INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed

www.ijlra.com

ISSN: 2582-6433

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ISSN: 2582-6433

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ISSN: 2582-6433

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ISSN: 2582-6433

THE EVOLUTION OF PUNISHMENT SYSTEMS: A HISTORICAL AND COMPARATIVE ANALYSIS OF GLOBAL PENAL PRACTICES

AUTHORED BY - MAITREYEE SUNEET MAHALE
A-F.Y.B.A.L.L.B

Abstract

This research paper looks deeply into how the idea of punishment has changed over thousands of years. It follows a long path that starts with simple tribal customs and ends with the complex systems we use today, which focus on helping people improve. In the very beginning, when a government or a leader punished a person, it was not just about following a law. It was the most powerful way for the state to show everyone that it held total control. We have moved from a time of private "blood feuds," where families fought each other for revenge, to a modern world where only the government has the power to punish. By looking at old cultures like Mesopotamia, Egypt, China, and India, this study shows the different moral reasons these groups used to explain why the state should use violence.

A major part of this work focuses on ancient Indian legal thoughts. I look closely at the move from what was called the "logic of the fish" (*Matsya Nyaya*). This was a chaotic time where the strong could simply destroy the weak. To stop this, the ancient texts like the *Ramayana* and the *Mahabharata* talked about the "rod" (*Danda*). This was not just about hitting people; it was about using power in a fair way to keep peace. By connecting these very old ideas to the British-made Indian Penal Code of 1860, I show how much our laws were influenced by colonial rulers. This history creates a tension between the state's wish to punish and the person's right to be free.

I also dive into famous Supreme Court cases like *Sunil Batra, Bachan Singh,* and *Hussainara Khatoon*. These cases are important because they show how judges in India started to act like heroes for human rights. They proved that even if a person is behind prison walls, they still have a "Right to Life" under Article 21 of the Constitution. This means the law must be kind, not cruel.

This paper is not just a list of old dates. it looks for the deep feelings that make people want

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to see others punished. I ask if our "modern" schools and prisons have really left behind the old human wish for revenge. I want the reader to see a prisoner as a human being who still has dignity, no matter what they did wrong. Indian law has grown up by moving away from colonial control and focusing on human rights. I also point out that, sadly, the unfairness in our society often decides who gets hit by the "rod" and who does not. Real justice is found when a person is healed and fixed, not just locked in a silent room.

Finally, I look at the new *Bharatiya Nyaya Sanhita* of 2023. I check if this new law actually removes the old colonial spirit. For this change to truly match our Constitution, we must move from just showing off power (*Danda*) to seeking true Justice (*Nyaya*). The law must protect the dignity of every person. This is the only way to build a system that heals our society instead of just seeking state-sponsored revenge.

1. Introduction: The Nature and Purpose of Sanctions

Managing a criminal justice system is likely the most important job of any government. When students first start studying law, especially in classes like "Legal Methods," they learn a very specific lesson. They are taught that law is different from a simple moral rule because the law has "sanctions." This idea comes from a famous thinker named John Austin and his "Command Theory." In this view, a rule is only a law if there is a threat or a force behind it. Punishment, then, is when a government on purpose causes a person to lose something or feel pain because they broke a legal rule. It is a tool used by those in power to make sure people follow the law.

In the past, punishment did two things at once. It was a way to stop crimes from happening, but it was also a ritual. It was a loud way for the state to show it was stronger than any single person. In very old times, there was no central government to make rules. Indian legal experts called this time *Matsya Nyaya*, or the "logic of the fish." In that world, the big fish always ate the small fish because there were no consequences. To stop this chaos, the idea of the "rod," or *Danda*, was created. It was the force that held society together and stopped everything from falling apart. For a student today, learning this history is vital. It shows that our current prisons, the way we handle bail, and how judges decide sentences are not just random rules. They are the result of thousands of years of humans trying to figure out what justice really means.

Today, the big question has changed. We no longer just ask "how much pain should we cause?" Instead, we ask "what is the state trying to achieve?" As India moves into the era of the *Bharatiya Nyaya Sanhita*, we have to look closely at our methods. We must decide

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if our system is still haunted by the vengeful ghost of colonial control. We have to ask if our laws have truly changed into tools that help heal society, or if they are still just about showing power. This shift is a major part of our modern legal journey.

