to lose for the incarceration of such people.

Instead, their being kept away is a means of punishing those who break the laws of the society.

According to Gresham Skyes (1958) “Imprisonment can be defined as that process whereby an individual is confined within an institution known as prison”. This is where his movement become restricted and he becomes cut off from family, relative and friends for part of the time. This isolation can be painful and frustrating as he is deprived of emotional relationships as well as freedom of expression. He therefore loses his independence in decision-making in most things affecting him. All decisions are invariably taken for him and imposed on him, thus often forcing him to lose all sense for personal initiative. Section 19 of the 1972 Act of Nigerian prisons defines a prisoner as “any person lawfully committed to custody”. Similarly, it also defines a sentence of imprisonment as any sentence involving confinement in a prison.

The evolution of the prison system was primarily the consequences of the growth of new philosophies of human conduct and differing institutional designs and penal practices. Punishments for criminal offences since the beginning of recorded history have varied. In primitive societies people were punished for various reasons ranging from revenge to placation of the gods and protection of the society. In contemporary Nigeria, the expression of vengeance against offenders has largely given way to the punitive confinement which still prevails till date.

The statutory role of the Nigeria prisons system is tripartite in nature. These roles are custodial, treatment and rehabilitation. Ideally, the Nigeria prisons service which is regarded as the end of the assembly line of Criminal Justice System believes that the treatment and rehabilitation of the offenders could be achieved through carefully designed and well articulated administrative, reformative and rehabilitative programmes. These roles aimed at inculcating discipline, respect for law and order and the dignity of honest labor in convicts. The treatment and rehabilitative objective of penal system is being defeated and made impossible because of the acute shortage or absolutely non-existence of rehabilitative facilities. This lack of rehabilitative

facilities is worsening by the congested and degrading human condition in our penitentiary institution.

The spirit of the present system is based on a very old and out molded prison ordinance of 1916 which enacted imprisonment with hard labor as the basis of treatment of offenders in Nigeria. At the moment, all the prisons in Nigeria are administered under the prison degree no 9 of 1972. Ninety four years had passed since prison ordinance of 1916 was promulgated. The philosophy of inmate treatment had not seen much change except for the introduction of some reformative measure by the colonial administrators. This reformative measure was compelled by the demand of the laws of criminal justice and the united Nations standard minimum rules for the treatment of offenders (Resolution 663 C. xxiv of 31st July 1957. Degree No 9 of 1972).

Consequent upon the operation of the philosophy of punishment: from admission to discharge, a prisoner is exposed to various forms of deprivation including, loss of personal liberty, loss of self identity, loss of privacy, loss of self determination, loss of regular incomes, loss of franchise right, exposure to homosexuality, violence, malnutrition, epidemic, loss by untimely death, lack of job on discharge and finally social ostracism.

This deprivation couple with dehumanizing condition in our prisons definitely has an adverse effect on the inmates. Like the Hobbesian state, life in our prisons is brutish, nasty and short, many of the inmates are reduced and are psychologically, mentally and physical wrecked. The most unfortunate aspect of it all is that rather than a reform prisoners to enable them because more useful citizens to themselves, their respective families and the Nigerian society at large, existing measures and condition in our prisons make inmates become hardened criminals. On discharge, they are being rejected and ostracized by the society. The ex-convict becomes frustrated and embittered. The eventually fall back to his criminal sub-culture where he is accepted.

SELF ASSESSMENT EXERCISE 1

Discuss the evolution of the Nigerian prisons.

3.2 HISTORY AND TRENDS OF IMPRISONMENT IN NIGERIA

Before the advent of the British Colonial master people who had breached the laws of the society were subjected to hanging, alive, ostracism, exile, fines and in other cases mere humiliation. There were specific penalties following certain offences such as fines for stealing, a death sentence for unlawful homicide, and exile for incest. Punishments were of two types: fines, manual labor, compensation and restitution and corporal punishment which could be applied without disturbing the ordinary life of the community. In the second group were death penalty and permanent banishment from the group and other serious punishments for more serious offences which were perceived as a serious threat to the well being of the society. Under the Nigerian traditional system, the relationship between punishment and offence was not consistent and the criminal justice meted out to the offenders could be said to be rough and severe.

Furthermore, there were trails by ordeal and their built-in-penalties. The sanction of imprisonment was largely absent in the early days. There were no formal courts of justice where disputes were arbitrated. Measures of dealing with offenders such as imprisonment, borstal training was non-existent. The traditional measures of dealing with offenders included reconciliation, restriction or the payment of compensation and at times trail by ordeal.

With the advent of the British, sanctions of imprisonment were introduced and laws were passed which specifically abolished some customary penalties such as mutilations and torture, trail by ordeal together with their inherent penalties, and beheading with sword. Penalties were now being made subject to the requirement that they should not be repugnant to natural justice equity and good conscience. Limits were therefore placed on the native court’s power to imposed human punishments by

specifying their powers of sentence either by statute or in the warrants establishing the courts.

Shortly before independence, customary criminal laws and penalties were established. The position now is that no Islamic or customary criminal law and procedure is applicable and the courts can only imposed penalties specified in the written laws. Thus, treatment of offenders have evolved from a rather non-custodial, simplistic manner to a highly institutionalized type where emphasis is on punishment, as a means of protesting the society.

In Nigeria, imprisonment has been the dominant mode of punishment, more punitive than anything else. Offenders are locked up under sub-human conditions often with 100 inmates occupying a cell that was originally meant for at most 20 persons. The cells always stink with hot, uninviting air oozing out at intervals from the cells to the immediate environment, worse of all, the original ideas of classification of convicts according to classes of offences, age and health, has died a natural death. According to Ayua (1992) “what one would rather see our prison system in Nigeria look like, is nothing but a constitutionally approved camp. Where people or suspected dubious character are instantly kept to be trained as real crime manipulators”. It is sad that this primary knowledge had been kept from the unsuspected general public since Nigeria assumed her independence status”.

In Nigeria, the use of non-custodial methods of treatment of offenders is very minimal. The prime concern of most magistrates is to determine whether the law has been infringed and then to proceed on passing judgement as the law stipulates. They rarely look beyond the crime or offence committed to the causes of the crime or offence.

As a result, very little reliance is made on the reports of the probation officer attached to the courts. No effort is made to correct and reform the offender in such a way as to change him from a bad to a good member of the society.

SELF ASSESSMENT EXERCISE 2

Discuss the History and Trends of Imprisonment in Nigeria.

3.3 HISTORICAL DEVELOPMENT OF PRISONS IN NIGERIA

Before 1861, there were non prisons in Nigeria in the contemporary sense. But before the European contact with the geographical area now christened Nigeria, traditional or customary prisons existed. The traditional or customary prisons were a form of deprivation of liberty, or a form of imprisonment or reprisal for offences committed against the community. among the Tiv and Igbo, records of offenders who were imprisoned exist. The Fulani have records of offenders who were incarcerated and detained for unlawful behavior . also there were records for the Bini, where a prison system know as “Ewedo House” existed as a prison and detention camp for unlawful or criminal persons earmarked for sale into slavery. In fact, the “Ewedo House” was not the only customary prison in pre-colonial Nigeria. There were in addition, the “Ogbani House” for the Igbos, while creek people had the “Ikoliwari house”: where offenders and war captives were kept. Special offenders served their sentences in the Oba’s Amayanabo’s or Obi’s palace. Prisoner, other than the special prisoners who served as servant to the king and members of his council of chiefs, cultivated the land for farming and produced instruments for fishing, especially. Theses they were made to perform since the Nigerian society, then, was under the slavery and feudal mode of production; offenders worked as punishment and this became the origin of ‘hard labor’ imposed on offenders in contemporary Nigeria.

When the British colonized the territory which became known as Nigeria, these ethnic or customary prisons were in existence and served basic needs of the communities where they were established. the British had need of the communities where they were established and had no difficulty in establishing a prison yard, since Africans then already had knowledge about imprisonment as a form of punishment. There the British disarticulated, distorted, and under-developed the Nigerian economy or socio-economic formation, and took advantage to dismantle the existing traditional existing

prisons and built new ones, modeled after the British tradition. They staffed the new prisons with officers trained in Britain.

In 1862, governor Freeman was commissioned to appoint judges and other officers and to build prisons. When Governor Freeman implemented the advice from the Queen-in-Council, the structure and function of prison system drastically changed, since Ordinances and Statutes made in Britain and implemented in Nigerian prisons supported administrative person procedures applied. Observing that offenders in the ethnic or customary prison were used to hard work, the British colonial government established the impression that work was seen as part of the prison's punishment. By 1872, the British pattern of prisons was established in Lagos. The first of its kind was named the Broad Street Prison to accommodate 3000 prisoners. But the prison ordinance providing for the establishment of prisons was passed with the supreme court ordinance of 1876.

But by section 39(1) of the Prison Act (1960) imprisoned persons were required to "work at such labor as may be directed by the officers in charge of the prison" and only to be excused for punitive purpose, and similar ones like it were built in Calabar. Onitsha, Benin City, Sapele, and Degema between 1885 and 1900.

By 1968, all prisons became bonafide property of the Federal government of Nigeria with little or no change in infrastructure except that the Broad Street prison had been demolished. On April 1st of the same year, the Federal Military Government established a unified prison system throughout Nigeria, which marked a decisive turn-off point from the previous administrative methods to present day administration of prisons in Nigeria. Following the decision, Lieutenant Colonel Mabb was appointed the first Director of Prisons to have authority over government prisons throughout the federation of Nigeria.

Under this framework, Nigeria operate a dual prison system for well over half a century. Government prisons came under the jurisdiction of the Federal prisons

Department. Local prisons were under the responsibility of the local government authorities. Over the years, the relationship between the two systems strengthened. By 1948, the Federal Department established inspection and advisory services for the local prisons. The work involved regular tours of inspection of the Native Authority Prisons. During those inspections, they (the federal inspecting officers) inspected all aspect of prison administration and checked Department Vote Books, to ensure that prison labor was properly applied, the welfare of the prisoners was being maintained, the Morales of prisoner are kept high, and that money voted for prison administration was being properly spent.

By 1953, the 1948 enclosure type of prisons for punitive purposes was replaced by the open prison system established first in Kaduna to allow prisoners to interest among themselves and to learn a trade, while in prison. At the same time, an extensive common training programme was going on for prison staff at the Prison Service Training Schools in Enugu and Kaduna. This programme was designed to provide basic training for local authority prison officers on similar terms with those of the federal services.

The integration of the services covered only particular services shared by certain prisons. Under section 31 of the 1960 Prisons Act, it was stipulated that Prisoners could be freely transferred between local authority and Federal Prisons with the consent of an Assistant director of Prison and the Regional Affairs in the North, and the Minister of Home Affairs in the West. This power was regularly exercised to relieve pressure in local authority prisons, and to provide security when it was necessary. In addition, the process helped in the allocation of prisoners to prisons on the basis of the duration of their sentences – whether short or long term. Under the Native Authority Prisons Order-in-Council (1943) High Court or Magistrates were empowered to commit offenders to a local prison in the area of the purpose of serving short sentences not exceeding two years.

However, distinction existed, fifteen Northern local authority prisons took only offenders whose court sentences did not exceed three months; one Northern and two

Western local government prisons could take in offenders whose court sentences did not exceed six months; but twenty-nine Northern and five Western prisons were not empowered to accept prisoners whose court sentences exceeded two years. However, Customary Court sentences were normally served in the local authority prisons without regard to the duration of sentence.

Before 1866, Government policy did not envisage or encourage unification. But prison administrators advised that the new system was convenient. The argument, in addition, was that there would be greater opportunity for classification and specialist treatment facilities that only a large system could offer.

The Decree of 1966, tagged 'Prison Control Decree', under the Aguiyi-Ironsi regime was part of the efforts to brings about a unitary government within Nigeria. Under this decree, all local prisons would in future be under the operational control of the Federal Department. By this decree, central; control of all prisons became vested in the Director or Prisons' whose headquarters was situated in Lagos, so also were those of his principal officers in-charged of administration, finance, establishment and statistics, industries, building, stores, transport, welfare, sport and of female staff, and female prisons.

SELF ASSESSMENT EXERCISE 3

Discuss the historical development of prisons in Nigeria.

3.4 JUVENILE INSTITUTION

3.4.1 Remand Homes

In Nigeria Correction System includes juvenile institutions which comprise the Remand Home and the Approved Schools.

The development of the Remand Home in almost all the States of the Federation of Nigeria has been recent, for in the past fifty years, there were only about seven, but, today, there are more than twenty seven of them. Early in their development, they were set up and operated by local authorities with overall guidance from the State

Social Welfare Department. Today, their set-up and operations are directed by each State welfare Department under a ministry.

The growth and expansion of Remand Homes have been dramatic, since the 1960s. One of the earliest Remand Homes in the Southern part of Nigeria was a solitary home in Calabar which was established in 1960. By 1964, five similar ones had been established in borrowed rented or donated housing accommodation under the Local Council of Social Service and the Regional social Welfares Department, Remand Homes were renamed “Citizenship Centres”. This new name raised some controversy between advocates and their opponents. Majority said that the new name did not last long for remand homes were the Cinderella’s of the Social welfare Service. The one in Calabar accounted for almost all the expenditures of the Regional Social Welfare Department. Today, almost all the buildings used for the operations of Remand Homes are built and owned by State Government Social Service Departments. This is because the public have no real interest in them.

Early in the 1960s, one major problem of Remand Houses has been overcrowding. In the West and Mid-West, where Remand Homes were operated in reconstructed buildings, juvenile lived in small rooms. The same problem existed in the Lagos accommodations, where thirty girls in the Surelere homes shared a space suited for fifteen; and in other homes in Lagos, 100 boys shared rooms designed for seven, while in the Kaduna Remand Home, thirty boys shared a space which was adequate for twenty boys.

Remand Homes are intended to care for juveniles who are awaiting trial or disposition by the Juvenile Court. Remand Homes intake consists of
(a) Genuine criminal remands; (b) Juveniles, awaiting welfare or juvenile Court proceedings and outcome; (c) Juveniles already committed for short sentences; (d) Juveniles who are handicapped.

When a juvenile is arrested for all alleged crime or offence, the police may release him on bail, if his offence is not a serious one and if his release will not be an impediment to the court dealing with him. But if an arrested juvenile is not released on bail, he is normally sent to a remand home where he is to remain until court hearing day. However, the court may certify why the juvenile is unsuitable to be put in a remand home and, in such a case, the juvenile may be remanded to an approved school.

REMAND HOMES AND BORSTAL INSTITUTIONS

An enlightened approach to deal with the problem of prevention and treatment of juvenile delinquency started in 1899 with the establishment of juvenile courts. The juvenile offenders were suggested from adult criminals in jails and reformatories for the purpose of correcting their anti-social behavior. The development of juvenile courts was due to the problems of where to house the delinquent children who needed shelter while awaiting court hearing, the appropriate place for their rehabilitation, reformation and methods of caring for them, brought about the development of remand homes, Borstal institutions, and approved schools.

Remand Homes: Is the earliest and laziest method available to ensure attendance of juvenile offender court because for some reasons the alleged delinquent cannot be left either at his home or with his relatives especially if the delinquent child is a threat to others.

Furthermore, remand homes are used for housing delinquent children awaiting hearing or trial; housing those in need of medical and psychological study is the beginning of treatment plan; and to house those who have been committed to an approved school but are awaiting admission (Robinson, 1960:48).

3.4.2 Borstal Institutions

Borstal started in England, with the works of Sir, Evelyn R. B. when he first experimental with separate treatment for young offenders. These institutions are

designed to care for offenders between the ages of 17 and 21 who have shown themselves to be serious offenders. The term Borstal sentence is a maximum of 3 years but as a general rule, release from Borstal is possible after 2years. However, earlier release can be arranged if the commissioners are convinced that the Borstal training has served its purpose. The boy's progress in the system is observed and recorded so that if he fails to adjust, he may be released at anytime to another Borstal. After what is observed to be appropriate period, each is considered by an institution's board, presided over by its governor, and when the youth is considered ready for discharge, the case is submitted to the visiting commissioners or committee usually composed of justice appointed annually by the bench which if it agrees, recommends that youth is discharge on license (Trappin, 1949: 478-479).

Primarily, Borstals are institutions for the rehabilitation and individualized treatment of young offenders. Their main objectives are for all round development of character and capacities including moral physical and vocational training with emphasis on the development or responsibility and self control increasing with progress.

