

## UNIT – I

**1. INTRODUCTION TO PENOLOGY**  
**(IDEAL PENAL SYSTEM - THREE ESSENTIALS)**  
**(IMPORTANCE OF PENOLOGY IN THE ADMINISTRATION OF**  
**CRIMINAL JUSTICE)**

(MOST IMPORTANT)

**SYNOPSIS:**

- A. Introduction**
- B. Definition of penology**
- C. History of penology**
- D. Explanation of penology**
- E. Contents of penology**
- F. Study of penology**
- G. Types of penology**
- H. Application of penology**
- I. Criminal punishment in penology**
- J. Penology and criminal law**
- K. Ideal Penal System**
- L. Conclusion**

**A. INTRODUCTION:**

The term “Penology” is derived from the word ”punishment or penalty”.

The ‘Human Rights’ concept led to the development of penology as a science.

Penology deals with the aims and the morals or social justifications of punishment.

Penology deals primarily with the criminal punishment, i.e. the punishment inflicted for a culpable act defined as crime by legal provisions.

**B. DEFINITION OF PENOLOGY:**

1. Penology is defined as the systematic knowledge of punishment. Its findings are important both for criminal law and for general considerations on punishment in social sciences and humanities.
2. Penology is a branch of criminology dealing with prison management and the treatment of offenders
3. The Oxford English Dictionary defines penology as “the study of the punishment of crime and prison management”.
4. Penology is the study of the punishment of crime, in both its deterrent and its reformatory aspects. It is the study of the management of prisons also.
5. Penology is the study, theory, and practice of prison management and criminal rehabilitation.
6. Penology is the branch of criminology concerned with prison management and prisoner rehabilitation.

**C. HISTORY OF PENOLOGY:****(Origin and evolution of the system of punishment)**

1. Historical theories of punishment were based on the principle that fearful consequences of punishment would discourage the offenders. For eg., In the 'Draconian law of Ancient Greece' and the 'Bloody Code during Renaissance of England', severe punishment of death sentence was prescribed for over 200 offences to prevent the offenders from committing further crimes.
2. Modern theories of the punishment and rehabilitation of offenders are based on the famous historical pamphlet called "On Crimes and Punishments" by Cesare, Marquis of Beccaria in 1764. According to them, the concept of proportionality in punishment is based on the nature of the offences.
3. The school representing the concept of proportionality in punishment was born out of the new humanitarian impulse of the 18th century, with which Penologists like Jean-Jacques Rousseau, Voltaire, and Montesquieu in France and Jeremy Bentham in England were associated.
4. This school was named the 'classical school' which assumed every criminal act is a deliberate choice determined by a calculation of the prospective pleasures and pains of such act.
5. The classical school was followed by the 'Neoclassical school' of the revolutionary period in France. It

recognised the varying degrees of moral, and of legal responsibilities, as in the case of children and the insane persons as well as of the mitigating circumstances in general.

6. In the present-day penology, as per the principle of the Neoclassical school, the doctrine of the "individualization of punishment" is recognized. It means the punishment of the individual rather than of the crime committed by him.
7. The principle of the neoclassical school further led to the concept that convicted prisoners had to be re-integrated into society once their punishment was complete.
8. So penologists evolved occupational and psychological education programs for offenders detained in prison. Further, a range of community service and probation orders were given for guidance and aftercare of the offenders within the community.
9. In present days, penology is becoming more and more defined and it has become a research subject. The punishment of the offender has become a social phenomenon.

**D. EXPLANATION OF PENOLOGY:**

1. Penology, also called the Penal Science, is a sub division of criminology. It concerns itself with the philosophy and practice of society in its efforts to prevent criminal activities.

2. Penology deals with the principles and methods of punishment.
3. It guides the state in framing punishments for various crimes.
4. It aims at maintaining social peace and security
5. It punishes criminals in a rational manner.
6. In penology, the actions against criminality do not end with penalties, but continue with security measures against commission of criminal acts in future.
7. Penology refers to the general science of punishment. As a scientific discipline, a subject of study and a topic of education, it has evolved within the science of criminal law.
8. Penology deals primarily with the criminal punishment, i.e. the punishment inflicted for a culpable act defined as crime by legal provisions.
9. Penology is the study of punishments in relation to the crime and the management of prisons.
10. A Penologist is a social scientist who studies the theory and methods of punishment of crime.
11. Penology is a “science of struggle against criminality”. It means “developing the ideal methods of prevention and treatment as regards the criminal acts”.

12. Penology is concerned with the effectiveness of social processes devised and adopted for the prevention of crime.

Its aim is the repression or prevention of criminal intent/acts through the fear of punishment.

13. The study of penology deals with the treatment of prisoners and the subsequent rehabilitation of the convicted criminals.
14. It deals with the aspects of probation (rehabilitation of offenders in the community) as well as penitentiary science (a place for imprisonment, reformatory discipline, or punishment) relating to the secure detention and retraining of offenders.
15. Penology sees punishment as an institutionalized and complex process of legal and social nature (i.e. legal and social institution) which may take various organizational forms.
16. In penology, the fulfillment of criminal punishment starts with the announcement of the valid judgment and lasts till the end of its execution process.

