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Community Corrections

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Abstract

Community corrections are the programs to oversee offenders outside of jail or prison. These programs are set up for convicted adult offenders and adjudicated juveniles. These institutions aim to ease institutional crowding and excess cost. It addresses the victim's needs by restoring them the justice and helps in reforming the offenders through surveillance, rehabilitation, and other reformatory programs. The various components of community corrections include electronic monitoring, day reporting centers, and others. The programs offered by the community corrections differ at different stages i.e. stage 1 being 'before conviction' and stage 2 & 3 being 'at the sentencing decision' and 'at re-entry' respectively. According to Van Keulen, the current criminal justice theory holds the various modes of sentencing such as incapacitation, rehabilitation, deterrence, retribution, and restitution. Community corrections offer certain theories regarding criminal behavior such as social learning theory, subcultural theory etc. The feminist theory deals with the population of female offenders. The community corrections results in many advantages such as reduction in costs ease in overcrowding of prisons, boot camps, allowing the offenders to financially support themselves or their families. Along with advantages, the community corrections have some disadvantages too. The major one being, the public safety may be compromised as the offender stays in the community. Community corrections result as an alternative to the prison system. Different countries have different correctional programs. In India, there are the provisions of Bail, plea bargaining, Probation, and many more provided by the code of criminal procedure, 1973 and also by the Indian Constitution guaranteed by Article 21. In Nutshell, community corrections have become the need of the hour. Without it, the criminal justice system can't function properly.

Keywords: criminal justice system, community corrections, institutions, crime, community.

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CHAPTER 1

Introduction

‘Community corrections’ is a hollow term having no particular meaning. It can differ from person to person. For some persons, it is just related to Probation and Parole, while for others it is more of a community service and reformatory programs. Community corrections are the programs that do not employ incarceration i.e. which do not contain the prison system. The idea behind formulating the community corrections programs instead of incarceration is that it is in the benefit of the society that offenders should be reformed into a good human rather than sending them to jail or prison and punishing them for their deeds.¹

Community corrections are the programs set up for the convicted adult offenders and adjudicated juveniles. The fact that there is not enough housing for incarcerating the offenders is also a reason behind the setting up of community corrections. These programs aim at easing the institutional crowding and reducing the excess cost. These programs keep in mind the need of the victim by restoring them the justice and also helps in reforming the offender through surveillance, rehabilitation, and other reformatory programs.

Community corrections are helpful in both front-end and back-end alternatives. For the front-end alternatives, the concept of Probation has been used to avoid further crowding in Jails and Prisons. While, for the back-end alternatives, Parole is used as a means to act as release valves which ease the overcrowding of the prisons by the use of early release mechanisms, where the offender is kept under the supervision until his original sentence expires.

The essence of the community corrections lies in the re-integration of the offender in the community. The re-integrative nature of the community corrections is crucial from both society’s perspective and the perspective of the offender. The society can realize familial, financial, and community benefits associated with the re-integration of the offender. First, the employed offender becomes capable of generating payment for victim compensation, court fines, and treatment programs. Second, the successful reintegration of the offender makes him capable for the payment of government taxes and so the govt. can generate extra revenue. Third, a reformed offender can contribute financially to the expenses of his/her children, parents, and

¹ Hanser, R. D. (2019). Essentials of community corrections. Sage Publications, Inc.

their expenses. Apart from these benefits, the offender may also be involved in some religious activities, volunteer activities, or even may participate in the anticrime activities to help reducing the crime likely to be committed by the youth.

Community corrections are considered to be an important aspect of the Criminal Justice System by the passage of time.