2. Philosophical Architecture: The Major Theories of Punishment[1]

Before we look at the history, we must understand the reasons why a state is allowed to punish its citizens. These theories are not just old ideas from books; they are the hidden rules that help a judge decide a sentence today. For a law student, five main theories provide the moral map for how we punish people.

2.1 Retributive Theory: The Idea of "Just Deserts"

Retribution is the oldest and most basic idea of justice. It is based on the Latin phrase *lex talionis*, which means "an eye for an eye." This is a "backward-looking" way of thinking because it focuses on what happened in the past. It suggests that punishment is a "just desert," meaning the criminal must feel a harm that matches the harm they caused. Aristotle believed retribution was a way to fix an "unjust inequality" in society.

However, when we look at this theory in a modern law class, we see many ethical problems. People who disagree with it say that retribution makes the state act just like the criminal. For instance, if the government kills a murderer, it is doing the exact thing it says is wrong. Also, while revenge might make a victim feel better for a short time, it does not fix the original problem. Death does not bring a victim back, and it does not return stolen money. Professor Sutherland once said that society often uses criminals as "scapegoats" to hide its own failures. Still, some modern thinkers believe we can keep this theory fair by making sure the punishment is never more than what the crime deserves. In India today, we still see this when the public demands harsh penalties for very bad crimes to satisfy the "collective conscience."

2.2 Deterrence Theory: The Calculation of Pain and Pleasure

Unlike retribution, deterrence looks forward. Its main goal is to stop future crimes by showing that the pain of being caught is much worse than any gain from the crime. This comes from the 19th-century "hedonistic calculation." This idea assumes that people are rational and will weigh pleasure against pain before they decide to act.

[1] Mishra, S. https://www.jetir.org/papers/JETIR2301686.pdf, 2023

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Deterrence works in two different ways:

- **Specific Deterrence:** This aims to stop the individual person from committing a crime again. It relies on the memory of the punishment. It is the idea that a "burnt child stays away from the fire."
- **General Deterrence:** This uses the person being punished as a public example. It serves as a warning to everyone else in society. Most of our modern legal system is built on this specific idea.

As the study of crime has improved, people have started to doubt if deterrence actually works. Data shows that for "crimes of passion" or crimes caused by extreme poverty, people do not stop to think or calculate. They are just reacting to trauma or a sudden urge. Also, using a human being as a "spectacle" to teach others a lesson creates problems for human dignity. It treats a person like a tool to reach a goal, rather than a human being.

2.3 Reformative and Rehabilitative Models: The Therapeutic Shift

The reformative theory views crime more like a sickness of the mind or society that needs "treatment" rather than just pain. This model suggests that bad behavior is often caused by things a person cannot fully control, like poverty, stress, or childhood trauma.

Mahatma Gandhi strongly supported this idea. He famously said we should "hate the sin, but love the sinner." The goal is to help the offender become a good member of society again through schooling, job training, and counseling. While this sounds very kind, some people worry it can be unfair. If a judge looks only at the "personality" of the person instead of the "crime," two people who did the same bad thing might get very different punishments. In India, "Open Prisons," such as the Sanganer model in Rajasthan, are the best examples of this theory in action.

2.4 Preventive and Restorative Models: Protection and Harmony

The preventive theory is all about "disabling" the criminal. The goal is to make it physically impossible for them to hurt anyone else. This is usually done through long prison stays, sending someone away, or even the death penalty. While this keeps the public safe for a while, it often just "warehouses" people. It also forgets the "replacement effect." For example, if you lock up one person for selling illegal items but the demand is still there, someone else will just take their place.

Restorative justice is the newest way of thinking. It sees crime as a wound to people and their relationships, not just a broken rule. This method focuses on talking. It brings the

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victim, the community, and the offender together to heal. The goal is to fix the harm and help the victim find "inner peace." However, critics say this model is too blurry because it doesn't have strict rules for sentencing. In India, the new *Bharatiya Nyaya Sanhita* (2023) has introduced "Community Service," which is a small but good step toward this healing model.

3.Ancient Punishment Systems: A Global Perspective

As students of history, we have to look at where "predictable" punishment started. Long before modern thinkers wrote their books, ancient civilizations were already trying out the idea that the government, not the person, should have the power to punish.