SELF ASSESSMENT EXERCISE 4

Lists the various problems faced by Nigerian prisons service.

4.0 CONCLUSION

As earlier surmises that the government attitude towards the management of criminal behavior is the bane of Nigeria Prison System. Presently, there is lack of reformative and rehabilitative facilities in Nigerian prisons. Training programmes for prisons inmates are disorganized. Facilities including qualified teachers and relevant books in various subject are most inadequate, while prisons libraries and clinics in the country are ill-equipped. The prison after-care service is totally handicapped, invariably, prison inmates interested in acquiring professional skills while in prison, with the hope of setting up their own business on discharged, end up becoming frustrated and dejected. This is particularly so because pragmatic measures are yet to be taken by government to enable the Nigerian prison system involved prison inmates through out

the country in beneficial training programmes capable of enabling them acquire useful educational and professional skill that could make them become gainfully employed on discharged.

5.0 SUMMARY

In this unit we have seen that our prison system is a monument of colonial administration. We have also seen that there is a lot of contradictions regarding our penal philosophy and treatment of Nigerian offenders. The practice to date merely suggests that the philosophy guiding imprisonment in Nigeria appears to be palpably punitive, quite devoid of the humanitarian or rehabilitative touch that have characterized the prison system of many developed countries of the world.

6.0 TUTOR MARKED ASSIGNMENTS

Discuss the history and trend of imprisonment in Nigeria.

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UNIT 2: PENOLOGICAL POLICIES OF THE NIGERIAN CRIMINAL JUSTICE SYSTEM

CONTENTS

1.0 Introduction
2.0 Objectives
3.0 Main Contents
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1.0 INTRODUCTION

In this unit we shall examine the penological policies of the Nigerian Criminal Justice System. This has to do with the penal practice that is stipulated by our constitution on how to deal with law breaker and offenders. It has to do with the justification behind penal sanction in Nigeria. This unit will focus on penological policies and practices which have become highly entrench and routinised despite their doubtful validity.

2.0 OBJECTIVES

At the end of this unit the students should be able to:

- Know the penological policies of the Nigerian Criminal Justice System.
- Understand penal policies and penological knowledge.
- Know what retribution theory is all about.
- Know what reductivist's theory is all about.
- Know what reformative justification is all about.

3.0 MAIN CONTENTS

3.1 HIGHLIGHT ON THE ISSUE

This topic is epicenter to any serious analysis of the Criminal Justice System. It involves the kind of the things which must or can be done to those individuals who engage in forms of conduct which are prescribed by penal law, to what extent the law should or can go in regulating particular forms of conduct and penalizing transgressions, the justification of penalizing non-compliance, the considerations that should govern the imposition of acceptable penalties and the relative merit of adopting particular penalties rather than others. This question cannot be adequately treated herein, but neither should they be put away without any comment. It is essential to identify the key issues raised by these questions and later apply these to the discussions on contemporary penological policy and practice in Nigerian.

Many jurists in Nigeria would regard the questions raised above as overly theoretical, philosophical academic and beyond the scope of criminal justice practitioners. To them the duty of criminal justice operators should be to read, understand, standardize and apply legal concepts and texts, not to pose radical and philosophical questions. According to Ahire, (1990) “this attitude has encaged the improvement and underdevelopment or legal education in Nigeria and fostered a wide gulf between legal knowledge and social realities.” It has also discouraged the systematic questioning of legal routines and the occasion reappraises of the targets methods and limits of legal objectives. The better part of this unit will focus on penological policies and practices which have become highly entrench and routinised, despite their doubtful validity. This exercise will commence with a critical analysis of general penological objectives against the background of contemporary penological knowledge.

3.2 PENAL OBJECTIVES AND PENOLOGICAL KNOWLEDGE

The penologist may be regarded as a moral philosophies whose stock in trade is the analysis of the institution of punishment and the penal policies adopted in specific

societies. He usually poses the question why do we punish those who transgress established rules? Put in other words the penologist inquiries into the objectives and aims which given societies seek to achieve by penalizing those of its members who violates its law. This singular question attracts varying responses which can be grouped under two main categories:

The first category consists of non-utilitarianists theory. The non-utilitarianists who believe that law violations should be punished because, by their wicked acts, they deserve it. It is contended by this position that punishment is the "right" of the offender, and that unpunished wrongdoing is a greater evil than punished wrongdoing. It is further contended that by culpably committing an offence, the offender has forfeited his right to freedom, liberty and property, and must therefore be made to suffer for his action. This is the theory of retribution.

3.3 RETRIBUTIVE THEORY

Retributive theory emerged in eighteenth century Europe as a distinctive product of the classical school which sought to evolve a rational penal policy in place of the barbarous and arbitrary punishment experienced during the ancient regime. The classical scholars assumed that every individuals possesses the "free will" to discern between right and wrong and should therefore be held squarely responsible for his actions before the law, irrespective of his social status. They further assumed that individuals were "rational" agents capable of defining their self interests and tempering their actions according to the dictates of reason consequently, they should be rewarded according to their energy and skills, and conversely, punished according to the social harm which the inflicted on others and the society at large. Retributive theory is therefore founded on this thinking.

The hallmark of the retributive justification is "justice" It claims to be doing justice by matching offences with penalties. Doubts have however been cast on the possibility of ever balancing the do-called "penal equation". The difficulty of calculating, not just culpability, but the extent of it is one thing not to talk of the estimation of the extent of suffering that will match it move seriously. The retributive justification evokes moral

putery as a form of out rage or dignified vengeance on offenders which dos not consider the long term interest of the society.

A related penal policy to retribution is denunciation expressing society's non-tolerance and disproval of certain conducts by the imposition of ceremonial punishment. It is hoped that such denunciatory punishment (which must be given wide publicity) will satisfy those who know and disapprove of the act. It is also deemed necessary to furnish the law with a sufficient strong influence to keep the community law abiding.

3.4 UTILITARIANIST OR REDUCTIVISTS THEORY

The second category of penologists are the utilitarianists or reductivists who believe that penalties should reduce the frequency of offences either by reforming, deterring or incapacitating the offender. This position believes that penal measures should be calculated to achieve beneficial purposes for the whole society. In particular such measures should aim at reducing further incidence of offending or re-offending, and thus protect the society against criminal victimization.

The reductive or utilitarian justification is largely the product for twentieth century positivist thought which advocate the systematic application of the scientific method to the study of crime. In place of the classical notion that criminal responsibility rested with the individual's "free will", the positivists argued that criminal responsibility was determined by social and biological factors beyond the control of the individual offender. Personal responsibility therefore gives way to social or biological determination. The responsibility of the Criminal Justice System is therefore portrayed as that of identifying the social biological determinate of criminal act on each individual case, and adopting such suitable penal and non-penal measures that would remove such criminogenic factors and thus disentangle the individual from criminal involvement.

3.5 REFORMATIVE JUSTIFICATION

The reformative justification, for instance contends that penal measures should have a therapeutic value i.e. they should be calculated to impart moral improvement in a person's character so that he will less inclined to re-offend.

The reform-minded maintain that if we were not trying to change offenders into non-offenders, we would systematically increase the offender population. They regard the principal objective of the correctional system to be reformation. The voluntary transformation of an individual lacking in social or vocational skills into a productive well socialized citizen.

SELF ASSESSMENT EXERCISE

Discuss the utilitarianist theory.

4.0 CONCLUSION

From this unit, students of criminology should know the penological policies of the Nigerian Criminal Justice System. You should also know why this penal policies is been adopted in Nigeria society.

5.0 SUMMARY

We have been able to discuss extensively on penological policies of the Nigerian Criminal Justice System. We have also discussed the aims and objectives of penal policies and practices on Nigeria societies. We have focused on retributive theory, reductivists theory and reformative justification of penal sanction.

6.0 TUTOR MARKED ASSIGNMENTS

Discuss the penological policies of the Nigerian Criminal Justice System.

7.0 REFERENCES/FURTHER READING

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UNIT 3: PENAL PRACTICE IN NIGERIA

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2.0 INTRODUCTION

Many discussions of penal practice in Nigeria erroneously focus on courts and sentencing process, neglecting the origin and character of the laws which the court interprets, and the various agencies which implement the decisions of these court. This unit will focus first and foremost, on the problem of the law itself before examining other penal policies based on it.

3.0 OBJECTIVES

At the end of this unit the students should be able to:

- Know the penal practice in Nigeria
- Know the problem of clear philosophy on our penal system
- Appreciate the various suggestions been preferred for the improvement of our penal system.

3.0 MAIN CONTENTS

3.1 HIGHLIGHT ON THE ISSUE

As is well-known the Criminal Law which we have in Nigeria today was borrowed from our erstwhile colonial masters. It was a direct and wholesale importation from the metropolis to the colony which served as the epitome of rationality. It created a new world in which the notion of "right" was no longer attached to a "natural" or "customary" order but to a "technical" and "legal" order. According to Ahire (1990) "through legislation the colonial state criminalized a wide range of activities, some of them clearly customary and others less so.

Karibi (1992) has aptly pointed out that the values which informed colonial law were foreign ones and there was a total disregard for indigenous attitude and accepted mores. He notes further, that " In formulating offences and justification for defences, it is the attitudes of the colonial power that proved determinant. The moral attitude of the society towards particular conduct was ignored unless such conduct was at the same time reprehensible by the standards of the colonizing power.
Milner (1963) notes concurringly that penal sanctions devised with the Nigerian community in mind, and the pattern since then has been not to devise new and locally effective penalties, but to use the ready-made English machinery or apparently similar African problems.

The continuance of borrowed legal system is partly responsible for the absence of a clear and coherent criminal justice policy direction in Nigeria today. Policies direction does not mean the adoption of a singular penal policy to be applied by all arms of the Criminal Justice System. Instead, the suggested policy direction should ensure the question: what does the overall Criminal Justice System intend to achieved and how does it intend to go about achieving this? According to Ayika (1988) "the primary aim of the penal system are to safeguard the existence of the society, to maintain order and to ensure that citizens live unmolested; and free from unlawful interference." he assumes that society is a monolithic entity whose interest are easy to identify and pursue collectively. The wealth of cultural and class heterogeneity in Nigeria makes the task of evolving a suitable judicial policy more subtle and complex. In its absence, we have the unpleasant situation whereby the police claim to be pursuing their own

policies while the courts and prisons pursue theirs. Inter service cooperation is minimal, while inter-service misunderstanding and even hostility is clearly visible.

3.2 THE PROBLEM OF CLEAR PHILOSOPHY ON OUR PENAL SYSTEM

Part of the reasons for the absence of a policy direction and harmony within the Criminal Justice System is the acute shortage of reliable information to enable planning. Basic information is needed on all aspect of the criminal process such as the nature of crime, the basic character of law; popular attitudes to the law, the police and the social, the effectiveness of specific penal measures, judicial discretion, the impact of imprisonment etc., before any meaningful policies can emerge.

In the absent of any policy direction, the agencies of the Criminal Justice System are left with enormous discretion. The generally vague and ambiguous provisions of the criminal law leave the police with wide discretion in the performance of their official duties. Such discretion embraces choices and omissions which the police make whether with the deliberate authorization of the law or whether such discretion is implied in their law enforcement function informed commentators have ignored the wide discretion wielded by the Nigeria police as if it is “natural” desirable and without grave consequences to the liberty of the citizens.

One of the strongest features of the Nigerian penal system is the wide discretion available to judges in the area of sentencing. Fadipe (1990) confesses from his personal experience on the bench that “our law gives magistrates very wide discretion… But, sad to say a good many of our magistrates do not, as a rule, exercise that discretion in the best interest of the accused himself and the public. They do not bother themselves to perform the necessary exercise in passing sentences in order that justice might be done.

The wide discretion given to judges often results in discrepant sentences being passed by different court (at times by the supreme court) for apparently similar offences justice Fatayi Williams, then justice of the supreme court, has rightly noted that: … There are many instances of irrational sentences passed by various courts. In fact one of the main defects today of our criminal law is the incoherent, irrational and incredibly intricate variety of sentences legally pronounced by different courts exercising the same jurisdiction in respect of the same or similar offences. To some of us, the pronouncement of sentences is perhaps the most confused area of our criminal legislation. This is because penalties are not fixed by the legislature. An the contrary, statutory maxima are prescribed within which the judge or magistrate, depending on the limit of his jurisdiction is free to roam in the exercise of his discretion…

Whereas Fatayi Williams attributes sentencing disparity to legislative sources, other commentary have blamed community pressure and differences in the social background, attitudes, training, competence and personality of the individual judge.

In exercising their wide discretion Nigerian judges tend to adopt a patently punitive and retributive approach. It is been noted that the major forms of sentence readily used by Nigerian magistrates and judges were of imprisonment or fine with the alternative of imprisonment. Although existing legal provisions encourage the use of probation. It is regrettable that our judges hardly make use of these. Even a Government source has acknowledged this deficiency Nigeria has statutory provisions for probationary sentences but the administrators of justice hardly ever employ such provisions yet evidence shows that on the basis of the statutorily stipulated criteria for probationary sentences, about 4o% of offenders presently sent to prison should have qualified for such sentences. This situation may be explained by the colonial heritage and training of our justice administrators, their belief in deterrence, and their tendency to take the path of least resistance i.e imprisonment and /or fine.

This punitive and hard line approach is also evident in the operations of other arms of the Criminal Justice System like the prisons. Although the Government white paper on prison re-organization released in 1971 categorically States that the primary

function of the Nigerian prison service is “identifying the reasons for antisocial behavior of offenders and training then to become useful citizens in a free society”, very little of this is actually achieved in practice.

The patently custodial and punitive function which Nigerian prisons have always performed still lingers on and consistently overshadows the declared policy of reformation and training. Beside, Nigerian prisons have no physical and human resources to undertake so complex a task as the diagnosis of criminal behavior, and the prescription of appropriate remedies.

The whole nation of reformation and correction within the prisons can be viewed as a “grand hypocricy in which custodial concerns, administrative exigencies and punishment are all disguised as treatment. According to Alemika (1987) “the policy of reformation is no more than a public disguise for modernizing while in practice, nothing has changed from the inherited penal system that was geared to wards punishment incapacitation and deprivation of incarcerated offenders”.

The above suggests that even if the penological intent of the legislature, the police and the judiciary were reformation, the contemporary realities in Nigerian prisons would frustrate this. But as the above suggests a punitive and retributive thinking parades all arms of the Nigerian Criminal Justice System.

SELF ASSESSEMENT EXERCISE 1

What is the problem of clear philosophy of our penal system?

3.3 SUGGESTIONS FOR IMPROVEMENT

It is has been argued that Nigeria’s Penological problem’s are not unconnected with the foreign, illegitimate and authoritarian nature of the laws which were inherited from colonialism. Colonial laws usually adopted an authoritarian cast because of the need to forcibly control and subjugate the indigenous people to exploitative conditions such laws usually gave judges wide discretionary powers to be able to

enforce whatever policies the executive made. Such laws need a fundamental review in order to bring them in line with contemporary realities in Nigeria.

The review suggested here is not just a cosmetic one that “re-phrases” one law or the other, but a complete overhaul or every existing law such law should, whenever practicable, seek to reflect community values aspirations and morality in legal provisions. It should also endeavor to tackle the problem of overbroad police and judicial discretion. This can be done by clear and unambiguous definitions of offences and penalties by the legislature which narrows down the freedom of officials to chose possible course of action or inactions. In the particular case of the judiciary, the provision of sentencing guidelines and a mandatory requirement to obtain and consider pre-sentence information may help to improve the sentencing process and minimize disparities.

Beside the overhaul of our legal system, there is pressing need for a coherent policy direction within the Nigerian Criminal Justice System. This could be achieved by evolving a philosophy that identifies and articulates the grand vision of the overall system, and specifies the role which each of the arms can play in this regard.

Such a philosophy would therefore help to unite the efforts of the different arms, and to ensure the pursuit of common penological objectives. The suggested re-orientation within the Criminal Justice System should discourage the adoption of penal objectives which are little understood and whose relevance and effectiveness within our cultural milieu is not established. Instead, there should be greater willingness to experiment with traditional penalties such as restitution, compensation, fines, manual labor etc whose effectiveness in curbing crime is established.