1.1 Evolution of Community Corrections

The history of the Community corrections can be traced back to the United States. In the USA, there are two offenders on Probation or Parole per every individual serving time in the prison. In Community corrections, many evidence-based practices are yielded that are proven successful in reducing recidivism and are much cheaper than incarceration. In the USA, the concept of ‘recognizance’ emerged as a popular measure in the 19th century. ‘Recognizance’ as a corrective measure referred to the release of the guilty offender because of his regret. It is generally applicable in the case of a juvenile. Recognizance plays a dual role, on the one hand, it allows the offender to escape from the complete criminal liability and on the other hand, it reserves the right of the court to punish the offender from the original crime if the offender commits any further violation.²

The traces of community corrections can be found in England in the early 18th century where the judges were at discretion to sentence ‘judicial reprieve’ as a mode of punishment. ‘Judicial reprieve’ is a form of punishment where the offender is convicted of a crime while his/her freedom of citizenship still sustains.

In India

During the Hindu and Mughal period in India, the reformation of the offender was not considered as a mode of punishment. The offenders were given only deterrence based punishment such as hanging, flogging, whipping, branding, and starving to death or death sentence. Prisons were considered to be a torturous place. In the British era, the prison reforms were given a little significance. With the prison reforms, corrective measures were also introduced as a part of the reformatory system.

² Van, D. (1983). Criminology and criminal justice. University Of Cape Town.

Open prisons was adopted as the first corrective measure to reform the offenders. The concept of open prisons was first appreciated by the honorable Supreme Court in the case of *Ramamurthy v. State of Karnataka*³. Dacoits, rapists, and thieves were not entitled to open prisons. India has many other corrective measures such as Parole, Probation, and many other programs too.

1.2 Theories of Community Corrections

There are many theories related to community corrections. The basic aim behind the introduction of these corrective theories is to analyze the criminological and psychological perspectives of the community corrections programs. The theories ascertain the social behavior of the offender while complying with the sentence given to them under the community corrections programs.

The major theories of community corrections are:

1) *Routine activities theory*

As the title itself specifies, this theory focuses on analyzing the routine activities of the offender. The duty under this theory is imposed upon the law enforcement authorities and the community corrections personnel. The duty of both the authorities is interlinked. Firstly, the law enforcement authorities shall determine the “hot spot” areas i.e. areas that are more prone to the commission of a crime and then the corrections personnel shall take measures by restricting the offenders who are on Probation or Parole from entering into such hot spot areas and commit a crime.

The theory is based on the threefold notion:

- i) The offender must be in the vicinity of the victim.
- ii) Such an offense shall occur as a result of the routine activities that take place between the offender and the victim.
- iii) There shall not be any guardian who might impede the criminal behavior.

The authorities shall focus on re-integrating the offender into the community without adhering to any illegal activity themselves.

³ (1997) 2 SCC 642 (659)

2) *Social learning theory*

This theory specifies the behavior of the offender that he adopts from the society or by vicarious reinforcement. The vicarious reinforcement is based on the discerning capacity of the individual where he imitates himself in the position of the others. Also, the offender establishes his behavior based on the reward or punishment that he receives in his life. This theory makes it clear how a person learns criminal behavior from his surroundings.

3) *Sub-cultural theory*

This theory is an extension of the social learning theory. This theory specifies that in some areas criminal behavior is acquired as a valuable norm. In some areas, the criminal activities tend to take place comparatively more than the other areas and hence the offender learns the criminal activities from one particular location, disturbing the proportionate crime ratio of the locality. In such cases, it becomes necessary to separate the particular offender from the family or even the community. There are many female offenders too who get indulged in the sexual exploitation in the influence of drugs. The treatment of such offenders is to exclude them from the community and to put them in the community corrections programs for their reformation as a decent human being.

4) *Social disorganization theory*

This theory claims that crime generally occurs in a disorganized society. The societies which lack the community support to fight against the criminal element are more likely to be more prone to criminal activities. Society generally includes law-abiding citizens who do not indulge in any criminal activity but they are too intimidated by the others committing criminal acts that they can't take any action to prevent such activities.

5) *Strain theory*

This theory talks about the strain that an individual gets by the pressure that comes with the non-fulfillment of the success goals set up by the individual. This strain often tends the individual to get involved in criminal behavior. The offenders usually aim to achieve unrealistic goals and also they are not taught the skills to achieve the goals in one go which ultimately leads to shaking of their conscience. The personnel shall make a realistic assessment of the situation and then guide the offender accordingly.

