

PENOLOGY & VICTIMOLOGY

UNIT – III

Prison Reforms · Alternatives to Imprisonment
Victimology – Introduction, History & Philosophy

20 explanatory slides · Cases and statutory framework

ROADMAP

What this unit covers

1. Indian prison system

2. Problems of prisons

3. Reform movement

4. Mulla Committee

5. Krishna Iyer & judicial reform

6. Open prisons

7. Rights of prisoners

8. Alternatives overview

9. Probation

10. Parole & furlough

11. Community sentences

12. Compounding & plea

13. Victimology defined

14. History of victimology

15. Philosophy shift

16. Types of victims

17. Key cases

18. Statute map

19. Takeaways

20. Close

The Indian prison system in outline

Prisons are a State subject (List II). The colonial Prisons Act, 1894 still frames much of the legal architecture, overlaid by Model Prison Manuals and judicial directions.

Purpose today

Custody, discipline and – in principle – reformation and reintegration.

Types

Central, district and sub-jails; open prisons; special homes for women and juveniles.

Undertrials

A very large share of the prison population is unconvicted – a structural problem.

Administration

Prison manuals, jail superintendents, visiting judges, and now Model Prison Manual 2016.

Why reform became necessary

Overcrowding

Occupancy often far above sanctioned strength; dignity and health suffer.

Undertrial bulk

People wait years for trial inside prison – punishment before conviction.

Custodial violence

Torture, unnatural deaths, and weak internal accountability.

Poor hygiene

Diet, sanitation, medical care and mental-health services remain uneven.

Separation failure

Undertrials, convicts, women, juveniles and mentally ill are not always properly separated.

Stagnation

Little work, education or skill that actually prepares a person for release.

Prison reform – idea and history

Reform treats the prisoner as a rights-bearing person. The old idea of the prison as a place of pure suffering is no longer constitutionally tenable after Maneka and the prisoner-rights cases.

Colonial baseline

Prisons Act 1894 – security and discipline first.

Mulla Committee (1980–83)

Comprehensive agenda: classification, work, wages, after-care, legal aid.

Krishna Iyer era

Supreme Court treated prisoners as persons under Art. 21.

Model Prison Manual 2016

Modern attempt to standardise humane custody and reform programmes.

Prisoners' rights – judicial core

Sunil Batra (I & II)

Prisoners retain fundamental rights except those necessarily lost by incarceration.

Charles Sobraj

Protection against cruel, inhuman or degrading treatment in custody.

Hussainara Khatoon

Speedy trial; undertrial detention cannot be endless.

Francis Coralie Mullin

Right to live with dignity includes adequate living conditions.

D.K. Basu

Arrest and custody safeguards – the famous guidelines.

Inhuman Conditions PILs

Supreme Court monitored overcrowding, vacancies and legal-aid access.

Open prisons as a reform model

Open prisons keep selected convicts in low-security conditions with work in the community. Rajasthan's model is often cited.

Idea

Trust, self-discipline and gradual return to society.

Who goes

Usually long-term convicts with good conduct, not high-escape or high-violence risks.

Benefits

Less overcrowding in closed prisons; better mental health; family contact.

Limits

Not a substitute for systemic reform of ordinary jails.

Why alternatives to imprisonment matter

Cost

Prison is expensive for the State and destructive for the prisoner's family.

Short sentences

A few months in jail often teach prison culture, not reform.

Overcrowding

Every avoidable committal eases pressure on jails.

Proportionality

Minor property and regulatory crime rarely needs a cell.

Victim repair

Compensation, community work and apology can serve victims better than a short term.

BNS opening

Community service is now an express punishment.

Probation of Offenders Act, 1958

Probation lets the court release a suitable offender on bond, with or without supervision, instead of sending him to prison.

ss.3–4

Admonition or probation after considering nature of offence, character and circumstances.

s.6

Special restriction on imprisoning offenders under 21 for certain offences unless reasons are recorded.

Conditions

Good behaviour, supervision, compensation to the victim in suitable cases.

Policy

First offenders and less serious crime are the natural field of probation.

Parole, furlough and remission

Parole

Temporary release for a cause (illness, harvest, family event), subject to conditions. Not a right.

Furlough

Periodic short release as part of the sentence management of long-term convicts.

Remission

Reduction of the term under prison rules and CrPC/BNSS provisions.

s.433A CrPC

Restricts release of life convicts in certain cases before 14 years.

Judicial review

Arbitrary refusal or grant of parole can be examined on limited grounds.