In general, the increased use of non-custodial measures in sentencing is herein advocated Measures like probation, discharges and suspended sentences, when properly applied, have the merit of decongesting the prisons and giving the offender a

good chance to adjust in a natural environment. Fines are suitable only for those with the ability to pay.

In order to implement the above proposals, there will be the need for the government to commission and fund indepth social science research into various aspects of the Criminal Justice System which will generate the much needed information to inform policy. It is acknowledged that the resources of the state are thin, but the proposed research can be regarded as a environment which promises worthwhile returns interms of enhancing the overall quality of justice.

Even if all the above suggestion are satisfactorily implemented, the problem of crime will continue. This is because crime is not principally on outcome of defective penological policies, but of defective socio-economic conditions and contradictions which people face in specific societies. For the problem of crime in Nigeria cannot be adequately tackled unless something fundamental is done about the progressively worsening material conditions of the ordinary people.

SELF ASSESSMENT EXERCISE 2

Give your suggestion on how to improved on our penal practice.

4.0 CONCLUSION

From the unit, students of criminology should be able to know that the Criminal Law which we have in Nigeria today was borrowed from our erstwhile colonial masters. That this borrowed legal system is partly responsible for the absence of a clear and coherent criminal justice policy in Nigeria. Furthermore, students will appreciate the reasons for the absence of a clear philosophy and policy direction within our Criminal Justice System. Suggestions for improvement were also made available to students.

5.0 SUMMARY

In this unit you have been presented with the origin of our Criminal Law which indirectly shaped our penal system. The lack of clear policy for our penal system is

attributable to the origin. This unwelcome situation has call for different suggestions with a view to remedy and improved on our penal practice.

6.0 TUTOR MARKED ASSIGNMENTS

Discuss the problem of clear philosophy on our penal system.

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UNIT 4: PUNISHMENT AS A DETERRENT: HOW EFFECTIVE HAS IT BEEN IN NIGERIA.

CONTENTS

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1.0 INTRODUCTION

This unit will assess if punishment has been an effective deterrent in the administration of criminal justice. If it has not been what then is the alternative resolution to the problem? This unit will seek an evaluation of the effectiveness of the penal institution for purposes of a better Criminal Justice Administration in Nigeria.

2.0 OBJECTIVES

At the end of this unit the students should be able to:

- Ascertain how effective punishment has been on effective deterrent in the administration of criminal justice.
- Know the meaning of punishment.
- Know the various forms of punishment that exist in Nigeria.

- Understand punishment as an incentive to normal behavior.

3.0 MAIN CONTENTS

3.1 WHAT THEN IS PUNISHMENT IN ANY CASE?

Punishment is a broad censorial act of state policy in disapproval of morally reprehensible and generally prohibited acts which are considered contrary, to the interests of society as a metaphysical unit. This act of disproval is of such a nature as to exact "suffering" from the culprit who has invited its application by "violation". Violation is established by a finding of guilt, the latter being a statement as to moral culpability and responsibility for an act empirically established as flowing from the "wicked" also of the culprit himself directly or indirectly.

In Black's law Dictionary punishment is defined as "any fine, penalty, or confinement inflicted upon a person by the authority of the law and the judgement and sentence of a court, for some crime or offence committed by him, or for his omission of a duty enjoined by law. A deprivation of property or of some right. But does not include a civil penalty returning to the benefit of an individual such as a forfeiture of interest".

Alf Ross (1929) for his part has this to say of punishment … the concept of punishment could be defined in terms of four components punishment is that social response which

(1) Occurs where there is a violation of a legal rule.
(2) Is imposed and carried out by authorized persons on behalf of the legal order to which the violated rule belongs.
(3) Involves suffering or at least other consequences normally considered unpleasant and
(4) Expresses disapproval of the violation.

In sum therefore, punishment is, in its briefest characterization, a coercive censure. Having defined what punishment is, we now grapple with what is now traditionally tagged "the aim of punishment".

3.2 THE AIM OF PUNISHMENT

By way of a preliminary observation, let me state here that the question of the aim of punishment is a vexed one. As Ross has queried "… how can we talk of the aim of a social institution which has handed down to us cultural fact and the existence of which cannot be possibly be attributed to the question of any on a man, living or dead. Even if one regards the institution of punishment as the sum total of the thousands of legislative, administrative and judicial acts in which it manifests itself in community life, how can one possibly ascribed to all of them one common purpose?" .When we consider that it is quite conceivable that the notion of punishment may in fact, have had its root in ancient superstitious attitudes of reverence to communal gods against whom it was considered catastrophic for society to offend, we begin to see punishment (at least in its origins) as a communal Catharine response in which a "scape goat" (whether or not actual guilt is established) must be sacrificed by way of an appeasement. If there was a goal at all, it was that of the ultimate preservation of society from the anger of the gods whose norms were supposed to have been violated, but such a "goal" was not a conceptual notion. If anything, it had its roots in superstitious fear.

However, for the purpose of this course, I submit, only valid for purposes of a "source study" inquiry as to the nature and aim of punishment as in epistemological reality.

The history of legal thought demonstrates that there has been a shift from superstitious reactions to "crime to realistic reactions based on notions of justice (Retribution etc) and that jurists and criminlogists have for long, been thinking of punishment as having an "aim' even if there has been considerable confusion as to what that aim is. For example, retributive response to wrong doing followed later notions of justice, 'an eye for an eye" after the mosaical fashion. However, it was the Greeks who provided us with some of the earlier examples of deterrential punishment in the Draconian code, Plato in the protagoras put the idea most poignantly when he said 'he who undertake

to punish with reasons does not avenge himself for the past offence, since he cannot make what was done as though it had not come to pass, he looks rather to the future and aims at preventing that particular person and others who see him punishes from doing wrong again. He punishes to deter. It is evident that for Plato, deterrence as against retribution, as the proper end of penal sanctions and in that thinking, he was not alone. The Roman philosopher Seneca, building on this thesis, opined in sum that "No reasonable man punishes because there has been a wrong doing, but in order that there should be no wrong doing (Nemo prudens punit quia paccatum est, sed ne peccdetur) such jurisprudential thinking on punishment gave rise to philosophical enquiries as to the aim of punishment and to the thinkers already mentioned, deterrence was and should be the aims of punishment. There are contentions that retribution arguments are merely justificatory and do not address the issue of "aim" properly so called. There is truth in this assertion, for they provide justification for the application by the state, against person, of measures which inflict suffering and unpleasantness but do not really speak for "him" which is the broader, more far-reaching undertone of penal legislation. However, a counter view in the validity of the argument of deterrence as the directive principle of penal legislation is provided by Immanuel Kant who state:

"Judicial punishment (poena forensic) is entirely distinct from natural punishment (poena naturalist). In Natural punishment, vice punishes itself, and this fact is not taken into consideration by the legislator. Judicial punishment can never be used merely as a means to promote some other good for the criminal himself or for civil society, but instead it must in all cases be imposed on him only on the ground that he has committed a crime; for a human being can never be manipulated merely as a means to the purposes of someone else and never be confused with the objects of the law of things…His inmate personality (that is, his right as a person) protects him against such treatment even though he may indeed be condemned to lose his civil personality.

He must first be found to be deserving of punishment before any consideration is given to the utility of his punishment for himself or for his fellow citizens. The law

concerning punishment is a categorical imperative and woe to him who rummages around in the winding paths of a theory of happiness looking for some advantages to be gained by releasing the criminal from punishment or by reducing the amount of it in keeping with the pharisaic motto: “It is better that one man should die than that the whole people should perish.” if legal justice perishes then it is no longer worth while for man to remain alive on this earth”.

A somewhat extremist and puritanical view of legal justice you might say, but it presents the case for some kind of positivistic view of justice through punishment as devoid of elements of directive aims. Kant was an absolutist thinker of the neo-naturalist age. Law to him was “a categorical imperative” and so was the consequence attending its violation it could not be thought of in terms of aims although it could be deserved through guilt. Even in his conception of the human personality, Kant was unrelentingly absolutist. Man is an inviolable entity not to be manipulated by anyone for whatever aim. As a last observation on the theoretical aspect of this discourse, it should be mention that deterential punishment is one which is often over and above the moral content of the act punished with a view to make an example

(i) Of the culprit an therefore discourage recidivism (special preventive) and

(ii) To society in general (general preventive)

A good example of deterrential punishment is therefore capital punishment for offences which are necessarily morally reprehensible in the popular sense, such as life imprisonment or capital punishment for drug offenders. Of course, penal justices take cognizance of a broad division of crime into mala in se and mala prohibita. Acts which in themselves are morally reprehensible attract for more considerations of societal interests. However, what this goes to show is that murder for example (a mala in se) is punished with death because (i) It is of great moral turpitude; and (ii) it is desirable that it be prevented, whereas it is the case of drug offences, punishment with death is an expression of a desire to deter simpliciter, at least at the surface level.

Whether or not we express disproval for criminal acts by enhanced punishment, the fact of punishment itself of drives home to us all; the truth that society abhors crimes and legislates to prevent them.

SELF ASSESSMENT EXERCISE 1

What is the aims of punishment?

3.3 THE NIGERIAN SITUATION

In Nigeria we have various forms of punishment some of which we shall consider individually to determine whether or not they have had any deterrent effect.

In considering the Nigerian situation one of the foremost criminologists Adeyemi on his paper titled "The administration of Justice in Nigeria", agrees that deterrence both general and specific has been the legislative and judicial objective in Nigeria. He does not believe that the success or efficacy of this can be supported by any scientific evidence and describes it as "a judicial exercise in self-deception". He places more reliance on other behavioral control factors from social, psychological to the socio-economic, socio-political and cultural determinants as being the major factors controlling human behavior. He is doubtful on the efficacy of punishment as a human behavior control mechanism. At the best he believes the punishment must fit the offender and not the crime.

Let us now go through a discourse of the various forms of punishment in our society.

3.4 DEATH PENALTY

Many research findings indicate that there is no evidence in support of the efficacy of the death penalty in Nigeria. Researchers has equally assert that death penalty should not be abolished immediately in so far as it is still acceptable to the Nigerian population for their social security and confidence in the Criminal Justice System. According to Adeyemi in his paper that the most effective deterrent to capital crime is

that factors inducing the criminal to commit the crimes are removed or reduced and "viable alternatives" are presented.

For our actual case consideration, we still take the offence of armed robbery in Nigeria which is at present, punished with death. Such punishment for armed robbery whether or not it has been accompanied by actual violence is a clear expression of a desire to deter. How far has this been achieved in Nigeria?

There is no known available statistical data on which a verdict can be based. What there are, are catalogues on executions on the most part by voluntary organizations in the forefront of which is the Amnesty International (see "when the state kills", 1989, Amnesty International publications London) such reports are normally prefaced with a general statement to the effect that punishment of a certain kind had not been shown to deter the crimes punished. They (the reports) are at best dogmatic assertions founded on a general abhorrence of capital punishment as an inhuman punishment. The first thing one notices is that such studies are usually one sided, not having a corresponding control case to study to provide a proper balance for empirical evaluation. If in Nigeria for example, incidents of armed robbery have increased over the year although it attracts capital punishment, the increase does not prove the inefficiency of deterrential penal policy. There are economic realities to consider joblessness among youths, especially among those who have become sensitized by education, to the desirability of certain life styles but lacking the means to attain them. If they blame the lack on society (as they most certainly do) they resort to violent crime in a sort of vindictive frenzy or sometimes, out of sheer necessity. There is also, the influence of the easy morality as exemplified in the permissive life styles of western – type civilization. For instance the rock popular musical culture of the west provides a portrayal of easy virtue at its highest peak. The idols of that culture dance semi-nude and use hallucinatory drugs, perhaps as an act of defiance to established values for they represent the emergent and immanent culture of tomorrows west. The way that the youth of this country reacts to that is to adopt the drug culture with its connotations. Drugs, liberal sex, robbery, oil bunkering, embezzlement, to name a

few, are some of the more serious and bizarre manifestations of the new anti establishment psychology and cultural materialism. The possibility of punishment is but a calculated risk and since he (the culprit), may have made his particular vice a good commercial enterprise, his operative business ethic will be evasion of detection and he believes. (Perhaps with good reason) that the pervading psychology means that he can bribe his way through. He responds to higher and harsher control measures by employing more sophisticated evasion techniques. However, a mind that considers crime a gainful vocation without a moral content is also likely to count the cost. If the risks are to great, he is likely to commit fewer of such crimes. They are bad economic risks.

3.5 IMPRISONMENT

Adeyemi in his paper opined that imprisonment lacks any efficacy as a deterrent based on statistical figures. One wonders however at the reliance that can be placed on statistics in such a case since we do not have the statistics of what would have occurred in the absent of the imprisonment system. It would also be naïve to say that the reason for increase in crime wave in fresh or hardened criminal was due to these imprisonment terms.

As a matter of fact many prisoner do learn useful trades and skills in prison which they never had the opportunity to learn before and on which they later rely for the livelihood. It is this aspect of prison life that should be encouraged. There is no doubt that prisons need more financial support to meet this objective.

He continues further that long term imprisonment would in fact only result in having adverse effects on the prisoner both psychologically and physically and would not result in a change of altitude in favour of “anti-crime pro-social attitude” of the prisoner.

However, it is also very clear and a well accepted phenomenon that nobody likes the stigma of punishment either for themselves or their family be it whatever form of punishment. This is known as the general preventive effect. It involves.

(a) The fear of painful of punishment
(b) The social stigma attached to it thereby creating emotionally barrier against criminal tendencies in most people.

The efficacy of imprisonment as a deterrent has been on the decline over the years because prisons have become more of a breeding for hardened criminals who also influence other inmates rather than reforming. There has been insufficient social reforms work within the prisons themselves.

3.6 FINES

Adeyemi supports the use of fines relative to other forms of punishment and encourages their use as an alternative to imprisonment provided the means of the offender is also taken into account. One is inclined to agree with this view as nobody likes to part with their money unnecessarily and in fact some people would rather go to jail than have to sustain heavy pecuniary loss.

3.7 PUNISHMENTS AS AN INCENTIVE TO NORMAL BEHAVIOR

A study which merely shows that in a given society which employs deterrential penal measures crime as tended to be on the increase says nothing of the effectiveness or otherwise of the notion of deterrence per se as the basis of penal policy. Unless it demonstrates statistically that in the same society with every other condition (except deterential punishment) held constant crime did in fact decrease, any claim as to the effectiveness or otherwise of deterrence in criminal justice administration remains speculative. It cannot serve the basis of regulatory legislation. This is the position that the Nigerian situation presents: A mere speculation, an argument that cuts both ways. However, the effectiveness of a control measure is not total prevention. The fact that

we have not been overrun by an upsurge in criminal acts in spite of harsh existential conditions lend credence to the position that coercive penal sanctions do indeed influence human conduct. Apart from social sanctions (non coercive) which help a great deal in regulation of human behavior, especially among the 'well-adjusted", the next incentive to good or at least neutral conduct is avoidance of pain-punishment. Besides, man strives to belong, being gregarious in nature and since the easiest way to lose the good will of society is to have a criminal record, most people keep away from crime. Criminal behavior is therefore a deviation and to deviants, penal considerations count for nothing. For them crime and recidivistic tendencies can only be controlled either by incarceration or by extermination. This explains judicial attitudes to punishment both in Nigeria and abroad. In Adams is DPP of the federation (1966) NSCC (Vol. 4) page 25, Bairamina, JSC said "… the aim of the criminal law is to curbs the passions of man is to punish crime and our judges demonstrate a keen awareness of this fact in sentencing. Nor are they alone in this regard Mr. Justice Health (an English judge) never minced words wherever it came to applying punishment for deterrence. He once remarked: "If you imprison at home, the criminal, it soon through upon you again hardened in crime. If you transport, you corrupt infant societies and sow the seeds. Of atrocious crimes over the habitable globe. There is no regenerating of felons in this life, and for their own sakes, as well as for the sake of society; I think it is better to hang". An extremist view by any standard and his lordship acquired a certain notoriety for being a "hanging judge". He was also not alone Lord Braxfield (also an English judge) who relished the opportunity of sending his victims to the gallows was wont to saying "Hang a thief when he's young and he'll not steal when he's old." If those views seem harsh, they represent judicial attitude to punishment one which throws its great weight solidly in favor of the view of punishment as a deterrence.