6) *Labeling theory*

As per labeling theory, once the offender is labeled as ‘criminal’, ‘offender’, ‘convict’ etc., he becomes stabilized in that role. The label affects the stigma of the individual to an extent that he accepts himself as an offender or criminal and this self-acceptance becomes an impediment in the way of him reforming himself as a better human being. The authorities shall try not to label the criminal term with the offender to make him feel a little better about himself

7) *Feminist theory*

This theory typically talks about the female offender. While talking about assistance, female offender gets priority over the male offenders. But, the patriarchy system still sustains in some areas where the needs of the men is put over that of a woman. Female is the element of victimization which is generally sexual. The community corrections programs shall aim at providing rehabilitation for such victimized female offenders and shall secure their interest against the men.

CHAPTER 2

Community Corrections Programs

Community corrections are generally described as court-ordered sanctions in which the offender serves at least a part of the sentence in the community. To pull off this criterion of sentence serving various community corrections programs are introduced. A community correction program aims to attain goals like the ease in institutional crowding, reduction of costs, and reformation of offenders by re-integrating them into the community.

The notion of community corrections rests upon three assumptions:

1. Not everyone who breaks the law is dangerous or violent. The offender shall be allowed to revamp the harm he has done. He shall be allowed to be put in employment and manage his familial relationships by staying in the community.
2. The community sentence seeks to root out the behavior of the offender about why he committed the offense. The community correction provides various programs that are accessible to the offender in the community rather than in jail or prison.
3. The people incarcerated in prison mutate well when they are released with superior supervision.

2.1 Components of Community Corrections

The major components of Community Corrections profiteering include:

1) *Electronic Monitoring*

EM includes various software systems that track down the location of the offender every 15-16 seconds such as GPS (Global Positioning System). This may include wrist bracelets, voice verification systems, drug and alcohol testing devices etc. This technology is used for both front-end and back-end offenders. If the person has impaired the device or is not in an approved location, the alarm rings giving the information of the same to the supervising authorities.

2) *Day reporting centers*

Day reporting centers are the centers where the offender is required to participate in the wraparound activities during the day time, while giving them the liberty to go back to their homes at night. These programs operate as ‘one-stop-shop’. Originally, the offenders used to visit to the day reporting centers once a day to their Probation or Parole officer, but with the enhancement of the technology, the offender can check in from a remote location through an electronic device via kiosk.

3) *Intermediate sanction facilities*

These facilities claim that if there is any technical violation of the conditions of the Parole or Probation such as a positive drug test, missed appointments with the Probation or Parole officer, further violent act etc. then the community sentence can be revoked and the offender can be sent back to the prison or jail. These facilities are usually set up for a shorter period such as 90-180 days to determine the nature of the violation and to give counseling and treatment to the offender.

4) *Residential re-entry centers*

They are commonly referred to as ‘halfway houses’ focuses on providing housing to the early release prisoners or those released on Parole. These centers also help in the reintegration of the offender in the community by providing them the employment opportunities and financial education counseling and guiding them on moral ethics about how to live in the community.

2.2 Types of Community Corrections

The Community Corrections programs differ at different stages of sentencing. The different stages of the community correction programs are as follows:

2.2.1 *Before Conviction*

On the commission of the crime, the police arrest a suspect and if the prosecution office frames a charge against the suspect then he/she shall be called as the “pre-trial

defendant”. While some suspects are released on their recognizance, those who are not released shall be dealt with correctional measures. Community Correction programs before conviction are:

a) Pre-trial Supervision: It is a court-ordered sanction where the defendant is not convicted but enters into an agreement with the court to appear on the next scheduled date and that on the fulfillment of the required conditions, the charges against him shall be dismissed completely. It allows the pre-trial defendant to look after his family needs and also to assist his lawyer in the preparation of the case.