Abuse risk

Political or moneyed influence in parole is a known public concern.

Further non-custodial tools

Fine only

Where the statute allows, and the offender can pay without injustice.

Community service

BNS s.4 – work for the community instead of jail.

Compounding

CrPC 320 / BNSS equivalent – certain offences may be settled.

Plea bargaining

Chapter XXI-A CrPC – limited, not for serious/socio-economic offences against women/children.

Juvenile path

JJ Act – institutionalisation is last; community options come first.

Diversion

Police and prosecutor discretion in petty matters (used cautiously).

What victimology is

Victimology is the study of the victim: who becomes a victim, why, how the system treats them, and what rights and remedies they should have. It shifts attention from the accused-only gaze of classical criminal law.

Focus

Harm suffered, secondary victimisation by the system, and restoration.

Not revenge

A victim-centred approach is not a licence for private vengeance.

Inter-disciplinary

Law, criminology, psychology, social work and human rights.

Course aim

Move from accused-centric procedure to a more balanced process.

History of victimology

Golden age (pre-State)

Dispute was between families; compensation to the victim was central (wergeld).

State monopoly

Crime became an offence against the King/State. The victim was pushed to the margin as a mere witness.

1940s–50s

von Hentig, Mendelsohn – first systematic studies of victim types and victim–offender relation.

1960s–70s

Victim surveys; rise of victim-rights movements in the West.

1985

UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.

India

Judicial creation of compensation (1980s) → statutory victim compensation schemes → targeted laws.

Philosophy of a victim-centric turn

Dignity

The person harmed is a subject of rights, not a piece of evidence.

Participation

Right to be informed, heard and protected during the process.

Restoration

Repair of material and symbolic harm where possible.

Non-repetition

Protection from intimidation and from the same offender.

Balance

Fair trial of the accused remains non-negotiable (Art. 21).

Secondary harm

Insensitive police, delay, and hostile cross-examination can victimise again.

Ways of classifying victims

Direct / primary

The person immediately harmed by the offence.

Indirect / secondary

Family of a murdered person; child who saw the crime.

Tertiary

Community that loses trust and safety.

Mendelsohn's types

From completely innocent to victim as offender – used cautiously today.

Vulnerable classes

Children, women in sexual violence, elderly, disabled, minorities.

Repeat victims

Some people and places suffer crime repeatedly – a policy target.

Prison and alternatives – cases

Sunil Batra v. Delhi Admn. (1978/80)

Prisoners' rights; bar on solitary and bar fetters except by law and necessity.

Hussainara Khatoon (1980)

Undertrial crisis; legal aid and speedy trial.

Charles Sobraj (1978)

Art. 21 inside prison walls.

Rama Murthy v. State of Karnataka (1997)

Directions on prison conditions, classification, and legal aid.

Inhuman Conditions in 1382 Prisons (ongoing line)

Continuing mandamus on overcrowding and vacancies.

State of Maharashtra v. Suresh (probation line)

Courts remind trial courts to consider the 1958 Act.

Early victim-compensation cases (bridge to Units IV–V)

Maru Ram (1980)

Also relevant to remission policy affecting time actually served.

Rudul Sah (1983)

Compensation for illegal detention – constitutional tort.

Nilabati Behera (1993)

Public law compensation for custodial death.

Bodhisattwa Gautam (1996)

Interim compensation to a rape victim during trial.

Delhi Domestic Working Women's Forum (1995)

Guidelines for victim assistance in sexual assault cases.

Laxmi (acid attack line)

Compensation and regulation as victim-protection tools.

Statutory map for UNIT-III

Prisons Act 1894

Basic prison statute (colonial).

Prisoners Act 1900

Transfer and attendance of prisoners.

Probation of Offenders Act 1958

Principal alternative to prison for suitable cases.

JJ Act 2015

Children in conflict with law – custody last.

BNS 4

Community service as punishment.

Model Prison Manual 2016

Soft law, but used by courts as a benchmark.

Key takeaways

- 01** Indian prisons still fight overcrowding, undertrial bulk and poor conditions.
- 02** Sunil Batra and Hussainara Khatoon are the foundation of prisoner rights.
- 03** Probation, parole, fine, community service and compounding are the main alternatives.
- 04** Victimology studies the victim and demands a shift from accused-only procedure.
- 05** Historically the victim was central, then displaced by the State, then slowly restored.
- 06** UN 1985 Declaration is the international philosophical marker.

End of UNIT – III

Next: UNIT-IV • European & American victimology, assistance, restitution

20 slides • Light academic edition