3.8 ISSUES THAT WILL MAKE DETERRENT MORE EFFECTIVE

It is submitted that deterrence has been more effective where there is

(1) Proper awareness of the laws and their penalties or punishment together with acceptance of such laws as being crimes, e.g whilst robbery is regarded as a

crime against society, tax evasion or currency exchange crimes are hardly accepted as crime even though there is legislation and penalties imposed.

(2) Certainly of infliction of punishment on the offenders. Take for example the offences of smuggling, tax evasion or the taking of alcohol (applicable in the north) people do not take these offences seriously because they are often not enforced.

Allan Milner observes and I quote: "There is no certainly that a man's offence will be detected or if detected there's no certainly that he will be prosecuted; or if prosecuted no certainly that he will receive punishment; then the deterrent effect of any penalty will be dissipated." This principle certainly applies in Nigeria.

(3) Enforceability – Law enforcement agencies or agents must not be seen as corrupt. Otherwise effect of deterrence easily wears off.

It should be noted that for certain social deviants and out casts punishment has not been a deterrent. They feel they have nothing to lose and that it is worth the risks. For punishment in itself to be a deterrent it cannot be the main deterrent. Other machinery for social engineering must be put in place to compliment this system. For instance care must be taken in the selection of the type of punishment. In view of our congested prisons other forms of punishment such as fines, restitution, forfeiture and binding-over should be imposed more often than imprisonment to show that crime does not pay.

Apprehension and trial of offender should be faster so that it will be obvious to the public that the long arm of the law will always catch up with one. Social factors such as poverty, unemployment, lack of parental love and guidance, juvenile delinquency and greed which tend to lead to the commission of crimes would also have to be addressed.

To abandon punishment would lead to anarchy and it would therefore be naïve to doubt that punishment has been effective as a deterrent to crime. To remain a deterrent

however, the type of punishment must be carefully selected (by the legislature or the presiding judge) and as stated earlier to fit not only the crime, but also the offender.

SELF ASSESSMENT EXERCISE 2

Discuss punishment as an incentive to normal behavior.

4.0 CONCLUSION

This unit refer to the societal deviants who represent the bulk of the criminal class, and against who therefore judicial censure represents little terror. For the rest, (the well adjusted) the likelihood of suffering either in the psychological sense or in the physical sense which punishment must entail is a thing to be avoided. Truly, some Nigerian's are not indifference to the opprobrium of a criminal record against themselves, let alone the physical suffering and degradation that it can often entail. If one is driving across a traffic light with a policeman standing close, one will not likely risk the consequence of ignoring that light. One will follow its direction of course, it is a different matter if you thought you would not be seen by the appropriate authority violating a traffic regulation which is a morally neutral act. You have therefore simply demonstrated that your actions are indeed influenced by the existence and possible application of penal sanctions. From the analysis above, It is indisputable that punishment as a deterrent, is and will continue to be effective in the administration of criminal justice. If only because of the observable nature of man.

5.0 SUMMARY

In this unit, you have learned if punishment has been an effective deterrent in the administration of criminal justice within the constraints of space, the meaning and aim of punishment has been elaborated upon. This unit has equally focused on Nigerian situation, to examine various forms of punishment and to determined whether or not they have had any deterrent effect. It has equally espoused on the importance of punishment as an incentive to normal behavior.

6.0 TUTOR MARKED ASSIGNMENTS

Using the Nigerian situation, discuss the types of punishment and it deterrential effects.

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MODULES 7

Unit 1 Awaiting Trial and Holding Charge in Nigeria Criminal Justice System
Unit 2 Prisoners Rights and Civil Disabilities of Ex-Convicts in Nigeria
Unit 3 Nigerian Prison After Care Services
Unit 4 The Advocacy for Deinstitutionalization of Sentences in Nigeria
Unit 5 Various Recommendations on Prisons Reform.

UNIT 1: AWAITING TRIAL AND HOLDING CHARGE IN NIGERIA CRIMINAL JUSTICE SYSTEM

CONTENTS

1.0 Introduction
2.0 Objectives
3.0 Main Contents
- 3.1 Highlight on the Issue
- 3.2 Awaiting Trail
- 3.3 Holding Charge
- 3.4 Causes of Awaiting Trail

4.0 Conclusion
5.0 Summary
6.0 Tutor Marked Assignments
7.0 References/Further Reading

3.1 INTRODUCTION

The phenomenon of Awaiting Trial and Holding Charge is a socio-legal problem that has eaten deep into the fabric of the Nigerian Criminal Justice System. It has become an issue in the national dailies, subject of discussion by concerned citizens and legal problem, yet it persisted. Efforts have been made to curbed this ominous trend. These effort include the legal aid council, the Nigerian Bar Association through campaigns and seminars against the ugly practice, Human Right law service and other non governmental organization.

2.0 OBJECTIVES

At the end of this unit the students should be able to:

- Understand the meaning of the two key concepts of Awaiting Trail and Holding Charge.
- Know the practice and controversy surrounding the uses of holding charge in Nigeria.
- Know the impact of Awaiting Trail Phenomenon on the Criminal Justice System.
- Know the causes of Awaiting Trial in Nigeria.
- Know how the issue of Awaiting Trail can be tackled.

3.0 MAIN CONTENTS

3.1 HIGHLIGHT ON THE ISSUE

The Nigerian Criminal Justice System which was borrowed from the English legal system has suffered from several inadequacies. By administering the law certain principles which must be adhered to and followed are violated. These principles include the rule of due process, legal equality, equity and consistency of criminal disposition among various classes of crimes and criminal suspects or convict. In the process of administering the Nigerian Criminal Justice System, certain issues/problems arise. Principal among these issues are Awaiting Trial and Holding Charge.

The two key concepts, Awaiting Trail and Holding Charge will be defined operationally for purposes of clarification.

3.2 AWAITING TRAIL

Awaiting Trail is used here to mean the practice in Nigerian Criminal Justice administration in which suspects are kept in prison custody pending Trails before appropriate courts. Awaiting Trail persons remain in prison under Holding Charge

while the police continue their investigations with a view of eventually bringing them before the proper court.

3.3 HOLDING CHARGE

Umana (2007 M.Sc research thesis unpublished) used it in operational sense to mean a frame up charge which leads to the detention of an accused person in prison custody awaiting his or her charge and trail. The police authority usually uses this system to hold the accused person in detention while looking for evidence which they will use to charge the accused before the appropriate court.

The issue of Awaiting Trail and Holding Charge is a problem that has bedeviled the nation's present justice system. The consequence associated with the practice is not a pleasant one that has become a subject of great concern not only to those in dispensing justice but also to the Nigerian public.

It has been noted that in September 2003 the number of Awaiting Trail inmate hovered between 60% and 75% of the total population of all incarcerated inmates in Nigerian detention institutions, 40,082 inmates were Awaiting Trail (Uwais 2004) Evidence point to the fact that the practice of Awaiting Trail and Holding Charge is often associated with the police and is inculcated into the criminal justice system as if it was part and parcel of the main stream and general frame work of the criminal justice procedure.

Agbakoba and Obeagu (2002) pointed out that the Holding Charge remains a feature of the nation's criminal legal system. The constitution may be the only document to prove. However, majority of Nigerians do not know what rights have been enshrined in the constitution, neither the constitution nor any other existing law enforced in Nigeria defines clearly the meaning of a Holding Charge.

The practice of Awaiting Trial and Holding Charge by the Criminal Justice System has led to the violation of human rights and congestion of Nigerian prisons. President Olusegun Obasenjo in THIS DAY Newspaper of (25-09-02) stated that the practice of

Awaiting Trial for suspect is inhuman, the practice of awaiting execution is even worse. Two matters arising from the president's observation on the issues of Holding Charge and Awaiting Trial were first, the plights of Awaiting Trial persons in Nigerian prisons and secondly, the agony and fate of condemned convicts in Nigerian detention institutions.

It is seen that the concept of Equal Justice is far from being realized in so far as the Holding Charge and Awaiting Trial is still practiced in the main stream of the Criminal Justice System. Moreover, the police Act and criminal procedure laws gave the police unfettered power and wide discretion in arresting suspect. Be that as it may, court of Appeal in one of its pronouncements declared this practice to be in conflict with the right to liberty enshrined in section 35 of the 1999 constitution especially in the case of Baye Johnson vs AG Lagos state and ANOR (2002) 8 NWLR part 788 at page 192, where Galadima J. C. A held that "It is difficult to say how a magistrate court can only remand persons under its terms where it does not have jurisdictional competence to try the substantive charge. As the court has no jurisdiction, the chief magistrate can only act as a prelude to stricking out the case and cannot be considered a necessary part of procedure for making a remand order. The court further held the constitutionality of Holding Charge that "Neither the Nigerian constitution nor any other law in Nigeria provides for a Holding Charge. Thus a Holding Charge is unconstitutional in the instance case as mentioned above the chief magistrate court was bound to let the appellant go in the absence of facts, which the prosecutions was duty bound to supply justifying the appellant's detention in the cell.

SELF ASSESSMENT EXERCISE 1

What is awaiting trial?

3.4 CAUSES OF AWAITING TRIAL

(1) Abuse of the police Administrative machinery and failure of investigation. A greater majority of innocent souls are bounded into prison, principally due to the issuance of blank detention warrants by some upper area court-judges, magistrates and

even court Registrars. This create opportunity for the policemen to fill in the name of whoever helpless victim he has chosen to arrest, hence no production warrant can ever be issued for the prisoner to appear in court as there is no record of him before the court. The victim is therefore held indefinitely and incommunicado in prison custody without any hope of being brought to trail, in time. The system is made to forget about him. Another pathetic and funny aspect is that the police collude with relatives of mentally sick persons, turned, the prisons into mental institution as a place where they can hid them away from people's embarrassment since these set of people have not committed any crime, they are left in the prison without proper psychiatric evaluation/treatment. In time, they are forgotten.

(2) Some magistrate connive with the police to remand accuse in prison on matters they have no jurisdiction. Police and court ignore constitutional provision that provide necessary framework for regularity of conduct and safeguard the citizenry against any form of illegal inconveniences.

(3) Larger percentage of people in our society are ignorant of their fundamental Rights and for the few one's that are aware of it are being deprived of asserting some right by the police.

(4) People languish in jail because they could not afford exorbitant cost of securing justice (economic factor) lawyers most time abysmally dodge court days due to failure of the defendants to provide appearance fee.

(5) One serious problem with the Nigerian system of administration of justice is the delay in the judicial process. It sometimes takes a decade or more before a case is concluded in the High Court, if any of the parties appeals to the court of Appeal and then to the supreme court, the period of delay is further stretched.

(6) Some of the reasons for the delay in the trail of cases are obvious. Some judicial officers have not shown much dedication and diligence in the performance of their duties. They start sitting very late in the morning, and rise, sometimes before

noon, without doing much work. Because some of the judicial officers engage in other activities that provide financial support for them, they hardly have time to read their cases, and cannot therefore, be abreast of the facts of the cases. Some of the judicial officers are indolent and would want to do as little work as possible. Even more unfortunate is that adjournments are usually very long.

(7) The blame for the delays should go also to lawyers who go to court unprepared and therefore frequently apply for adjournment with very flimsy excuses. Since justice delayed is justice denied, it is desirable that our courts dispose of case expeditiously.

3.5 AWAITING TRIAL AS A MAJOR PROBLEMS FACING THE PRISON SYSTEM IN NIGERIA

The biggest challenges facing the prisons system in Nigeria is the number of Awaiting Trail prisoners which constitute over 65% of those incarcerated and many of whom have been in prison for several years. This is a result of a number of factors, among which are, Firstly, the majority of the Awaiting Trail Prisoners are armed robbery suspects, a capital crime which is not bailable. Secondly, on application from the police magistrate who have no jurisdiction to hear capital offences such as armed robbery and murder, confine suspects to prison on the basis of a “Holding Charge” while police investigation is underway. This practice has been ruled as unconstitutional by the court of Appeal although the practice is continued Nation Wide. Investigation and prosecutions are seldom effectively pursued a completed in a reasonable space of time with a subsequent increase in the number of Awaiting Trail prisoners.

According to Tobi (1993), it is an elementary but most vital requirement of our adjectival law that before the prosecutor takes the decision to prosecute, which is a forerunner precursor to the charge decision. It must have at its disposal all the evidence to support the charge. In a good number of cases, the police in this country rush to court on what they generally refer to as Holding charge, ever before they conduct investigations, even though there is nothing known in law as a Holding Charge (Onaguruwa vs the state 1993) NWLR part 299, 333 at 341, para 107.

In another leading judgement, Tobi (1996) stated that the function of a prosecutor is not to rush a charge to a magistrate's court. Legally the prosecutor knows that this court has no jurisdiction to try murder cases. He does this to play for time or to punish the suspected offender while investigation is in progress " I have said it earlier and I will say it again that the police phraseology of a "Holding Charge" is not known to our criminal law and jurisdiction, it is either a charge or not. There is nothing like" Holding Charge" (Anaekwe vs C.O.P 1996, NWLR part 436, 320 and 332) Despite the absence of any constitutional or statutory definition of Holding charge, the practice exist, which pose great danger to our Criminal Justice System.

Section 35(4) 1999 constitution of Nigeria provides that any suspect arrested or detained in accordance with subsection 1© of section 35 of 1999 constitution shall be brought to court of law within a reasonable time which is one day where a competent court exists within 40km radius of the place of arrest and in other circumstance, two days. The alternative to arrangement in a court of competent jurisdiction is to grant bail. But it seems more likely that neither the options of arrangement or grant bail is always open to suspects held under the Holding Charge Regime.

Agbakoba and Ibe (2004) stated that going by the last count taken in June 2004, a total of 39, 763 inmates inhabit the 227 prisons spread across the country. Of these figure 38, 986 are males while 77 are said to be females. About 25000 of the total are Awaiting Trail men/women and the investigations reveal that some of the Awaiting Trail persons have been between 10 t0 15 years in detention waiting for prosecution.
The wide spread nature of this scandalous practice in Nigeria is demonstrated by the sheer statistics of Awaiting Trial prisoners in Nigeria. It is widely known that over 65% of the prison population in Nigeria is Awaiting Trial prisoners. The prisoners who are presumed innocent until proven guilty of a crime after due process of a court or tribunal while in detention, are subjected to the most degrading and dehumanizing conditions that can be imagined. The are often held for periods much than they would have served on conviction, yet a number of them could well be innocent of the crimes

for which they are being held. The Awaiting Trial practice itself is a legal and social aberration akin to a double –edged sword destroying both the victim and the society.

Iwarimie Jaja (1998) opines that the ever rising criminal tendency in the society today, and its attendant occupied with the inability to try, condemn or acquit and discharge innocent citizens by the judicial Department, have made the Nigerian prisons very congested.

He gave an alarming figure of 22,678 in 1997 that were awaiting trials. Such detention, especially without immediate attention, cannot decrease criminal acts. For example in the United States, according to Defluer (1977) there is mounting evidence that confinement in prisons or jail often lends to increased criminality.

In Nigeria, suspects are simply thrown into police and prison cells and are left there. The figure above is rather alarming, with so many reported deaths due to congestion that the federal government, according to Iwarimie Jaja (1998) had to arranged a visitation to each prison to decongest it.

Okene (1998) highlighted some of the difficulties facing the court in the speedy charging and hearing of cases.

(a) Lack of flow of communication between police and the prisons to facilitate charging and appearing before the law court, absence of easily obtained transport to and from court.

(b) Poor medical attention and other bottlenecks. Admittedly, the courts are busy, but we can as well state that the government is negligent. However, we are not unaware that a Alessio and Stolzenberg (1995) assert, “pre-trail jail population may grow as defendants wait to be processed through the Criminal Justice System”.

Here in Nigeria government is not helping matters effectively enough, which is why there is the current need for decongestion.

Government default against prisoners and detainees cries to heaven as more and more

evils crop up, as economic and social ills become uncontrollable. The justice ministry seems careless about prisoner's welfare. As justice Adimorah (1999) puts it; A situation whereby the police detained people for three years without any trail, and without any proper investigation and, at the end of three years, you now release them, they had already suffered three years of devaluation.

This act itself is criminal. And a worst case can be cited specifically from Delta State. Here Constance Momoh, Chief Justice of Delta State freed an arm robbery suspect, Abu Hassaini of Borno state from prison custody after he had spent ten years without prosecution. As the judge said, "the judiciary is to dispense justice", and that "It is not justice to keep somebody for ten years without trail".