The court-ordered sanctions include scheduling of appointments, regular mental health evaluation, avoiding contact with victims, and restriction on further criminal activities. If the pre-trial defendant violates the terms of the court order then his conviction shall become permanent.

b) Electronic Monitoring: As discussed earlier, electronic monitoring allows the community corrections authorities to keep an eye on the released offender. It tracks down the location of the offender on Probation or Parole and submits the information to the supervisory authority.

c) House arrest: This program ensures that the offender stays at his or her home for a certain specified period. It can be ensured through the help of electronic monitoring whereby the location of the offender can be easily tracked down through this technological device.

2.2.2 At the sentencing decision

The various Community Correction Programs at the sentencing decision are:

a) Probation Supervision:

It is the most commonly used Community Correction practice. India adopted the concept of Community Corrections in the year 1958 via “The Probation of Offenders

Act, 1958”. Under this program, the probation officer must collect the data about the offender and forward it to the court and then the court can decide about the validity of the Probation.

The offender is allowed to stay in the community on the fulfillment of the various conditions such as full-time employment, court permission before leaving its jurisdiction, avoiding interaction with persons having criminal background, and appearing before the court when called upon.

- b) **Day Reporting Centers:** As discussed earlier, Day Reporting Centers are the institutions where the offender who is released on correctional program shall report at least once a day to the concerned authorities.

- c) **Community Drug Treatment Programs:** These programs are set up for the offenders having a problem with drugs or alcohol. These institutions require the offender to visit 1-3 times a week to the authorities. The programs are tailored for chronic abusers and the occasional abusers including ways to deal with cravings and stress. They provide medication which produces a negative reaction when the alcohol is ingested in the body. Sometimes, they take the help of the family as a support system in the drug treatment of the offender.

- d) **Restitution:** Restitution is the mode of compensating the victim by the offender for the harm caused. Earlier, the offender used to escape the liability of restitution if he has been sentenced to jail or any other form of punishment but with the passage of the time, the victim demanded that the restitution be paid to them irrespective of the fact that whether the offender is incarcerated or not. Hence, restitution is generally made to the victim. India adopted the concept of the “Victim Compensation scheme” in the year 2009 under The Code of Criminal Procedure, 1973.

- e) **Correctional Boot Camps:** Boot camps are formulated for the young felony offenders. It allows them the chance to rebuild their character by spending 90-180 days in the boot camp. These programs are based on military training programs such as digging, draining swamps, facility maintenance, cutting firewood for elderly citizens etc.

These are some of the major programs. The offender can be released based on other reformatory programs such as community service or by paying the fine for the less heinous offense.

2.2.3 At Re-entry

Community Correction programs help the offenders during their re-entry in the community after they have served the sentence in prison. Some of the re-entry programs are:

- a) **Pre-Release Facility:** A Pre-Release Facility commonly known as halfway houses, community centers, and residential community correction facilities, allows the offender to adjust in a freedom-based environment. The offender can save money and earn an independent living on Parole. The Pre-release facilities allows the passes to the offenders for some specific reasons including job searching, building family relationship, find affordable housing, obtain a bus pass etc.

- b) **Parole and Post-Release Supervision:** This program focuses on the discretionary release of an offender on Parole for a certain reason such as Housing, employment etc. by the Parole Board consisting of 3-12 members. The board decides who will stay in the prison and who can be released on the parole. On the other hand, in the post-release program, the officers must release a person after he has served a percentage of his sentence in Prison.

CHAPTER 3

Community Corrections: An Alternative of Incarceration

A man is not a born criminal. He shall be given the right to reform himself into a better human being. Earlier, incarceration (commonly known as the Prison system) was considered to be the major mode of punishing the offenders. There are many problems associated with incarceration. The primary one being there are chances of higher recidivism, i.e. the chances

that after being released from prison, the offender may again get involved in the criminal activities. Also, the spacing is not enough in the prison to provide shelter to every offender. Moreover, the prisoners are always in danger of getting hurt by the other heinous offenders. Prisons were not considered as cost-friendly for the authorities. Keeping in mind the above issues, it was settled that there is a need to set up the institutions that help the offender in his reformation and is also useful for the institutions. However, some alternatives to incarceration existed in the previous years too and the correctional programs got modified with the passage of the time.