3.1 Mesopotamia: The Start of Public Laws[2]

The first set of written laws appeared around 1754 BCE under King Hammurabi of Babylon. He carved 282 laws onto a large stone pillar. This made justice public and predictable. It stopped families from fighting "blood feuds" and moved the power to the King. Before this, if someone hurt you, your family took revenge. Hammurabi's Code ended that cycle by making the King the "shepherd" of justice.

However, the system was not equal. Penalties depended on your social class: the elites, free men, or slaves.

- **Professional Rules:** The code was very strict about professional mistakes. If a builder made a house that collapsed and killed the owner's son, the builder's own son was put to death. This forced people to be very careful with their work.
- **Jails as Waiting Rooms:** Historical research shows that Mesopotamian jails were not long-term prisons. They were temporary spots where people waited for a trial or to pay a fine. There was even a "prison goddess" named Nungal, suggesting that jail was a place to feel sorry for one's sins.

3.2 Ancient Egypt: The Balance of Ma'at

In Egypt, the law was built on the idea of *Ma'at*, which stood for truth and balance. To an Egyptian, a crime was a "tear in the universe." The Pharaoh's job was to "stitch" the universe back together through punishment.

[2] Reid, N. (2017). "The Birth of the Prison: The Functions of Imprisonment in Early Mesopotamia." *ResearchGate*. [https://www.researchgate.net/publication/321690492_The_Birth_of_the_Prison_The_Functions_of_Imprisonment_in_Early_Mesopotamia]

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- **The 42 Laws:** People used "Negative Confessions," where they would state things like "I have not caused pain," to stay on the right path.
- **Extreme Crimes:** For very bad crimes like robbing a grave, the state used "Execution by Fire." This was scary because Egyptians believed that if the body was burned, the soul could never reach the afterlife. It meant the person was gone forever.

3.3 Ancient China: Strict Rules and the "Five Punishments"

China's history was shaped by "Legalism," a philosophy that believed people are naturally selfish and need strict laws to stay in line. This led to the "Five Punishments":

1. **Mo:** Tattooing the face as a mark of shame.
2. **Yi:** Cutting off the nose.
3. **Yue:** Cutting off the feet.
4. **Gong:** Castration.
5. **Da Pi:** Death.

By the Tang Dynasty, these became slightly more moderate, like forced labor. Tang law listed "Ten Abominations," which were crimes seen as a total threat to society, such as killing one's parents or betraying the country.

4. Indian Jurisprudence: The Eternal Interplay of Dharma and Danda

For someone studying Indian law, justice is the combination of *Dharma* (doing what is right) and *Danda* (the power to punish). Ancient Vedic ideas described a perfect time when everyone followed *Dharma* naturally. However, as people became greedy, the "logic of the fish" (*Matsya Nyaya*) took over, and a system of rules became necessary.

4.1 The Divine Origin of Danda

In Indian philosophy, *Danda* was seen as a divine power created to protect all living things. It was not just a weapon for the King to use as he pleased; it was a force that even the King had to obey. It was believed that if a King used *Danda* unfairly, the power would turn around and destroy the King himself. This is a very old version of what we call the "Rule of Law" today—the idea that no one, not even the ruler, is above the law.

4.2 The Smritis: Organizing Social and Penal Law

The roots of ancient Hindu law are found in the *Smritis*, such as those by Manu,

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Yajnavalkya, and Narada. These books divided punishment into four levels that grew more serious:

- **Vak-Danda:** A simple verbal warning or a scolding.
- **Dhik-Danda:** Public shaming or a strong lecture.
- **Dhana-Danda:** Paying a fine in money (this was used most often).
- **Badha-Danda:** Physical punishment, such as being hurt or sentenced to death.

While the *Manusmriti* was based on the strict social rankings of that time, the *Yajnavalkya Smriti* was more modern about things like property rights. The *Narada Smriti* was the most advanced when it came to court procedures, focusing on the importance of written records and specific steps for a lawsuit.

4.3 Kautilya's Arthashastra: Practical Governance

Written around the 4th century BCE, the *Arthashastra* provides a very smart plan for punishment. Kautilya believed that *Danda* must be used with perfect balance. If it was too harsh, the people would hate the King; if it was too soft, there would be total chaos.

- **Corruption:** Kautilya listed 40 different ways that government officials might steal money. He was very strict about this; an official who stole from the state could be put to death.
- **Different Courts:** He created two separate types of courts: *Dharmasthiya* for civil cases and *Kantakasodhana* for criminal cases. This is almost exactly like our modern system of Civil and Sessions courts.