SELF ASSESSMENT EXERCISE 2

Awaiting Trail is a major problem facing the Nigerian Prison System. Discuss.

4.0 CONCLUSION

The major cause of prison congestion is Awaiting Trial Person (ATPs) Great percentage of prison inmates in Nigeria are ATPs. This class of prisoners are citizens arrested by the police or other enforcement agencies on suspicion of having committed a criminal offence and are usually remanded in prison virtually indefinitely pending completion of police investigations, formal charge Trail and sentencing or discharge.

5.0 SUMMARY

From this unit, you have learned of the problem of Awaiting Trail and Holding Charge on Nigeria Criminal Justice System. It has therefore become a subject of great concern to the Nigerian public. The rampant uses of holding charge has generated heated attack and condemnation as it has equally become controversial as regard to its

legality and illegality. Prolonged awaiting trial no doubt is the sole reason for prisons congestion in Nigeria.

6.0 TUTOR MARKED ASSIGNMENTS

(1) What are the causes of awaiting Trial in Nigeria Criminal Justice System.

(2) Discuss the issue of Holding Charge has become controversial in Nigeria Criminal Justice System.

7.0 REFERENCES/FURTHER READING

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UNIT 2: PRISONER RIGHTS AND CIVIL DISABILITIES OF EX-CONVICTS

CONTENTS

1.0 Introduction
2.0 Objectives
3.0 Main Contents
3.1 Challenges Facing Ex-Convicts in Nigeria
3.2 Loss of Rights
3.3 Prisoners Right in Nigeria
4.0 Conclusion
5.0 Summary
6.0 Tutor Marked Assignments
7.0 References/Further Reading

1.0 INTRODUCTION

In this unit, we shall examine prisoners rights and civil disabilities of ex-convicts in Nigeria. The problems associated with the full realization of prisoners rights in Nigeria. Legal Provisions and Social Factors that disabled ex-convict in our society will be focused upon.

2.0 OBJECTIVES

At the end of this unit the students should be able to:

- Know the various rights of prisoners are entitled to.
- Know those factors that impinged on the full realization of prisoners rights.
- Know the existing legal instruments governing prisoners rights in Nigeria.
- Know the several civil disabilities that have been imposed on ex-convicts in Nigeria.
- Know how these civil disabilities inhibit ex-prisoners rehabilitation and re-integration into the society.

3.0 MAIN CONTENTS

3.1 CIVIL DISABILITIES OF EX-CONVIVTS

The constitutional rights that are discussed in this section are those which affect the ex-convicted offenders. This has become necessary because of the inhuman conditions in existence in the Nigerian society, where the standard of living is abysmally poor. These socio-economic conditions which range from poor economic condition, inequality, instability and insecurity has given rise to incessant and unabated crime and delinquency. At this point an attempt is made to describe the superstructure of statutory and regulatory disabilities which inhibit the ex-criminal offender's rehabilitation and reform when out of prison or when release. According to Iwarimie (2003) "In every capitalist oriented society such as Nigeria, the government frowns at convicted persons, so several civil disabilities have been imposed on them. Such civil disabilities include deprivation of some sort e.g the privileged to participate in political elections and to hold public offices, obtaining sensitive jobs and occupational licenses. Entering different kinds of legal or judicial enforceable instruments, obtaining different kinds of financial benefits e.g loans, insurance and pension benefits".

An observation in the available literature has shown the lack of attention on the effects of civil disability enactments on convicted offenders. This is the gap to address in the literature concerning fundamental rights of the convicted person.

It is important to emphasize that the Nigerian legal system did not originate the statutory and regulatory system of civil disabilities. Its origin was ancient Greece and Rome, where convicted persons were saddled with different kinds of civil disabilities. In England, the English law imposed civil disabilities on those who have gotten the status of criminal and ensured that they forfeited their civil and proprietary rights. Such convicted persons were considered to be civilly dead. It was from the English law that the Nigerian legislature adopted some of the civil disability laws.

In Nigeria, any person who has been convicted of a crime falls under the purview of the civil disability law. However, not everyone who have been convicted has seriously suffered under the civil disability law. Those who have been held more seriously by the civil disability laws are those who have no “clouts”, those without influence or “godfather’, those perhaps, whose acts illegal act of conviction were infamous crimes, or those pertaining to moral turpitude. However, legal technicalities are used to displace the implementation of such regulatory disabilities on persons who became favoured by the influential members of the society, to allow them to gain employment in key positions in government and other private establishments. however, when an unfavoured candidate has the label (criminal), it is difficult to displace the implementation or enforcement of the civil disability law on the person. Thus, it does not matter in which state or federal government territory that a person was convicted; the civil disability law does apply in all States of the federation, irrespective of the person’s ethnic , religious and class instrumentalities or background. (Iwarimie JaJa, 2003)

SELF ASSESSMENT EXERCISE 1

Discuss the civil disabilities of ex-convict.

3.2 LOSS OF RIGHTS

In Nigeria, a person does not loss his citizenship right because he has been convicted of a crime. But if he is a nationalized person, he probably may become denationalized for being convicted of a serious crime such as treason and other felonies offences. Convicted persons, sometimes, have their passport seized; other are denied the right to obtain a passport.

Technically, disfranchised rights of persons who are serving sentence in prisons and after their release are made, sometimes, to prevent them from exercising their right to vote and to hold public offices. However, when a convicted person is serving a sentence he is not opportune to vote because of his inaccessibility to election and

voting machinery. In foreign countries, such as America, there are constitutional debates and attack on the loss of right to vote either through legal disability or simply because the person is in prison. Also, there are the mounting criticisms on disqualifying and disallowing harmless ex-offenders from exercising their franchise rights to vote and to hold public offices.

In Nigeria, a person who holds a local government, state or federal government position of office, relinquishes his position at the moment he is convicted of a felonies offence. He is not also allowed to run for any public office forthwith . It is important to remark that the provisions which prevents a convicted person from holding a public office is to deter others like him and to protect public interest than punish him the more.

Prisoners and often some ex-offenders are not allowed to bring a suit in their own names, but they may do so through an appointed personal representative to protect their interests. However, a suit may be brought against a prisoner. Sometimes, particular prisoners may not be allowed in courts to defend themselves. Such provision promotes the safe guard against the escape of such prisoners.

In certain circumstances, where offender's right to execute and enforce a valid legal instruments are frustrated, the convicted offender become helpless, and experiences no rehabilitation. This implies that the hope for information is lost and this leads to recidivism. However, not all instruments entered into that the convicted offenders are thwarted and frustrated by the ancient civil death concept in Nigeria. There are a few exception such as the right to enter into a legally enforced contract for a correspondence course in education programme.

It is important to emphasis that the civil disability law does not prevent or discourage convicted persons from maintaining a marriage or retaining strong family ties in Nigeria. This is mainly because the Nigerian legal system does not accept that criminality is congenital or biologically contagious. This being the case, the Nigerian

Criminal Justice System, especially the judiciary does not encourages sterilization of criminal offenders.

In Nigeria, divorce is a voluntary agreement between spouses although there are legal safeguards for granting it, it is not as a legal civil disability to grant it on grounds that an individual is or was a convicted criminal. Also, parental rights are not denied a convicted person on the grounds that he neglected his dependent children when he was being incarcerated. Adoption of his children is also not permitted by statute, except that his children may be cared for by his relations in most cases.

Convicted persons, depending on the nature of their offence may loss or forfeit their properties to the government. The law on civil disabilities allows that in some instances, the convicted person's property may be autioned to recover government's funds or damages. The origin of the loss of property rights comes from the common law concept of "*attainder"* which involved the forfeiture of the convicted person's land and chattels (Krantz, 1973:230). This rule of law is not automatic in most European and American countries; however, where it operates, it helps to protect the life convict's creditor or beneficiaries. Krantz (1973:230) also rightly points out that it is, allowed in law, that the convicted person retains his or her right to inherit from anyone, except as outlawed by "*slayers"* statutes: which preclude an offender from inheriting the property of the person he feloniously killed. In addition, Krantz (1973) opined that a spouse who is guilty of abandonment is not allowed to inherit the property of her innocent spouse.

Many convicted persons suffer from psychological problems arising from their inability and inaccessibility to manage and control their business while in prison. In Nigeria, it is not always the case that the court will appoint some one or an estate manager to supervise and control the business of a convicted person. It is the responsibility of the convicted person to do so or have his relations to do it for him.

However, any member of the family could become a guardian or trustee to the convicted person's estate-business as long as the spouse or other relations agreed to it; or where a word which is believed to be from the convicted owner is received by his heirs. Many convicted person for serious crimes suffer the lose of pensions insurance and workman's compensation benefits.

Indeed, through technicalities of the law convicted persons may not be allowed to participate in annuity and retirement programmes.

Given the fact that many convicted persons do loss their fundamental rights, they are likely to remain criminal in the real sense by recidivism. Many released inmates find it difficult to begin life anew, once they know that they have lost certain rights of their own. It is delibilitating effect of civil disabilities on the ex-convict that inhibits him or her from participating activity in community life programmes for his or her well-being and for the well-being of the entire community or nation.

SELF ASSESSMENT EXERCISE 2

States the various rights a prisoner forfeit while in custody.

3.3 PRISONERS RIGHTS IN NIGERIA

The prisoner as a citizen behind bars is entitled to the society's and court's vigilance, for those rights he or she retain is as great as any other citizen's

Fela Anikulapo Kuti, the late radical Nigerian musician in reaction to frustrations experienced by Nigerians in the enforcement of their fundamental human rights asserted in one of his songs thus; "human rights of our property" The essence of that assertion as that human right are rights inherent in man or woman. It even becomes more sacred where the government of a country has gone a mile further to recognize these rights by codifying them in a comprehensive legal framework expressed to be the supreme law of the land.

To this effect, the 1999 constitution of Nigeria proclaims in its Section 1 “This constitution is supreme and its provisions shall have binding force on all authorities and persons throughout the Federal Republic of Nigeria”. This entails that the implementation of those rights where they exist is not and should not be dependent on the whims and caprices of any individual institution or government.

The 1999 constitution in unit IV has the Fundamental Human Right Provisions. These provisions guarantee certain inalienable rights to Nigerian citizens: Section 33 right to life, Section 34 – right to personal liberty, Section 36 – right to fair hearing etc and stipulate circumstances under which those rights may be denied. Even where there are other legal instruments in force to regulate the conditions of prisoners, they must not be drafted or enforced in such manner as to conflict with the provisions of the constitution which is the supreme law of the land where any other law conflicts with the constitution, the provisions of the constitution shall be declared null and void. Thus in sub section (3) of section 1 of the constitution, it is expressly provided that any law that is inconsistent with the provisions of the constitution shall be null and void whilst the constitution shall prevail.

The Nigerian prisoner who is the major focus in this discourse even though not entitled to all the rights available under the Nigerian constitution and relevant legal instruments as result of his incarceration, is entitled to several rights which cannot be denied him/her save in accordance with a procedure permitted by law.

Crime is an attacks on the society and this is why the state is not relenting in its efforts to clamp down on criminals. However, in the quest to sanitize and rid the society of the social nuisance being experienced as a result of the activities of these hoodlums, the law enforcement agents should carry out their duties with utmost care, regard being had to the fact that flaws in the execution process will place innocent persons at the risk of being unlawfully detained, prosecuted and convicted of crimes they did not commit.

In handling an accused person, regard must be had to the instructive words of reverend Mr. Justice Oputa (rtd), that in a criminal trial, justice is tripartite not a one-way traffic Justice to the accused, justice to the society and justice to the victim. The accused person must be handled with all due carefulness because of the presumption of innocence in his/her favour until found guilty.

Nigerian prisons are crowded with prisoners. There is this public belief that any person in prison is a criminal. It is not only convicts that occupy the prisons: there is a class of prisoners referred to as Awaiting Trials Persons (ATPs) . As the name suggests they are in prison waiting for their trail in courts of competent jurisdiction. These awaiting trail persons are on remand under the “holding charge”. The holding change procedure is the practice used by the police to bring an accused person before magistrate courts (in the southern States) and Area Courts (in the Northern States) even though they have no jurisdiction to try the offence just in order to remand them in prison custody awaiting their trail before appropriate courts.

The use of this constitutional process is the major cause of the crisis of congestion in our prisons. It is mind boggling to note that over 65% of inmates in Nigerian prisons are in this class of awaiting trial person (ATPs). Some of them are accused of offences that attract a maximum of between two to three years imprisonment or less but they have stayed 5-10 years “awaiting trail”.

In Nigeria there is an inordinate delay before the commencement on criminal prosecution/trails. It may take many years to start and many more years to conclude. Awaiting Trial class of prisoners who under the Nigerian constitution, are presumed innocent suffer more than the convicts. They are exposed to overcrowding, degrading and inhuman treatment, though they have not been found guilty of any offence.

This awaiting trail situation has led to question by Human Rights activists and these awaiting trail prisoners whether fundamental rights in fact exist in Nigeria. It is not really right, in practical terms to say that in Nigeria, an accused person is presumed guilty until he or she proves his/her innocence?

The existing legal instruments governing prisoners, prison and prison conditions are as follows

- The prison Act cap 366 Laws of Federation of Nigeria 1990 and Prison regulations made there under.
- The 1999 constitution of the Federal Republic of Nigeria particularly, the Fundamental Human Rights provisions.
- African charter of Human and Peoples Rights cap 10 Laws of the Federation of Nigeria, 1990.
- Judicial pronouncement or case laws on prison matters in Nigeria.
- Other international covenants entered into and ratified by Nigeria.

Despite the existence of quite a lot of legal right occurring to Nigerian prisoners, largely criminal suspects, under these legal instruments, they most often are victims of injustice. They suffer injustice either because there is the problem of implementation by government authorities. Lack of political will to get laws on the papers enforced on the ground, or due to lack of awareness of the existence of these rights by the prisoner, or not having the means to enforce these rights even when rights exist.

A peep through the human rights prison lens will reveal that deprivation of justice exists in Nigerian prisons as a result of lack of government accountability and responsibility of government to make laws work for disadvantaged people. The root of poor legal implementation include, among others, bias arising out of negative public opinion, forces that may bias the mind and influence the decisions of judges, the snail pace of judicial processes and the absence of judicial independence and the insufficiency of legal aid.

SELF ASSESSMENT EXERCISE 3

States the constitutional rights that are assigned to convicts in Nigerian prisons.

4.0 CONCLUSION

In a fundamental key respect, it would be misleading to anchor the problem of Nigerian prisons and neglect of prisoners rights on the absence of good laws to govern the prison legal regime. The solution to prison's and prisoners problems does not only lie in the clamors for prison reform in Nigeria but in the establishment of legal discipline by government authorities to observe the enforcement of existing viable laws.

5.0 SUMMARY

In a nutshell, this unit has further contributed to your knowledge of Prisoners Rights and Civil Disabilities of Ex-convicts in Nigeria. You have also been exposed to the various legal instrument that governed Prisoners Right and Civil Disabilities of Ex-convicts in Nigeria.

6.0 TUTOR MARKED ASSIGNMENTS

(1) Discuss factors that inhibit the realization of full Prisoners Rights in Nigeria.

(2) Civil Disabilities of Ex-convict is capable of hindering rehabilitation and reintegration of ex-convict in Nigeria. Discuss.

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UNIT 3: NIGERIAN PRISON AFTER CARE SERVICES

CONTENTS

1.0 Introduction
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1.0 INTRODUCTION

The Aftercare Services for ex-prison inmates is a well thought-out home-grown, poverty reduction strategy. It is a medium-term-wealth-creation, employment generation, value reorientation and self-sustenance strategy.

It is a departmentally coordinated framework of action in close collaboration with both the Local Communities, Local Government Councils, State Governments, Churches, private individuals, NGOs and other stakeholders in correctional Administration for the attainment of a considerable level of criminality reduction, through individual and group empowerment of ex-prison inmates.

But with the Aftercare programme, the general intension is to reform the inmate and instruct him either in formal or functional education so that he may be distanced from the unemployed lot on discharge thereby distancing himself from the criminal gangs.

2.0 OBJECTIVES

At the end of this unit, the students should be able to:

- Have a good understanding of what Prison After Care Services is all about.
- Know the private sector role and interest in the prison aftercare service
- Know the impact of value re-orientation among the prison inmates.
- Appreciate what aftercare services has done in their effort to rehabilitate and reintegrate the discharged prisoners.
- Understand the role of the community in the rehabilitation and reintegration of ex-prison inmates.
- Have in-depth knowledge of the hindrances to reformation, rehabilitation and reintegration.