3.1 Early Alternative Sanctions

Early Alternative Sanctions are the Correctional programs used by the authorities in the old times for sentencing the offenders. The Early Alternative Sanctions include:

1) *Sanctuary*

Sanctuary as a mode of sanction was of two types. The first one was secular and the second one was strictly implemented in the case of Christians. Sanctuary was the majorly used mode of leniency. It required the offender to flee from the particular cities and get settled somewhere else with a *Sine Qua Non* that he shall not return to the place where he committed the crime, without the explicit permission of the crown. And, if he so returns then he shall be granted immediate punishment.

2) *Benefit of Clergy*

The benefit of clergy was a mode of punishing the members of the various churches including clerics, monks, and nuns. It required the offending church representative to be sent to the church authorities for punishment. It was the concept that emerged in England where ecclesiastical courts were set up to deal with the offender. By this mode, the offender could escape the full punishment. It was more of a political power program and those who were financially well-off could only be able to get the benefit of this sanction.

3) *Judicial Reprieve*

The concept of Judicial Reprieve emerged in England in the late 18th century. Judicial Reprieve used to be a discretionary power of the judges where a judge can suspend a sentence where he feels that incarceration is not necessary. It is generally offered to the person who has committed some minor offense or who did not have any prior criminal record. Once the period of suspension expires, the offender had to apply to the crown for a complete pardon of the case. In India, ‘the president holds the power of judicial reprieve and pardoning’⁴.

4) *Recognizance*

Recognizance as a mode of sanction was generated in the United States through a famous case⁵ where the Judge Peter Oxenbridge Thacher suspended the imposition of the sentence on a woman guilty on her plea. The defendant assured the court to appear before the court on the next scheduled date and hence she was released on her recognizance.

3.2 Current Community Sanctions

As the time passes by, the authorities executed some more Community Correction Programs. While some of the Community Correction Programs are discussed in Chapter 2.2 of this paper, the other currently used Community sanctions are:

- *Discharge*

If the law does not prescribe any mandatory minimum punishment, the judges are at discretion to offer the offender an absolute or conditional discharge. The source⁶ of this authority lies in The Code of Criminal procedure, 1973. If the absolute discharge is granted then there is no criminal record against the accused and if the conditional discharge is granted, then there will be no criminal record if the accused adhere to the conditions of the discharge.

⁴ Article 72 of The Constitution of India

⁵ Commonwealth v. Chase, (1830)

⁶ Section 239 and 245 of The Code of Criminal procedure, 1973

- ***Suspended sentence***

A suspended order can also be ordered along with the term of probation. If the offender contravenes the provisions of the order then he shall be brought back before the court. The court may impose a new sentence at this stage and also he may be liable for breaching the Probation order.

- ***Probation and admonition***⁷

The offender can be released on his good conduct or by giving him the warning not to commit any further offense.

- ***Community service***

The offender can be released for giving services to the community such as seeking employment; this will ultimately help the government as the number of taxpayers will get increased in the community.

- ***Fine***

In case of less heinous offenses, the offender can be released on the payment of a specified amount in the court as a fine and with a personal bond that he shall not commit any further offense.

Some of the already discussed correctional programs include Restitution, Boot camps, Drug tests etc.

⁷ Section 360 of The Code of Criminal Procedure, 1973

CHAPTER 4

Consequences of Community Corrections

As every coin has two faces, similarly Community Corrections have both Positive and Negative consequences.

4.1 Positive Consequences

1. Community Corrections are *cost-friendly*. They are much cheaper compared to jail or prison. Offenders can continue financially supporting themselves and their families by staying in the Community.
2. *Ease in overcrowding* of prison facilities by allowing the convicted offenders to involve in reformatory programs such as drug programs, boot camps, etc.
3. Community Correction programs are *flexible*. They can be used at any stage of the trial. They can be used during pre-trial, at the time of sentencing, and post-trial too.
4. It *protects the offenders* from exposing them to the risk of getting hurt by other prison inmates.