5. Judicial Ethics in the Epics: Ramayana and Mahabharata

5.1 Ramayana: The Judicial Checklist of Ayodhya Kanda

In the *Ramayana*, specifically in Chapter 100 of the *Ayodhya Kanda*, Lord Rama gives Bharata a strict "judicial checklist." Rama's main focus is on the fairness of the legal process. He insists that a full investigation must happen before anyone is punished. This is an ancient version of what we now call the "presumption of innocence." Rama warns that the "tears of the wrongly accused" carry a spiritual power that can bring down an entire kingdom. This highlights that justice is not just a policy, but a moral duty.

5.2 Mahabharata: Shanti Parva and Rajadharma

The *Shanti Parva* contains some of the most advanced ancient thoughts on legal ethics, shared through the teachings of Bhishma. Bhishma argues that the only reason a state

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should exist is to stop the chaos of *Matsya Nyaya* (the law of the fish). Most importantly, the *Mahabharata* states that a King's power is never absolute; it is always below a higher moral code called *Dharma*. Just as our modern "Basic Structure Doctrine" means Parliament cannot change the core of the Constitution, *Rajadharma* ensured that even a powerful King was only a servant of the Law.

6. The Classical Western Tradition: Rome and the Twelve Tables

The Western legal system began with the Roman Republic's "Law of the Twelve Tables" around 450 BCE. These laws were carved into bronze tablets and put on public display in the Forum. This was a massive change because it moved the law from secret oral traditions to a written code that everyone could see. It meant the elite could no longer change the rules on a whim.

A very important principle was found in Table IX: a person could not be executed without first being found guilty in a proper court. This early requirement for a formal trial is the ancestor of our modern "due process." It shows an early understanding that for a country to be stable, the power to take a life must be based on evidence and public trial, not private revenge.

However, the Twelve Tables also contained very harsh rules that show how much the world has changed since then. For example, Table IV required the death of "deformed" infants. This reminds us that ancient Rome often valued social order and "purity" more than the life of every individual. The code also kept strict class levels, where your punishment depended on your social status.

The Tables allowed for "talion" (retaliation) for injuries unless the parties agreed on a payment. This shows that early Roman law was a middle ground between raw revenge and a system based on money. Furthermore, the Tables gave the male head of a house (*Patria Potestas*) almost total power over his children, even the right to sell them into slavery. In those times, a "person" was not seen as an independent individual but as a part of a family or the state. By studying these laws, we see that Roman law was not a perfect system, but a tough first experiment in using written words to create a predictable society.

7. Medieval Ordeals: The Judgment of God

In the Middle Ages, the mixture of law and religion created a system called "Trial by Ordeal" (*Iudicium Dei*). These trials were based on the belief that God would step in to

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protect the innocent and show who was guilty through a miracle. People were forced to undergo painful tests using fire or water. For example, in the "Ordeal of Hot Water," a person had to pull a stone out of a pot of boiling water. If their burns healed quickly and cleanly over the next few days, they were considered innocent.

Modern historians believe these tests weren't just about superstition. Often, priests would use them as a clever way to find the truth. If a priest thought a person was innocent based on local talk or a private confession, he might make sure the water wasn't actually boiling or the iron wasn't truly hot. In this way, the ordeal was a psychological stage used to give a verdict that the community would accept.

This practice finally stopped in 1215. The Fourth Council of the Lateran forbade priests from taking part in these rituals. Without the clergy, the ordeals lost their religious power. This change opened the door for the jury system we know today. Once the "divine hand" was gone, courts had to find human ways to figure out the truth. This led to the use of witnesses and questioning.

However, the change wasn't easy. For a while, because they could no longer rely on God's sign, courts turned to torture to get "perfect proof" through a confession. This was a messy time as the law struggled to move away from magic and toward human reason. The medieval ordeal shows us a time when humans felt too weak to judge one another, so they put the burden on God. Moving to a jury of peers was a brave step, showing that society was finally ready to take responsibility for its own justice.

8. Enlightenment, Colonialism, and the IPC (1860)

The 18th-century Enlightenment changed everything. It moved society away from the religious and painful punishments of the Middle Ages. Thinkers began to argue that the law should be based on logic and what helps society, rather than just seeking revenge.