3.0 MAIN CONTENTS

3.1 PRINCIPLES AND STRATEGIES

In a country like Nigeria, where poverty level soars higher every year, and unemployment of the youths is grossly worsened with retrenchments, structure reforms of the services and the much-talker about privatization programmes, researches have shown that the criminality rate is very much associated with these pervasive social problems prevalent in our society, especially violent crimes, like youth restiveness, armed robbery, cultism, assassinations, kidnapping and hostage taking for ransom.

Since these crimes are problems of our time and some criminals are arrested and punished with custodial treatment, the tendency is that, while in jail serving the punishment for having gone in conflict with the law, the inmates should be professionally treated, in line with reformation programmes. Having adequately

acquired skill and proficiency or having started-off with understanding a trade in the prison, on discharge he should be rehabilitated and reintegrated into the society he had earlier offended.

At the levels of Rehabilitation and Reintegration, there is a presupposition that he had been sufficiently re-orientated and has become a better law-abiding citizen, with plan to succeed as a self employed citizen.

The tools, equipment and materials given to him on discharge target a stable character, pulled out of the unemployed lot in society. Researches on Prison Subculture and Recidivism proved that the subculture in prison has a pull effect on ex-inmates who, on discharge cannot find their feet in society; (Obiandu, 1992).

According to Obiandu (2003) a Prison After Care Officer, "Ex-prison inmates who do not have any tangible means of livelihood return to motor parks, under flyovers, water fronts and other ghettos which are all centers of high criminality. At the least provocation or chance, they commit crimes that could return them to the prison, where they are relevant within the subculture as cell provosts, cell Chief Judge, Cell Mopol, cell IG etc. they boast openly of the enclave where they are better known and their potentials better understood".

SELF ASSESSMENT EXERCISE 1

What do you understand by After Care Services?

3.2 GROWING THE PRIVATE SECTOR THROUGH AFTERCARE

Aftercare service in the prison is a development strategy anchored on the private sector as the engine of growth, for wealth creation, employment generation and poverty reduction. This is because the self employed tradesman now rehabilitated and reintegrated can now train other youths and assist, in his own little way, in reducing unemployment in society by raising more self-employed-youth. Aftercare is after implementing a social charter because it is about people, about their welfare, their

education, employment, their poverty reduction, their empowerment, security and participation.

Through stake-holder, welfare officers churches; ex-prison inmates have been employed in the public and private sectors as tradesmen or in the private sector.

Another key strategy of the social charter being planned through Aftercare is inclusiveness and empowerment through effective community and Church participation, and eventually through strong political participation and policy making. This strategy looks into breaking the jinx in the laws and constitutions which weaken ex-prison inmates in embracing this programme. The grant of state pardon to some prison returnees actually made them go effectively into their celebrated leadership-roles in our country. Aftercare programme reassures the inmate and gives him hope of inclusiveness, participatory roles and self-reliance in seeking life chances. The churches Ministries, mosques strengthen their faith and with courage and total belief they shun the world and its ways.

The formal education programme in our institutional- treatment-strategy and the real sponsoring of some inmates in their GCE/NECO is seen under the Aftercare programme as the most important bridge to the future and a powerful instrument of empowerment. The Churches and mosques have been commended for their role. It is believed that the public will be much more aware and families will stand-up-to-their-social obligations and responsibilities in sponsoring their children who find themselves in Prison in various circumstances. Such circumstances could be anybody's lot in life which has to be faced with courage.

To be angered is to add insult to the already bad situation. The prison may be a starting point in the life of man like we have glaringly seen today in Nigeria. Myriads of our good believers were arrested while in jail, so abandon them at that point is to set a wedge on the time stated by God in the man's life. The scorn Pastor Kayode Williams family got in the past, has turned to inestimated blessing, though the same

fellow who was denounced, denied, ostracized and rejected. Today, even relations are proud to be called his relations. It might be your family's turn to be so blessed, so do not hinder it through ignorance and though limited knowledge of man and God's divine will in his life. Many are divinely arrested in prison, so let not your ignorance and lack of knowledge debar you of divine will.

SELF ASSESSMENT EXERCISE 2

Discuss the impact of the private sector in Prison After Care Services

3.3 VALUE RE-ORIENTATION

It is widely known that time changes value. The time the prison inmate is effectively counseled and soundly acculturated into the Christiandom through powerful Evangelism or into Islam though some, he starts leading to revalue certain priorities in his life. The result is that he may be convinced to put better valued social-facts after his deep belief. In our prisons, when some inmates get so much involved in evangelism, they place their discharge in the will of God, but regard their role in Evangelism as primary, even in the Prison. Some have prayed to be delayed more in jail for the burden they carry in soul-winning. With that level of understanding, their punishment means little to them. As a result, they learn to place value on only things that glorify God.

While in prison, some of the reformation agenda is to ensure that hard work is rewarded and that corruption and rent-seeking, drug trafficking or other social vices that guarantee quick-money have no hiding place, and are punished severely. Through the system of token economy in prison, to wit, Progressive Stage and Earning Scheme, inmates are taught to emphasize the virtues of honesty, hard-work selfless service, moral rectitude and patriotism. On discharge, the Aftercare service look far into the communities for community-based- organizations, NGOs, private sector organizations, religious and socio-cultural/traditional organizations, to all assist in their encounters with the returnee ex-inmates, to provide the much needed leadership in the campaign for a new value-system. These organizations could do more in their

character reinforcement programmes by acknowledging hard-work and honesty in their own ways. In other words, having provided the enabling environment for the ex-Prison inmates and other youths in the community, church or organization these bodies should learn to take specific steps to reward excellence. The demonstration effect could help to motivate initiation of exemplary behavior by other in the society or group. Prisons programmes alone will amount to attempting to clap with one hand. The prisons need the complements of these groups as the other hand, to make the expected impact in the clapping of hands.

Aftercare Officers are trained to start the link with families, churches, community leaders, age groups and other socio-cultural traditional Institutions in Communities with their members in Prison prior to discharge. This will form a bridge-head in effective resettlement programme on their discharge.

The aftercare Officers are also groomed in techniques of continuous supervision and evaluation of the activities of such resettled ex-prisoners within their communities and in their trades for upwards of one calendar year post discharge period to ensure strict adherence to the tenets of the scheme; and to still direct or assist the resettled ex-inmate until he can finally stable in both character and in his profession or skill. In that process, the officer could encourage more aid from NGOs or so, and where necessary, could initiate plans and assist to execute relocation, depending on the circumstances in his operational milien.

Regular evaluation reports are also made on each resettle ex-prison inmate for obvious reasons, for upwards of one year, before he can be left on his own in society. What this scheme requires is awareness and genuine assistance to those who have actually imbibed the traits. It is requires openness of the public and its support and encouragement through inclusiveness and free participation.

3.4 REHABILITATION AND REINTEGRATION

While the prisons keep arrested deviants/criminals in custody, they are institutionally treated and corrected within the prison. Keeping them away from society provides the peaceful tranquility required for sustainable economic growth.

Again, returning them to the society as charged characters and empowered persons reduces the stress of unemployment on the economy. As cool-headed skilled artisans or proficient journeymen in fields, they constitute a ready on which the labor market can fall on. Rather than deviance, they now work for wages to sustain themselves or they become self-employed, with tools and materials provided. The impact of a good number of the masses being self-employed on the economy is enormous, because not only will they be self-sustaining in life chances, they may also assist in training other skilled labor, thereby reducing idleness among the youths in the populace. When recidivism is seriously checked the police will then be only faced with the problem of amateur first offenders.

Through the Aftercare services, the Prison Aftercare Officers are able to arrange, prior to his discharge.

i) A conducive home environment;
ii) A possible accommodation for a take-off and rent
iii) Tools and materials for a take off
iv) Monitoring of activities and proper evaluation of same for upwards of 1 year after discharge.

The laws and the country's, much care was taken to cover possible areas of misdirection of justice in criminal procedures or in forgiving those who though guilty but had a second thought and became remorseful and penitent (Section 175 and 112 of 1999 constitution of the Federal Republic refers). The main thrust of those sections is rooted in the Shakespearean "Tempering Justice with Mercy." But to a larger extent, the Communities and the general society are still very skeptical in receiving ex-convict with open minds. The unforgiving society in receiving ex-convicts with open

change in essence in the attitude of ex-convicts. Most of them, by the pressure of unforgiving society are forced to indulge in jail repeating attitude-recidivism.

The state can also provide amenities in the localities to make ex-prison inmates stay within such Communities for their settlement. By this a tailor, a painter, a welder, photographer, computer expert may, see the locality conducive. This will reduce the urge to go into the urban cities to cluster and create social problems.

3.5 CONSTRAINTS

1. Poor funding and lack of adequate level of complementarity. As Aftercare services are emphasized, prison workshops and schools are not well-funded and equipped to actually reform through Institutional Training. They are absent in most prisons.
2. Majority of those who leave the prison are Awaiting Trial Persons in large numbers, but unfortunately the policy does not allow them participate in the reform processes. Only convicts do officially by law.
3. The issue of the unforgiving society out there is a major hindrance.
4. Poor government policies on the future of ex-convicts are inhuman and not in support of all programme.
5. Total neglect of the Prison Institutions over a century now and poor conditions of service for the staff. Prisons expansion necessary to reduce congestion and improve on service delivery. To release criminals to decongest our Prisons in not the better alternative. To build more prisons will ease out the present congestion.
6. Absence of the principle of equality before the law in equity and fair hearing hinders efforts in corrections. According to (Obiandu, 2003) the prison cannot handle the situation and succeed where the society had failed. To actually execute selective prosecutorial powers, whereby those with wealth and status do no wrong, than the innocent citizens are punished wrongly and society labels them deviants that they are not, then pushing them with the prison is of no effect because all those programmes are not seen as anything good.

SELF ASSESSMENT EXERCISE 3

What are the constraints of Prison After Care Service.

3.6 THE COMMUNITY AND REHABILITATION/REINTEGRATION OF EX-PRISON INMATES

In executing the 3RS – Reformation, Rehabilitation and Reintegration - the Prison enclave is where reformation takes place as has been elaborately discussed.

The rehabilitation aspect starts from the Prison, where reformed inmates are empowered with tools and materials by the time of discharge. The aftercare officers in Prisons service collate efforts from both the community, the clubs, churches and philanthropic bodies as well as the government to empower the discharging inmates.

Through the follow-up by the Aftercare officer, the community where the inmate is to be rehabilitated enters into intense interaction, even prior to his discharge, to create an enabling environment. Discussions are opened between family members, his social club, age groups, his home Church to prepare for the home coming of the inmate.

From this initial contact with the community, accommodation, (both living and workshop) would not pose a problem.

From this same initial contact, the families or communal bitterness is settled. On discharge the aftercare officer starts-off with monitoring the ex-inmate in his all-round activities within the community.

However, the community members have to maintain humane approach in dealing with both the aftercare officer and the discharged inmate. Community patronage in his trade is a major reinforce technique in reintegration.

By the intervention of the Aftercare Officer, the Community-head and elders may agree to drop him out of the initial communal levies and taxes. The Prison letter of introduction usually given to a discharging inmate would specify such tax exemption

free admittance into his erstwhile clubs, age group or church is a good technique in integration too.

The more open his club members and age grade members are, the more confident he becomes in the midst.

3.7 HINDRANCES TO REFORMATION, REHABILITATION AND REINTEGRATION (Within the Prison)

a) The transformation mechanism in the Prison (skill acquisition workshop and literacy programes is not up-to-date. The workshops need to be refurbished to meet the need of the time.

b) Trainer staff are also not in all trades, more staff are needed in various trades.

c) The bulk of inmate population in the Prison are Awaiting Trail Persons. In Port Harcourt Prison, with about 2,500 inmates only a number of 300 are convicts. But the government policy on reformation affects only the convicts who are sentenced to terms above 3 years.

d) However, the greater number of Ex-prison inmates known by society are the Awaiting Trial Person who do not pass through the Prison 'furnace': There is need to include the ATPs in the reformation scheme . This is because most ATP's waste away in Prison for upwards of 5 years idle.

e) The response of the public to assist in the supply of equipment and tools for reformation in Prisons is very poor.

f) The attitude of the public to Prison programmes is also discouraging. It is unfortunate to note that it is those who complain and criticize the Prison for poor service delivery who also hinder programmes in the Government agencies when approached. They frown at the reformation efforts, yet they blame the service.

Besides, the attitude of the public to Prison ex-inmates is everything but encouraging. Most Prisoners who know that their incarceration had maimed their image in their communities resist reformation efforts in Prison.

g) The resources needed for the programmes are also much hindrance. The welfare officers need much money for contacts and for collation of the scheme, including arrangement for GCE exams and trade tests.

Within the Community

a) Due to lack of sufficient awareness, the public attitude to ex-prison inmates is still very poor. The unforgiving spirit in the communities in support of the victims is a major hindrance to the scheme of rehabilitation and reintegration.

Most community members refuse to patronize ex-prison inmates in their trades. Some such communities expect or even impose levies on the returnee to cover the period of his incarceration. This is a heavy burden on the ex-inmate.

Some members of the community refer to him in every antisocial behavior noticed in the area. In their club meetings and family meetings they tell very irrelevant crime and prison stories to irritate their kin just released from prison. “This actually keeps him uncomfortable in their midst and he looks for away of leaving the area. This is not to help the ex-prisoner to succeed in his later life in the community.

b) The attitude of our public makes it difficult for judicial officers to make bold to punish offenders in their communities. In the first place, he will be kept miserable by both men, women and children for the free labor in the community which stands out as his punishment.

c) There is clear hesitation in landlords to give out their houses and shops on rent to ex-prisoner within communities.

d) The issue of unfairness to a criminal suspect in criminal procedure may result in punishing the innocent person for obvious reasons, when the principles of Equality before the law are not strictly followed as a result innocent persons flood the Prison, the case becomes worse. An innocent prisoner is always, tempted to believing that the wrong alternative is better, especially where there can be wealth and power. The reformation scheme in the prison makes no appeal to these ones.

For effective reformation and rehabilitation schemes to be worthy of note therefore the following are essential prerequisites.

(i) Equality before the law must be in place without fear or favour.

(ii) The presence of functional modern equipment for skill acquisition and literacy classes as well as available human and financial resources.

(iii) A forgiving-spirited public.

SELF ASSESSMENT EXERCISE 3

Discuss the hindrances to reformation, rehabilitation and reintegration within the prison and the community.

3.8 GOVERNMENT POLICIES

The government policies on ex-convicts are still draconian and unfriendly. They still can not gainfully employed in the public sector, they still can not stand for elective political positions etc.

These policies also affect the thinking of the people and their reactions to ex-prison inmates are mainly based on this.

There can not be an effective programme for ex-convicts without raising their hope for survival in the community. If they have the government policies in mind and the attitude of the society too, they pay no attention to the transformation mechanism in Prison and therefore resist all techniques used in reinforcing their character. The negative effect reflects on the society they will eventually return to. When they are still criminals, they infect some others in the community instead of helping to deter them from crime.

3.9 WHAT CAN BE DONE (SOLUTIONS)

1. The Prison (however small or remotely sited) should have all what it takes to empower its inmates.

2. All trainable inmates should go through the transformation scheme in Prison, both males and females. The barrier of ATP's should be erased, only condemned convicts and sometimes fresh Armed Robbery suspects may be exempts in the scheme.
3. Funds should be made available to continue all techniques for character reinforcement in Prison's and more staff should be trained to professionally man the schemes for the desired goals. The community has to come in here to assist government.
4. Since the schemes and programmes are resources consuming, the officers should make sure that only those who actually accepted the scheme in Prison and gained from programmes in skill acquisition should be involved in the Aftercare Services. This will reassure the community that the officer has a point in his efforts towards rehabilitating the ex-inmates. Energy may not be dissipated on those known to have resisted the scheme in Prison.
5. The Prison should be expanded in line with the other arms of the Criminal Justice System to be able to face that challenges in the scienticism introduced in criminality in our society. There is no sense in discharging regularly those who can not offer society any good thing in goal delivery exercise. Most of those hurriedly discharged to decongest the Prison need the skill acquisition scheme but do not get it. They are thrown back to society not goal delivery which does not in reformation.
6. The service conditions in all ramifications for Prison officers should be addressed with dispatch. There is no how a hungry baby-seater can feed the baby well. For good and appreciable level of job by Prison officers, their welfare needs to be looked into. They society should appreciate their problems and assist rather than inhibit their schemes for society.
7. There should be emotion-free society in regard of attitude towards ex- Prison inmates. This will help to reassure the rehabilitated and reintegrated persons for best attitude change, even while in Prison. On discharge, home can still be the usual lovely home.