4.2 Negative Consequences

1. It may cause a situation of *net widening* i.e. it may include the offenders who should have received less severe sentences. This situation arises when the judges and prosecutors fill up the program spaces with the offender not requiring such a higher degree of care.
2. *Public safety* may be compromised. While the offender stays in the community, he may probably indulge in criminal activities again.
3. The *non-functioning of the programs* in a proper way such as missing daily attendance, non-use of electronic devices, rare drug tests etc. may destroy the purpose of setting up of the correctional programs.

CHAPTER 5

India vis-à-vis other countries: A Comparative study

Incarceration has failed to minimize the crime rate across the globe despite being the most commonly used method of punishment. The Prison system in various countries including India fails to provide proper accommodation facilities, health care facilities, conducting reformative programs for the treatment of offenders resulting in various repercussions. Construction of more prisons will also not provide an amicable solution. Prison damages the mental and sociological health of the offender making the re-integration process more difficult and challenging.

However, there are some countries which put Rehabilitation before punishment such as:

- Ethiopia – Financial literacy for Prisoners
- Slovenia – Working for the weekend
- Uruguay – Working and studying behind bars
- Poland – Making minimum wage for Prisoners
- India – Study for free
- Italy – Reading for freedom

Here is the comparative analysis of the criminal justice system of various countries.

A. INDIA

In India, various alternatives to imprisonment are provided by The Indian Penal Code, 1860, and by The Code of Criminal Procedure, 1973. In India⁸, the correctional measures are permitted at three different stages i.e. *pre-trial*, *sentencing*, and *post-trial* stage.

⁸Siddique, A., & Afzal, M. (2017). *Ahmad Siddique's criminology, penology & victimology*. Eastern Book Company.

1. *Pre-trial stage*

The pre-trial stage is the stage where there is no establishment of case. It is the stage where the matter is still under the process of investigation but the alleged accused is suspected of the offense committed.

(i) **Bail:** Bail is the most commonly used pre-trial detention alternative. Bail allows a person accused of an offense to be released on bail on his bond with or without sureties. The Code of Criminal Procedure, 1973 also ensures the right to bail under Chapter XXXIII of the Code. The Supreme Court through a case held that ‘Bail is rule and jail is an exception’⁹. Reaffirmed by the Supreme Court in the case of *Moti Ram & Ors. V. State of M.P.*¹⁰

(ii) **Time limit on pre-trial detention:** The right to a speedy trial is a fundamental right guaranteed under Article 21 of the Constitution of India. However, The Code of Criminal Procedure, 1973 also contains provisions regarding the limit on detention of offenders in custody. The authority to effectuate the right of speedy trial is accessed from the Sections 258, 309, and 311 of the Cr.P.C.

Section 167 of Cr.P.C. provides the maximum limit of 60 or 90 days for the detention of a person in the custody before the filing of the charge sheet. However, there is no upper limit for detention after filing of the charge sheet. To prevent the accused from this mockery in the criminal justice system, an Amendment was made in the year 2006 by adding Section 436-A which specifies the maximum time limit in custody for under trial prisoners.

(iii) **Plea Bargaining:** The concept of ‘Plea Bargaining’¹¹ enshrined in Chapter XXI-A consisting of Sections 265A-265L was added in the Cr.P.C. In India, we have the concept of sentence bargaining unlike England, where there is Charge bargaining. Plea bargaining is permissible only when the offense is not punishable for more than 7 years. It is not allowed when the offense is committed against Women and Children.

⁹ *State of Rajasthan v. Balchand @ Baliay*, (1977)

¹⁰ 1978 AIR 1594

¹¹ The Criminal Law Amendment Act, 2005

- (iv) **Diversion:** Diversion implies parting from the criminal justice process and involving in community correction programs for the rehabilitation of the offender.

There are some other pre-trial sanctions such as: **Free Legal aid** guaranteed by *section 304* of Cr.P.C. and also by *The Legal Services Authorities Act, 1987*, **Compounding of offenses** under *Section 320* of Cr.P.C and **non-penal fines**.