8.1 The Utilitarian Revolution

In 1764, Cesare Beccaria wrote *On Crimes and Punishments*. This is likely the most important book ever written about punishment. Beccaria argued that it is more important for a punishment to be *certain* than for it to be *severe*. He believed that for a penalty to work, the pain it causes just needs to be slightly more than the gain from the crime. Later, Jeremy Bentham introduced the "utilitarian calculus." He proposed that the goal of the legal system should be to do the "greatest good for the greatest number of people."

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8.2 The Colonial Legacy: Lord Macaulay and the IPC

The penal system India uses today did not grow naturally from the old *Smritis*. Instead, it was forced upon the country by colonial rulers. Lord Macaulay drafted the Indian Penal Code (IPC) in 1860. His main goal was to create a uniform system that kept "Order" above everything else.

- **Protecting the Crown:** Unlike ancient Indian law, which focused on *Dharma*, the IPC was a tool for imperial control. It included laws like "Sedition" (Section 124A) specifically to stop local people from speaking out against the British government.
- **Victorian Rules:** The IPC also included the strict moral views of 19th-century Britain. It made things like "Unnatural Offenses" (Section 377) and "Adultery" (Section 497) illegal. The modern Supreme Court has only recently removed these old laws. For a law student today, the IPC is like a "time capsule" of British thinking from 160 years ago that still influences Indian life.

9. Landmark Case Laws: Humanizing the Cell

The biggest change in how India punishes people didn't come from lawmakers, but from the Supreme Court. Through "Epistolary Jurisdiction", where judges treat simple letters from prisoners as formal petitions-the Court turned prisons from lawless "black holes" into places where the Constitution still applies.

9.1 Sunil Batra v. Delhi Administration (1978 & 1980)[3]

The *Sunil Batra* cases are essentially the "Magna Carta" for rights behind bars in India.

- **The Story:** Sunil Batra was a prisoner on death row. He wrote a letter to the Court about a fellow inmate who was being tortured by a jail official.
- **The Ruling:** The Court stated that "iron gates do not strip a person of their basic human dignity." It ruled that fundamental rights do not stop at the prison entrance. The Court banned the use of "Bar Fetters" (heavy chains) and restricted "Solitary Confinement," proving that a prisoner remains a "person" and a "citizen."

9.2 Bachan Singh v. State of Punjab (1980)[4]

This is the most important case regarding the death penalty in India.

[3] *Sunil Batra v. Delhi Administration (I & II),* (1978) 4 SCC 494; (1980) 3 SCC 488.
[4] *Bachan Singh v. State of Punjab*, (1980) 2 SCC 684.

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- **The Rarest of Rare:** The Court said the death penalty is legal but must only be used in the most extreme cases.
- **The Balance Sheet:** Judges must now weigh "Aggravating Factors" (how bad the crime was) against "Mitigating Factors" (the person's age, background, and chance to change). Life in prison is now the rule, and death is the rare exception.

9.3 Hussainara Khatoon v. State of Bihar (1979)[5]

This case exposed a massive scandal where thousands of people were stuck in jail waiting for trials. Some had been there longer than their actual sentence would have been.

- **Speedy Trial:** Justice P.N. Bhagwati ruled that the "Right to a Speedy Trial" is part of the "Right to Life" under Article 21. This case started the Public Interest Litigation (PIL) movement and forced the government to release thousands of poor prisoners who couldn't afford bail.

9.4 Mithu v. State of Punjab (1983)[6]

In this case, the Court removed Section 303 of the IPC. That old law said if someone already serving a life sentence committed murder, they *must* be given the death penalty. The Court ruled that "mandatory" death sentences are unconstitutional. A judge must always have the power to look at the specific facts and show mercy if it is deserved.

10. Modern Realities: The Crisis of Overcrowding and Socio-Economic BIAS

Even with better court rulings, the situation in Indian prisons is still very difficult.

10.1 The Crisis of the "Undertrial"

The *Prison Statistics India 2023* report shows that about 77% of people in Indian jails are "undertrials." This means that three out of every four people behind bars have not been convicted of a crime yet.

- **The Bail-Jail Paradox:** Justice Krishna Iyer famously said, "Bail is the rule, Jail is the exception." In real life, however, the system often punishes people for being poor. Those who cannot afford bail money stay in jail, while wealthy people can pay

[5] *Hussainara Khatoon v. Home Secretary, State of Bihar*, (1980) 1 SCC 81.
[6] *Mithu v. State of Punjab*, (1983) 2 SCC 277

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to go home. This makes prisons look like "warehouses for the poor," where marginalized groups are often overrepresented.