8. Having been aware of the workings of the scheme and the possibilities of innocent persons being punished unjustly, the public should be able to appreciate the problems of being 'Jailed" better. The uneven arm of justice can turn against any person, however highly placed in society. It is important to create awareness among the people that imprisonment does not rob any person of his personal rights as a citizen of Nigeria except that he is taken away from his people and from public life. Prison inmates may pass the GCE papers, they may also train as masons, carpenters, welders etc, they may also be able to pass their JAMB etc. all these prepare them for a better future life not to dupe the society. For the errors that can be in our due process, victims of errors need public sympathy, not condemnation.

4.0 CONCLUSION

A major problem of the prisons is lack of adequate fund to carry out a successful after care programmes. This lack of adequate fund is occasion by the Nigerian government lackadaisical attitude toward people in jail Lack of fund has its implication in the problems of inadequate rehabilitation programmes and facilities. Due to lack of adequate fund, the lofty after care service cannot go round to every discharged prison inmates. There is need for government to release more fund to prison department so that they could use it to upgrade the prisoners after care scheme that will help toward the re-adjustment and rehabilitation of ex-convicts within our midst.

5.0 SUMMARY

After Care Service is an integral part of prisons reformation and rehabilitation programmes. After care in its proper sense help in the integration of ex-convict into the society. After care is assigned the activities or conduct of the offenders both before and after release. They have the duty to provide mean of sustenance to ex-convicts, with the hope of reducing drastically not only the growing rate of crime and recidivism in Nigeria but also the rising rate of unemployable on our streets.

6.0 TUTOR MARKED ASSIGNMENTS

(1) Discuss the objectives and strategies of prison After Care Services.

(2) An Effective After Care Service will reduce drastically the rate of crime and recidivism in our Society. Discuss.

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UNIT 4: THE ADVOCACY FOR DEINSTITUTIONALIZATION OF SENTENCES IN NIGERIA. (Excerpted from Odekunle, Femi (1983) "De-institutionalization of Sentencing in Nigeria: Prospectus and Problems")

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1.0 INTRODUCTION

Thus, whether developed or developing countries, prisons are under attack everywhere generally because of the conditions of life in them and particularly because of the failure of imprisonment to reform or correct offenders. However, while the developed countries have recognized the importance of imprisonment as a correctional tool and have been responding accordingly, the developing countries appear to be insisting on an evolutionary path on the matter. In Nigeria, the abolition of prisons, or at least its minimal use, has been suggested (Adeyemi, 1970) and the counter productive socio-economic effects of he stigma of imprisonment have been documented (Obafemi, 1977) all in vain.

In this unit we shall examine the various arguments against prison and imprisonment and the merits of deinstitutionalized sentences.

2.0 OBJECTIVES

At the end of this unit, the students should be able to:

- Understand the reasons for the arguments against prison and imprisonment.
- Know the adverse effects of imprisonment to the incarcerated and discharged offender.
- Know the meaning of deinstitutionalized sentences.
- Know the purpose of deinstitutionalized sentences.
- Know the merits of deinstitutionalized sentences.

3.0 MAIN CONTENTS

3.1 ARGUMENTS AGAINST PRISON AND IMPRISONMENT

Elsewhere, I have argued against the use of imprisonment and prisons for the majority of our convicted offenders in Nigeria (Odekunle, 1980: Appendix). I stated that this twin advocacy and argument is based on a rational interpretation of official crime data and findings of penological research, and that these interpretation have been confirmed time and again across different societies. Briefly, the interpretation suggests that there is a lack of "fit" between the prison institution as a "means" and correction as a "goal" of sentencing; that the prison only further criminalizes the imprisoned offender; that in terms of any cost and benefit analysis, imprisonment is costly and wasteful of resources, especially human societal resources; and that deinstitutionalized sentences would achieve the goal of correction more efficiently and more effectively than does imprisonment and without the costs and dysfunctional commitants of the later.

For purposes of emphasis, I want to reiterate my detailed and compelling argument here, the first argument is that it has repeatedly been proven impossible to train a man for freedom under conditions of captivity; to re-socialise a man for normal citizenship in the open society in an "abnormal" and "closed" community; or to train him towards responsible living by giving him no responsibility whatsoever. The prison and the society are different entities in almost all respects and to expect the product of the former to successfully "survive" in the latter is unrealistic. All the attributes that a person needs to inculcate to be a good citizen are deliberately denied, frustrated, or

repressed in the prison. The prisoner is denied even the minimal essentials of any sense of responsibility. For example, like a child, he is told when to wake, when to sleep, what to do, when to do it. When and what to eat, etc. These and other decisions are made for him.

Or to express the same point in the paraphrased words of one scholar (Nagel, 1973). He says that in the outside society, unity and sense of community contributes to personal growth. In the prison unity and community must be discouraged, lest the many prisoners overwhelm the few warders. In the society, leadership is an ultimate virtue. In the prison, meaningful leadership must be identified, isolated, and blunted. In competitiveness of normal everyday living, assertiveness is a characteristic to be encouraged. In the reality of the prison, assertiveness is equated with aggression and repressed. Other qualities considered good in the society (e.g. self-confidence, pride, initiative, etc.) are eroded by the experience of the prison into self-doubts, obsequiousness, and lethargy.

The physical social, and psychological confinement of prisoners and their isolation from their communities, the depersonalizing routine, rules, and regimented daily existence, and obliteration of individuality, the required unquestioning and spiritless obedience amount to an “abnormal” community in which all these features combine and conspire to create a “non-person”. On release from prison the “non-person” faces the uphill task, unaided, of “transforming” himself into a “person”. About half never make it and they are sooner or later re-sentenced to prison.

The second argument is that not only does the prison de-socialized (as shown above) offenders of whatever remaining desirable social values they bring with them to the institution, it also “criminalizes” them further. The prison’s role in making offenders more criminal than they were on entry can be appreciated in two ways. One, the theory of “differential association” States that criminal behavior is learned in interaction with other persons in a process of communication within informal groups; that the “learning” includes crime-related motivations, drives, rationalizations,

attitudes, and techniques; that a person becomes criminal because of frequent, long and intense exposure to more persons with favorable attitudes towards violation of the law than to person with unfavorable attitudes towards violation. Whatever the limitations of this theory, it helps one to appreciate the very high probability that the clustering together, in prison, of first-offenders and hardener repeaters, petty and professional criminals, etc. will enhance the further learning of criminal values and techniques.

Two, to counteract the effects of the formal economic, social and psychological deprivations of imprisonment, prisoners always evolve some informal "subculture". While the function of the prisoner subculture is to cater, informally, for the "welfare" of the inmates, the values and norms of the subculture are subversive of the prison authority's required behavior. Yet, almost every new prisoner gets "initiated" into the subculture on arrival; and almost every prisoner who wants tolerable or bearable prison-life subscribes to it. Thus, almost every prisoner by the time of release gets "prisonized" i.e. internalize the deviant values, norm, practices, and nuances of "successful" prison existence and survival. The consequence here, again, is further criminalization of the offender.

The third argument, is that for the short term prisoners (and they are always in good proportion) in these sometimes overcrowded and usually ill-equipped prison, there can only be custodial caretaking, not rehabilitative training. The defenders of imprisonment and the prison for correction would claim that prisoners are "occupied" with daily work, that they are provided with formal education and apprenticeship for occupational skills, and that prison farms train them to become farmers. These claims are good only on paper.

In reality, the quantitative and qualitative impact of these things on the prisoners' post-release life is negligible, if anything at all. With regard to provision of opportunities for normal education and apprenticeship for occupational skills less than one percent of Nigeria's 32,000 odd prisoners at present are ever exposed to any of

these provisions. Most have had what the prison has to offer in these areas: some primary education and this or that occupational skill. For the insignificant proportion that could benefit from these provisions, the prison does not have even enough teachers and instructors. And even if all the prisoners were exposed to these provisions, it would not make any difference to their post-prison life: there are thousand of Nigerians with some primary education and this or that occupational skill who are really unemployed or only marginally employed.

As for prison farms these are comparatively few and the proportion of prisoners used in them is insignificant. Each farm is a large plantation where “trusted” prisoners are relived of the confinement inside prison walls and are “used” to make revenue for the government. There is nothing wrong in producing crops and making money for the government but to claim that this has any value to the prisoner’s post-prison rehabilitation or livelihood is false. Most prisoners are urban migrants; not rural farmers, and they are no teenagers who could be expected to take up the farming occupation afresh just because of some time on a prison farm. Even for those of them with interest in farming, the large population, fertilizer, and tractors cannot be replicated, after release, on a small village plot with hoes and cutlasses.

Because of the significant proportion of prisoners that prison could expose to formal education, occupation apprenticeship, and prison farms (due to human and material resource limitations), most prisoners “work” inside the prison walls. However, these prisoners do not really work, they are merely “occupied”. Prison work is geared towards prison maintenance and, more crucially, towards diversion from boredom, idleness and are forestallments of the devils use of idle minds and hands. In some respects, prison work is analogous to slave-labor in terms of the worker’s interest, choice or voluntaries, and with reference to the employer’s purpose and pay scale. True enough, work has its intrinsic value but the realization of the value can be enhanced or inhibited by the meaningfulness or meaninglessness of the work, by whether it is optional or mandatory, or whether its reward is or rewarding enough. These things take a lot away from the benefits derivable from habituating these

prisoners to daily work. Slave-labor, or the feeling of “slavery”, does not enhance motivation productivity or work ethic.

Thus, it is obvious that quantitatively and qualitatively, the prison cannot and does not provide rehabilitative training. Rather, it provide its traditional service of custodial caretaking and yielding of some revenue for the government.

The fourth arguments is that, in any case, the criminal justice does not send to prison those who really need imprisonment. That is, ironically, it sends to prison those who cannot benefit from the fact and experience of imprisonment. If the prison cannot “correct” offenders though provision of quality rehabilitative training with “normal” social-psychological contexts, it should constitute a punishment deterrent to the offender. However, unpalatable, the prison does not constitute a “punishment”, or a deterrent, to the type of offenders our court usually send to prison. In Katsina district some years ago, an accused person being tried for stealing a sheep told the judge that the legal proceedings and technicalities were unnecessary that he was pleading guilty to the charge and that he was requesting the judge to hurry up and sentence him quickly before lunch time was over in the prison. He did not want to miss his lunch and he was promptly sentenced to four months!!! Is the fact or experience of prison a punishment or a deterrent to this type of offender? No. Yet, most of our prisoners fall into this category. Of the 662 prisoners sampled for my prisoner-research, over 60% committed property or property-related crimes, were under 30 years of age, had some or no primary education, were unemployed at the time of arrest, were single or only nominally married, and had migrated from town during the year preceding their arrest. These people have little or nothing “at stake” in the outside society and the prison may be a preferred alternative to lack of shelter, clothing and three square meals.

Those who really need the fact and experience of imprisonment, those for whom imprisonment will definitely serve as punishment are “allowed” to escape imprisonment. These are people who are not in want socially and economically, but

who nevertheless do more serious damage (than say, thieves and burglars) to our economy, our political stability or our societal law-abidingness and morale through bribery, corruption, fraud, embezzlement, smuggling, hoarding price-fixed, etc. They are either dealt with intra-departmentally or through probes and the like. The occasional resultant termination, dismissal, order to refund, or seizure or assets notwithstanding, they usually re-surface on this government committee, that corporation Board, or as recipients of government contracts. Even when they are convicted by the courts, they are usually given the option of fine which, however large the amount, they get paid at all cost. Since most of the population (excepting lawyers and highly educated ones) equate conviction only with imprisonment, the deterrent effect is lost. Hence, a man who was convicted and given a term of imprisonment with the option of nearly N35,000 fine by the Revenue Court some years back paid the money on the spot and was carried shoulder high by well wishers outside the court room as having been “freed”. Yet, this is the kind of offender who could receive a life-lasting “benefit” from the lesson of imprisonment.

And to digress briefly, this situation has a crime-engendering effect on our population, in or out of the prison. For the general population, it fosters the impression that “crime pays” if one has the monetary, social economic, political, or bureaucratic position or power. For convicted “common” criminals, it provides them with the needed rationalization, which neutralizes the societally-expected sense of guilt, that they are in prison only because they are poor-lack of money to raise bail, to hire a good lawyer, or to pay fine. For both, this situation creates a “criminal environment”.

The fifth argument that the experience of imprisonment and the post social stigma attached to the ex-prisoners by the society make it impossible for most ex-prisoners to readjust to society and lead a normal life. Most of the respondents in survey of public attitudes towards crime and criminals by one of my students said they would not employ, rent a room to reside or make friends with an ex-prisoner. And a different study (by another student) concentrating on the experience of ex-prisoners in the society between their first and second imprisonments shows that the encounter of

societal stigma and "rejection" largely accounted for their return to crime and prison and second time around. Thus, a good proportion of prisoners are "forced" as it were, back to prison. And this partly, explains why between 30% and 40% of our prisoner-population at any point in time are repeaters (i.e. they have been in prison once, twice, thrice or more before).

The sixth argument is that imprisonment for most of those currently in our prisons is an unnecessary and costly waste to the society since whatever is "gained" from the imprisonment of these kinds of offender would still be gained without imprisonment and therefore without the monetary and human that prisons and imprisonment entail. A long illustration would help clarify the point in this final argument.

Presently, the "modal" prisoner is a thief or a burglar. Sometimes, the prisoner is an assaulter, a traffic-offender, or a hemp smoker. In each case, the offender had been in remand because of inability to receive bail or raise money to use the bail granted (according to the published figures for 1979, of the 159,551 prison admissions, 97,398, nearly 62% were on remand awaiting trail). In each case, the offender had been sentenced either to a term of imprisonment without an option of fine or with an option of fine he could not pay because of his pre-arrest employment status and/or because the months in remand had done havoc to the potential earnings from his marginal daily-paid employment (as stated earlier, thousands of convicts are in prison "in default of payment of fines").In each case, the victim of the crime has lost rather than gained because having spent money, energy and time away from his work to visit police station and later attend court as a witness, he does not get compensated for his material loss or physical injury by the jail-term or fine imposed on the convicted offender (a majority of the respondents in my research on victims of crime gave this as reason for non-reporting or half-hearted co-operation with police and courts).

In each case, the offender is given a prison term that is either too short for any meaningful rehabilitation to take place or too long to make post-prison adjustment to society possible. In each case, the convict probably sees the imprisonment as a socio-

economic “relief”, however temporary, rather than as a “punishment”. In each case, the prisoner is fed, housed, clothed and guarded with tax-payers’ money including the tax of the person he victimized. In each case, if he had any employment (however marginal), the society losses his services and tax-payment and the burden of his wife/children falls on some other individuals. Simultaneously because of unwholesome or untoward “existence” and contacts in the prison, he “deteriorates” with regard to the values, norms, and practices of the society outside the prison.

In each case, his term (short or long) expires and he is expected to return to a “home” that was never there or, if there had, probably been broken with absence-instigated marital infidelity and children gone delinquent (the probable criminals of tomorrow). Already probably further hardened by time in a wall –in “abnormal” community, deprived of the essential social psychological ingredients of normal existence by “disuse atrophy” and schooled through daily-contacts with professional and career criminals, he comes to a “home” that is not there and with a “new” but stigmatized social-identity (“criminal”, “ex-convict”, etc.) which further makes normal life impossible in terms of opportunities for employment, residence, marriage, and general social relationships. In each case, the ex-prisoner turns either to some criminal-contacts he had made in prison or to his pre-prison criminal friends and he is sooner or later arrested, tried, and imprisoned. The vicious cycle begins again.

In the above rather long illustration, it is patently clear that in terms of any cost and benefit analysis, society has lost tremendously and the crime problem has only been aggravated. Would it not have been more efficient, more desirable and less costly to the victim, the society and even the convict, if each of this offender-type were made to pay compensation to the victim, (even if installmentally) and/or fine to the court (again, even if installmentally), perform some labor for the victim and/or his immediate community, or be put on probation?