2. *Sentencing stage*

It is the trial stage where charges have been made and the arguments are made on admission and denial of charges framed. Alternatives used during the sentencing stage are:

- (i) **Compensation:** The court may order the offender to pay to the victim under section 357 to 359 of The Code of Criminal Procedure, 1973 any amount of money as compensation as the court thinks fit.
- (ii) **Probation and Admonition:** section 360 of The Code of Criminal Procedure, 1973 deals with releasing the offender on probation or Admonition. It is granted to first time offenders in case of minor offense committed. Probation is granted on the condition of good conduct and admonition is granted by giving a warning to behave well after his/her release.
- (iii) **Community-based Sentence:** The court may grant the offender a community-based sentence where the offender serves his sentence by staying in the community. This process is used for the reintegration of the offender in the community.

The Court may also grant absolute discharge or conditional discharge as the form of correctional measure as discussed earlier too.

3. *Post Sentencing stage*

It is the stage after the trial has come to an end. To avoid incarceration and the re-integration of the offender in the society, the criminal justice system has adopted various alternatives at the post-sentencing stage too. These alternatives are:

- (i) **Parole:** Parole is a conditional suspension of the sentence for a shorter duration to allow the offender to take care of their personal affairs such as family needs, harvesting etc. it is allowed only in case of emergent needs.

- (ii) **Remission of sentence:** Remission can be granted by the Head of the prison or by the State Government as an incentive for maintaining peace in the prison and for keeping good behavior.

The other post-sentencing alternatives include **Pardon** and **Open Prisons** as discussed previously through this paper.

B. UNITED STATES

The Criminal justice system of the USA¹² has various correctional measures for offenders. USA adopted the process of Community Corrections back in the 1800s. The system was not much developed during that era. The major alternatives to incarceration were *Sanctuary, Benefit of Clergy, Judicial Reprieve, and Recognizance*. These alternatives are discussed in Chapter 3.2 of this paper.

With time, the federal Courts of USA demanded a proper system of Probation, and hence *The Probation Act of 1925* was enacted signed by the then President Calvin Coolidge where the prisoners were released from the prison-based on some superior supervision. In the United States, John Augustus is considered as the father of modern Probation. In 1907, New York became the first state in the United States to adopt Parole as a correctional measure. By the end of 1942, the entire country and the federal government adopted the Parole system.

¹² Bosworth, M. (2002). *The U.S. federal prison system*. Sage Publications.

C. UNITED KINGDOM

“Reducing crime – Changing lives” is the objective of the Prisons in England. The National Offender Management Service (NOMS) in England is an Executive Agency that works under the Ministry of Justice in the United Kingdom. The NOMS aims to rehabilitate the offender by sentencing them into Custodial Prison or Community sentence by keeping in mind the safety of the public as there are chances of recidivism. England enacted *The English Penal Servitude Act of 1853* which used to provide various rehabilitation programs to deal with the convicts.

With the view of adopting the Probation as a correctional measure in the United Kingdom, *The Probation of Offenders Act. 1907* was enacted by the Parliament of the United Kingdom. To release the Prisoners on Parole, Parole Board was constructed for England and Wales. Parole Board is governed by the *Parole Board Rules 2016* formulated by the Parliament of the UK under The Criminal Justice Act, 2003.

D. RUSSIA

Earlier in Russia, the offenders were dealt with by the Main Prison administration off the Russian Interior Ministry set up on 27 February 1879. The Department then got shifted to the Russian federation in 2006 which introduced dealing with prisoners with correctional measures. The federation emphasized on the preparation of the Correctional system to be enforced in an emergency. It suggested the need for protecting the territorial security to the public where correctional programs are to take place.

Russia focuses on using open prisons as a correctional measure. Probation as a means of Community corrections is authorized by Article 73 of *The Russian Criminal Code*. Pardon was introduced in Russia in 1992 and the prisoners became eligible for parole in 2017.