#### **E. CONTENTS OF PENOLOGY:**

Penology deals with the following fields –

Offences & Punishments including Capital Punishment, Suspended Sentence, Police System &

Administration, Criminal Law Courts, Prisons & Prison Reforms, Correctional Administration, Probation, Parole, Recidivism, White Collar Crimes, Organized Crimes, Juvenile delinquency, Prostitution, Female Delinquency etc.,

#### **F. STUDY OF PENOLOGY:**

1. Penology refers to the general science of punishment. As a scientific discipline, it has evolved as a subject of study and a topic of education within the science of criminal law.
2. Penology is a section of penal sciences, together with
  - the science of substantive criminal law,
  - the science of law of criminal proceedings,
  - the science of criminal executive law and penitentiary law,
  - the science of crime detection and criminology, and
  - the criminal and penitentiary policy.
3. The inter related studies with connected subjects of penology is necessary to analyze and find out the theoretical synthesis of criminal, philosophical, social, cultural, political and institutional conditions for punishment and criminal policy. Such studies are defined as 'culturally integrated penology'.

#### **G. TYPES OF PENOLOGY:**

Penology, as a science, could be divided into

1. Preventive science
2. Post treatment science.

#### **1. PREVENTIVE SCIENCE:**

The preventive science operates before the commission of the crime.

#### **2. POST TREATMENT SCIENCE:**

The Post treatment science takes place after the occurrence of the crime to reform the criminal and avoid his recidivism (Recidivism means the constant tendency of a person towards repetition of criminal or anti social behavior patterns). The major part of penology deals with post treatment science.

#### **H. APPLICATION OF PENOLOGY:**

Penology concerns with many topics and theories as below-

1. Prisons (prison reforms, prisoner abuse, prisoners' rights, and recidivism),
2. Theories of the purposes of punishment (such as deterrence, rehabilitation, retribution, and utilitarianism).
3. Contemporary penology (concerns itself mainly with criminal rehabilitation and prison management)
4. It does not apply to theories and practices of punishment in less formal environments such as parenting, school and workplace correctional measures.
5. Penology is equally interested in criminal proceedings and its social repercussions to be called "the potentiality of punishment".

6. At present, the expression “penology” covers:
- a. Research on social consequences of punishment (punishment functions);
  - b. Analysis of theoretical aspects and practical experiences in internal mechanisms of the functioning of criminal justice in particular prison systems.
  - c. Theoretical research on punishment grounds, i.e. axiology, ideology, rationalization and philosophy of punishment, substantiations of sentences and punishment execution.
7. Penology stands for the policy of inflicting punishment on the offender for his wrongdoing, but now it has extended to cover other policies, not punitive in character, such as probation, medical treatment, and education, aimed at the cure or rehabilitation of the offender, etc.,
8. The principal aims of penal science are:
- to bring to light the ethical bases of punishment, along with the motives and purposes of society in inflicting it;
  - to make a comparative study of penal laws and procedures through history and penal laws existing between nations; and,
  - to evaluate the social consequences of the policies in force at a given time.

**I. CRIMINAL PUNISHMENT IN PENOLOGY:**

1. Criminal punishment in Penology means
  - the process of intentional, legal and social condemnation and
  - the process of intentional causing of personal suffering which has been legally defined (simple hurt, grievous hurt etc.)decided by judgment of an independent court in the name of the established legal and social system.
2. In penological sense, the ultimate function of criminal punishment is to reintegrate a shaken legal and social system and make it a flexible one.
3. In penological sense, the influence of punishment ceases to exist, only when the effects of punishment process come to an end.

**J. PENOLOGY AND CRIMINAL LAW:**

1. Penology differs from the science of substantive criminal law, law of criminal proceedings and executive criminal law, because it is a dogmatic (unproved) science of legal norms.
2. Penology combines the science of substantive criminal law, law of criminal proceedings and executive criminal law.
3. Penology is an auxiliary discipline of the science of criminal law and it is a science to understand the fundamental meaning of punishment by defining its foundations.

4. The foundations are:-

- a. Ontological foundations (the branch of metaphysics that studies the nature of existence or being as such), i.e. those pertaining to the real existence of the criminal punishment institutions and of the whole criminal law in their different dimensions: normative, sociological, psychological, historical, cultural and economic.
  - b. Axiological foundations (the study of the nature of values and value judgments) i.e. those related to the substantiation of criminal punishment and of the whole criminal law.
3. Epistemological foundations (a branch of philosophy that investigates the origin, nature, methods, and limits of human knowledge) defining research on criminal punishment and criminal law in the light of different research methods.

#### **K. IDEAL PENAL SYSTEM:**

The traditional penological approach held imprisonment and other custodial measures to be the only way to curb crime. But the modern penological research approaches have ushered in new forms of sentencing to make ideal penal system, whereby the needs of the community are balanced with the best interests of the accused.

This includes payment of compensation to the victim, reformation and rehabilitation of the offender, release of the offender on admonition, probation, parole imposition of fines, community service etc.,

(Refer Chapter 5, page no. 55 - Reformatory theory. Refer Chapter 7, page no. 74 - Probation. Refer Chapter 8, page no. 88 - Parole. Refer Chapter 24, page no. 241 - Victim Assistance.)

Thus the object of ideal penal system is to reform the offender, and to ensure the society its security, and the security of its people by taking correcting steps against the offender.

#### **L. CONCLUSION:**

Penology attempts to give a comprehensive justification and description of the punishment system, by interweaving epistemological, ontological and axiological foundations.

#### **UNIVERSITY QUESTIONS FOR REVIEW**

1. *Explain the importance of penology in the administration of criminal Justice.*
2. *Define penology. Trace its history.*
3. *Explain penology and how study of penology is useful.*
4. *Define penology and what are the types of penology?*
5. *Explain penology with reference to its application in punishment.*
6. *Write short note on: (a) History of penology (b) Contents of penology (c) Study of penology (d) Types of penology (e) Application of penology (f) Criminal punishment in penology (g) Penology and criminal law (h) Ideal Penal System.*