The final argument is that the claim that imprisonment “protects the public” from criminals seems to ignore the temporary nature of “protection” and the unnecessary

costs of such protection. In addition, this claim is based on belief rather than facts-facts which show that, at any point in time, over 85% of criminals are in the society, not in prison. The actual volume of crime in any society is always an "unknown quantity". So, let us say this "unknown" is 100. Of this, only about 50 are "known" to the police. Of this 50, only about 30 ever get to the courts. Of the 30, only about 15 end up in prison. Yet, the public remains "protected" from criminals without the remaining 85 being put in prison!!!

And even of the 15 who end up in prison, at least 6 are repeaters (usually those convicted for "offences against property") a proof that previous imprisonment has had no effect on them. The remaining 9 are first offenders, some of whom will be further criminalized by the prison experience. It needs to be pointed out that those convicted first-offenders who forever remain law-abiding after their imprisonment do so not because of the imprisonment; in fact, these few usually have to struggle against odds to maintain their sanity and values against the criminalizing influence and impact of prison life. Rather, they remain law-abiding because they are 'normally" the one-time offender type (e.g. usually those convicted for "offences against person") who, without imprisonment, would have anyway, regretted their singular criminal acts.

It has been shown in these seven arguments that sentences of imprisonment do not and cannot achieve their desired ultimate objective (i.e. correction of offenders) for the majority of convicted offenders; that they really do not serve any retributive nor deterrence purpose; and that they usually only further aggravate the problem of criminality. And herein lies the merits or advantages of deinstitutionalization as an alternative mode of correction.

3.2 MEANING, PURPOSE, AND MERITS OF DEINSTITUTIONALIZED SENTENCES

"Deinstitutionalization" refers to the employment of alternative ways of correcting majority of convicted offenders other than the use of imprisonment (i.e. institutionalization). Examples of such alternative sentences are compensation in cash

and/or kind, restoration, restitution, reconciliation, community- service, community labor, suspended sentence, fines and probation.

The purpose of deinstitutionalization is defined by its opposition to imprisonment's inadequacies and insufficiencies as a correctional tool. In lines with social sciences theory and research, the integration of the convicted offender with his community is the major key to successful corrections. This implies avoiding as much as possible the isolating and labeling effects of commitment to an institution; it means dealing with problems in their social contexts; the interaction of the offender and the community. Thus, as an alternative to confinement, the main purpose of a deinstitutionalized sentence is to provide an opportunity for the offender to confront his problems in the environment which, eventually, is the testing ground.

(I need to point out here, in parenthesis, that the advocacy for deinstitutionalized sentences is not meant to cover all types of offenders. Neither is the purpose aimed at the eradication of prisons. Rather, it is aimed at the majority of offenders who are currently given terms of imprisonment; it is for a significantly reduced use of imprisonment as a correctional tool).

The advantages of deinstitutionalized measures, should, again, be obvious when its purpose is considered against the fact of, and the reasons for, the failure of prisons. However, more pertinent is the accumulated research evidence of between sixty and ninety percent post-probation success rate despite the fact that probation services have been characteristically poorly staffed and often poorly administered (Task Force Report, 1967:28; England, 1970:692). Furthermore, when compared to imprisonment, there are other non-quantifiable advantages in terms of significantly reduced monetary, material, human, social-psychological, and familial costs. Again, the contamination, real or imagined, of prison existence and the consequent socio-economically disabling "ex-convict" stigma are absent. Finally it has the "might" of significantly decongesting the prisons and therefore helping the prisons cope with those convicts who must be institutionalized.

Of course, to serve the purpose of deinstitutionalization and realize the ultimate objectives, certain essential "means" must be available: an enabling statutory provision and conducive procedural legal machinery; the appropriate training and adequate availability of functionaries; the availability or provision of funds and materials/facilities; the existence or initiation of supportive community agencies and programs; a receptive or enlightened public; and the societal provision of economic wherewithal and social amenities. What are the prospects and obstacles regarding the availability of these "means"?

SELF ASSESSMENT EXERCISE

As a student of criminology will you advocate for Deinstitutionalization of Sentences or do you advocate for the greater use of imprisonment. State your reasons.

4.0 CONCLUSION

From this unit, students of criminology should have a broader knowledge of negative effects of prison and imprisonment to the society. The consequent effects it has on the incarcerated offender and also to the discharged prisoner on completion of his sentences. Also students should have a good understanding of the meaning, purpose, and merits of Deinstitutionalized Sentenced.

5.0 SUMMARY

We have been able to discuss the various reasons behind the opposition to prison and imprisonment. We have also looked at the merits of Deinstitutionalized Sentences.

6.0 TUTOR MARKED ASSIGNMENTS

Expostulate on the meaning, purpose and merits of Deinstitutionalized Sentences.

7.0 REFERENCES/FURTHER READING

Odekunle, Femi, (1983) "Deinstitutionalization of Sentencing in Nigeria Prospectus and Problems.

UNIT 5: VARIOUS RECOMMENDATIONS ON PRISONS REFORM

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1.0 INTRODUCTION

This recommendation is explicitly gotten from the 1990 conference on prison reform organized by the Federal Ministry of Internal Affairs in collaboration with Federal Ministry of Justice.

Various participants at the national conference on prisons reforms proffered numerous recommendations which they strongly believe would lead to effective and efficient prison administration and reduce the present congestion in Nigerian prisons.

2.0 OBJECTIVES

At the end of this unit the students should be able to:

- Know the concerted efforts towards a developed and effective penal System .
- Examine the recommendation of various expert on Criminal Justice System.
- Know what to be done to reform the prison.
- Know the present state of the prison.

3.0 MAIN CONTENT

3.1 PROPOSAL

In their proposal amnesty international stressed that "prison reforms should include the judicious use of the powers of detention and imprisonment, not only because the abuse of such powers leads to violation of the human rights of those so detained or imprisoned but also because it puts unnecessary demands and pressures on the facilities such as they are of the prison system, thus contributing to the collapse of its physical and medical infrastructures". It wants government to adopt wholeheartedly, the body of principles (Resolution 3/173 of the united Nations General Assembly meeting on 9 December, (1988) as the operational code for Nigeria's prison system.

Igweke and Gabriel (1990) both of the law faculty, University of Jos, submit that government should review its criminal policy and formulate clear penal philosophy for national application. Criminal and Penal Codes should be harmonized while crimes punishable with imprisonment should be replaced with other forms of human punishment.

Erstwhile controller – General of prisons service, Ojo (1990) wants government to set aside a special fund for the rehabilitation of obsolete prison facilities, reduction of operational problems faced by members of the Criminal Justice System, attractive conditions of service for prison staff, review of existing statutes and adequate funding for health care services as well as prisons farms and industries.

Towards decongesting the prisons, Okonkwo (1990) of the University of Nigeria, suggested increased release of prisoners by chief judges on the ground of deteriorating health, a more liberal bail system, abrogation of minimum sentence prescribed in certain legislation, increased use of shorter prison sentences, adaptation of suspended

sentence and parole system for first time offenders and increased use of affordable times.

Similarity, Eze, dean, college of legal studies, Abia State University, (1990) stresses the need to review the exclusive power of the Federal Government to deal with prison matters and calls for decentralization to allow States have competence in matters relating to penal policy. He advocated for the removal of prison officers from the civil service structure and materially improve their terms and conditions of service while they should exercise their authority and discretionary power reasonably in a humane manner and within the ambit of the law. Professor Eze opined that deprivation of liberty is a serious enough punishment and that prisoners' constitutional rights must be respected and enforced, stressing, "the fact of conviction does not define them out of humanity".

In the opinion of Olowu of the Nigerian law reform commission (1990) what is needed is a strong partnership of legislators, the executive criminal justice officials and citizen to create a new correctional policy for Nigeria. Adding that the new approach emphasizes protecting the public and offender through cost effective penal sanctions that out low – risk offender at work. sentencing policies must emphasize the twin concern for restitution of victims and re-integration of the offender into society.

Two political scientist, Takaya and Egwu, (1990) recommended the adoption of reform, re-socialization, rehabilitation and re-integration as modern objective of prisonization, the transformation of Nigerian prisons into organized training and employment centres commensurate with modern economy coupled with after care surveillance and regular reporting on ex-convicts. They also proposed the implementation of clearly designed classification system in which the title of prison institutions must tally with and reflect the custodian objectives term categories of inmates and title of custodian personnel or professionals.

In the submission of Nweze of the university of Jos and Maduagwu of NIPSS Kure, (1990) they suggested the expansion of open prisons and farm settlements for offenders of minor crimes, the removal of social stigma attached to prisoners in order to facilitate their reabsorption in society. They charged the government to remove administrative obstacle against the employment of ex-convicts in the public service and the encouragement of formation of voluntary organizations for the assistance of discharged prisoners.

On the question of morbidity and mortality rates among inmates, Obot (1990) suggested to the building of more psychiatric hospitals and rehabilitation centres, adoption of a comprehensive primary health care service for prison inmates and involvement of non-government organizations in the improvement of health care and living conditions of Nigerian prisons.

With regard to female and youth offenders, Messrs Lawrence Walus and longmas called for classification of prisoners and of offenders according to age, sex, length of sentence, nature of offence, previous convictions, occupation prior conviction, marital status and number of children (for female offenders) educational attainment, religious denomination and place of residence.

For juveniles, they submitted that remand homes and Borstal institutions should be properly catered for in terms of facilities and required manpower necessary for inculcating habits of industry, self-respect and self control through manual labor, games, physical training, mental training, reformation, rehabilitation and resocialization of juvenile offenders between the ages of 8 and 17 years.

Ajibola, erstwhile Attorney – General of the Federal and Minister of Justice, stressed on the principal issued fundamental for the achievement of any meaningful prison reform. The avoidance of the imprisonment sanction for minor offenses, increase use of non-custodian disposition method such as fines, restitution or reparation instead of imprisonment and increased use the open prison system. I paragraph personally

recommend on the rehabilitation of convicts to enable them to re-integrate into the society. A prisoner upon discharge from prison return to the free society with a stigma and social tags as “ex-convict”. the ex-convict return to the society without any drum and fanfare, but scorn and disdain awaiting him. In the process, he becomes embittered, despair and frustrated. The society refuses to accept and recognize ex-prisoners as a set of people that have been reformed and therefore capable of living a better and more useful life. In a nutshell they are rejected and ostracize.

The government also worsened their case by denying them gainful employment by incorporating obnoxious clauses in the G.O.S of civil services rules. According to Akpe (1995) an assistant controller General of Nigerian Prisons Service, “existing legislation militates against the rehabilitation programs of the ex-convict”. The prison officer is interested in the elimination of the seeking for jobs to indicate if they had served a prison term. An affirmation automatically disqualifies ex-convicts from consideration for jobs. Any legislation which disqualifies ex-convicts from rehabilitated and reintegrated into the society, is not only unfair but also subverts the corrective orientation of imprisonment. After having served a prison term for an offence, on ex-convict should be regarded as having paid an adequate penalty for his wrong deed and should not face pest prison life as an untouchable.

The stigma attached to imprisonment is a bad embarrassment which also carries the prospect of social ostracism by members of the public. The ex-convicts is perpetually hardly trusted even by his friends. The traumatic effects of this on the ex-convict is quite hard to bear psychologically which convicted prisoners go through while in prison, then it would not be imagine why good number of ex-convicts became psychopaths and rather disposed to return to prison where they find positive acceptance within the precints.

In turn, the ex-prisoners have nothing to offer the society since they haven’t learnt any thing that would make them live a comfortable and more useful life on discharge while in prison. This is because pragmatic measures are yet to be taken to enable the

Nigerian prison system involved prison inmates throughout the country in beneficial training programmes capable of enabling them acquire useful educational and professional skills that could make them becomes gainfully employed on discharge.

At this juncture, I recommend the introduction where it exist, then upgrading of an after – care scheme that will help toward the re-adjustment and rehabilitation of ex-convicts within our midst. After-care should be seen as integral part of rehabilitation and therefore, there must be no hiatus in the transition between residential treatment and subsequent re-education for life in the outside world.

After care in its proper sense of helping a prisoner to integrate into the society after discharge well integrated in the prison system in Nigeria. The lack or absence of after care service for prisoners in Nigeria could, no doubt, be responsible for the high incidence of recidivism in our prisons. After-care as reformative scheme especially among the young offenders should ideally start right from the institution, some two or three months before release, depending on an offenders length of sentence. The prisoner, after discharge is expected to return to the community, live a socially acceptable life, earn a living, raise or continue to raise a family and participate in the day to day life of the society.

As a result, the need for such a functional body in Nigeria becomes both urgent and desirable. Once institutionalized, such an agency will be assigned the activities or conduct of the offenders both before and after release. This body should also have the duty to look for jobs for best behaved ex-convicts, with the hope of reducing drastically not only the growing rate of crime in Nigeria but also the rising rate of unemployment on our streets.

Furthermore, the relevant provisions in the G.O.S (Government Orders) or the civil service rules should be modified to enable ex-convicts with gainful employment in both the private and public sectors of our economy. Similarly, certain sections of the

Nigeria constitution which forbid ex-convicts from being easily and immediately absorbed into the public sector should also be expunged.

If this section could be revived it would give the after-care agency the power to recommend a job for an ex-convict who proved himself worthy to the board. Such a scheme could go a long way in removing certain forms of stigma connected with an ex-convict in Nigerian society. Finally, it is only logical for the government to employ an ex-convict first, over and above any other institutions, because our government today constitute about the largest employers of labor.

As surmises in previous unit that the Nigerian prisons are heavily overcrowded, filthy and out-molded. Beside the quality of food, clothing and other essential facilities, equipment and structures has been generally below standard in all the prisons. One must further add that the salaries and allowance of the staff of the prisons have also been comparatively unattractive.

In view of this, I recommend that more funds should be poured into the prisons. The salaries and fringe benefits of the staff of the prison service should be substantially enhanced so as to retain the existing man power as well as attract others to join the prison services.

More prisons need to be constructed that would readily compare admirably with the spacious and modern prison set-ups obtainable in developed countries of the world. This will go a long way to reduce the present acute over-crowding in our prisons. The older prisons on the other hand should be modernized. They should be provided with up-to-date facilities and equipment for adequate rehabilitative, vocational and educational training.

My investigations have revealed that the dominant method of imprisonment in Nigeria has tended to be punitive rather than rehabilitative. As such, there is urgency for the introduction of modern treatment programmes like vocational training, specialist

educational facilities, integrated parole and effective after-care programmes should be introduced in the prisons as well as being incorporated in our status. Consequently, the hiring of prison labor on private farms and construction sites should be encouraged with a view to bringing revenue into the prisons themselves.

As earlier asserted, the original idea of classification of convicts according to classes of offenders, has died a natural death and this tend to act as an obstacle to rehabilitative programmes. In order to achieve maximum liberalization and rehabilitation of prison inmates, there should be an effective segregation of prisoners according to convicted or non-convicted one in which case un-convicted prisoners should be specifically confined within police custodies or detention centre, whereas prisons should remain clearly the confines of convicted prisoners to be supervises by prison officials. The prisons themselves would require physical segregation on the basis of offence type, sex, recidivism, rehabilitative capacity and finally medical – lunatic.

SELF ASSESSMENT EXERCISE

Assess the fate of ex-convicts in Nigeria.

4.0 CONCLUSION

The prison system is encumbered with numerous problems. The only way out for Nigeria penal system is for her to re-evaluate and re-modify her obsolete philosophy to be in consonance, with UNO minimum standard rule and the western world. Emphasis should be place on the total overhauling and reformation of our penal system. It is in view of the anomaly in Nigerian prisons system that criminologists, penologists, legal luminaries, sociologists, experts and other resource persons converged in Abuja from 18 to 20 June, 1990 to brainstorm on the issues, challenges and strategies of prison reforms in Nigeria.

5.0 SUMMARY

We have been able to discuss the various recommendations on experts and academics on issues related to prison administration in Nigeria. My personal opinion has also been expressed for an efficient and result oriented penal system.

6.0 TUTOR MARKED ASSIGNMENTS

Critical analyze the state of Nigerian prisons and give recommendations for improvement.

7.0 REFERENCES/FURTHER READING

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