E. AUSTRALIA

Australia used to serve the penal colony of Britain from 1787 until 1852. The Prisoners from America, Britain were sent to Australia. 750 convicts were transported to Australia

by cargo in the first instance. Australia had the concept of ‘ticket-of-leave’ proposed by *Maconochie* wherein, the convict was permitted to leave in return for his good conduct.

Australia has no unified correctional system. It differs from state to state. It is the responsibility of State and Territorial governments in Australia to look after the correctional system, to keep a check on the rehabilitative activities. The Community Corrections provides various benefits to the offender and the authorities too. It lights up the burden of the incarceration authorities and it helps the offender in seeking a personal life for himself.

CHAPTER 6

Judicial Pronouncements

With the enhancement in the Criminal Justice System, Correctional measures have now been considered as a major part of sentencing by the courts also. Some of the case laws supporting Correctional measures in India are:

- ***Ramamurthy v. State of Karnataka***¹³

In this case, the Supreme Court openly appreciated the concept of ‘Open Prisons’ as a Correctional measure which is a departure from Incarceration. The Court held that “though open prisons create their problems i.e. of management issue, the good of the society lies in the coming out of the offender from jail as a reformed person and hence the managerial issue is not of much concern. To start with, this can be done at all the District Headquarters of the Country”.

- ***Ramji Missar v. State of Bihar***¹⁴

In this case, the Supreme Court emphasized on adopting ‘Probation’ as a Community Correction measure. The Court held that the objective of The Probation of offenders

¹³ (1997) 2 SCC 642 (659)

¹⁴ AIR 1963 SC 1088

Act is to separate the young offenders from the hardened criminals. The aim is to reform them. In the concept of Probation, there is no sentence; the offender just stays in the supervision of the authority. Though section 360 of CrPC also deals with Probation but it has some lacunas to be filled up by the Probation of Offenders Act, 1958.

The provisions of the Act of 1958 and section 360 of CrPC will not apply to the Prevention of Corruption Act.¹⁵

- ***Hiralal Mallick v. State of Bihar***¹⁶

The Supreme Court in this case highlighted the ‘Parole’ as a Community Correction measure. The SC held that a prisoner may become de-humanized if his family ties are splintered for long and that is why he shall be released on Parole periodically.

Some cases of the United States dealing with Community Corrections are:

- ***People v. Wilhite***¹⁷

The Judgment was delivered by the Supreme Court of Colorado, En Banc on October 7, 1991. The Supreme Court granted placement in the Community Correction facility to the class 4 felony offender.

- ***Davenport v. Pikes Peak***¹⁸

Judgment was delivered by the Supreme Court of Colorado En Banc on June 29, 1998. The Supreme Court granted Probation to the offender who committed second-degree burglary and who was earlier rejected by the Community Correction facility.

¹⁵ State of T.N. v. Kaliaperuma , (2005) 12 SCC 473

¹⁶ (1977) 4 SCC 44

¹⁷ 817 p.2d 1017 (1991)

¹⁸ 962 p.2d 963 (1998)

CHAPTER 7

Conclusion

It is a well-established phenomenon that no society is free of crime. We can never get rid of the crime no matter how rigorous the law is. Procedures shall be adopted to reform the offender into a social being so that he can contribute in his best possible way towards his family and society. The idea of “Hate Crime not Criminal” shall be adopted. A criminal shall not be severed from the society rather he shall be provided treatment so that recidivism can be avoided.

Community corrections have come a long way. The process of re-integration shall not be jeopardized at any cost. There are different shapes and methods of each correctional measure and the community supervision functions shall be adopted very wisely. The members of the Community may be added to the supervision facility as they help assist in the re-integration of the offenders.

7.1 Suggestions & Recommendations

Here are some suggestions for the better implementation of the Community Corrections and the much finer rejuvenation of the offender in the community:

- Regular assessment of the offenders in the Community Correction facility.
- Implementation of the supervision functions under the control of experts.
- Reformation and no punishment shall be the motto.
- Cruel behavior shall be avoided with the victims.
- First-time offenders shall be separated from the hardened criminals.
- Family ties shall not be severed.
- Programs and events shall be conducted to purify the moral and mental health of the offender.