10.2 The Recommendations of Reform Committees

- **Justice Mulla Committee (1983):** This group suggested that the main goal of prison should be helping people change (*Rehabilitation*). They also wanted to create an "All-India Prison Service" to manage jails better.
- **Justice Amitava Roy Committee (2022)[7]:** This committee pointed out the need for safer barracks to prevent suicides. They also suggested using video calls for court dates to save money and urged the government to fix the hygiene and mental health problems in prisons.

11. Criminological Perspectives: Why Do People Commit Crimes?

To punish people in a way that works, we need to understand *why* they break the law in the first place.

- **Strain Theory:** Robert Merton suggested that society tells everyone they should be "successful" (have money and status). But when society doesn't give everyone the "tools" (like good schools or jobs) to get there, people feel "strained." This pressure can push them toward crime to get what they want.
- **Labeling Theory:** This theory says that once the state calls someone a "criminal," society treats them that way forever. This "label" makes it nearly impossible to find a real job, which often forces the person back into a life of crime just to survive.

12. The Dawn of Nyaya: The Bharatiya Nyaya Sanhita (2023)[8]

In July 2024, the Indian legal system saw its biggest change since 1860. The *Bharatiya Nyaya Sanhita* (BNS) replaced the old IPC. This move is called a "decolonization" project. The goal is to move the focus away from just using force (*Danda*) and toward achieving true justice (*Nyaya*).

12.1 Key Legislative Shifts

- **The Sedition Paradox:** The word "sedition" is gone, but Section 152 now punishes

[7] Justice Amitava Roy Committee Report. (2022). *On Prison Reforms*. Supreme Court of India. [https://main.sci.gov.in/pdf/LU/Prison_Reforms_Report.pdf]
[8] *Bharatiya Nyaya Sanhita*, 2023.

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acts that threaten India's sovereignty and unity. Critics worry that by including "digital communication," the government has more power over what people say online. Also, the jail time for these acts has increased from three to seven years.

- **Community Service:** For the first time, "Community Service" is a real punishment for small crimes. This follows the idea of *Restorative Justice*, showing that putting someone in jail is not always the best answer for minor mistakes.
- **New Offenses:** The BNS now includes specific laws for "Terrorism" and "Organized Crime." It also adds penalties for "Mob Lynching" to deal with modern problems in society.

13. Global Comparisons: The Norwegian vs. American Models

To see where India fits, we can look at two very different systems used in other countries.

13.1 The Norwegian "Normalization" Model

Norway has one of the lowest rates of people returning to crime (about 20%). Their rule is simple: the punishment is losing your freedom, but you keep all your other rights as a human.

- Prisons like Halden look like the real world so that inmates don't lose touch with society.
- Inmates cook their own food and learn job skills.
- The goal is to create "better neighbors" who can live peacefully once they are released.

13.2 The American Mass Incarceration Model

On the other side, the U.S. has the highest number of people in prison in the world. This system focuses on "Specific Deterrence" (stopping the individual) and "Incapacitation" (keeping them away from society). More than 50% of people there end up back in jail. This model is often seen as a warning for other countries, as it focuses more on punishment than on helping people change.

14. Technology and the Future of Punishment

As we approach 2026, technology is doing more than just helping the police. It is starting to change how judges think and how courts work.

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- **AI in Sentencing:** In some parts of the world, computer programs are now used to guess if a criminal will break the law again. While this makes things faster, there is a big risk of "Digital Bias." If the old data used by the computer is unfair to certain groups, the AI will be unfair too.
- **Virtual Courts:** Since the pandemic, video calls have become a normal part of the legal system. In India, this helps "undertrials" by making court dates happen faster since they don't have to be moved from jail to court. However, some worry that a prisoner has a "Right to be Physically Present" to look a judge in the eye.
- **Electronic Monitoring:** Gadgets like GPS ankle bracelets allow the state to watch people without locking them in a cell. This offers a middle path between total freedom and prison. It could be a major way to solve the problem of overcrowded jails in India.

15. Conclusion: The Mission of Constitutional Morality

The history of punishment is, at its heart, the story of how civilization has grown up. We have moved from a world of "blood-for-blood" revenge, seen in Hammurabi's Code, to a global agreement that every person, even a prisoner, has human dignity. The old Indian mix of *Dharma* and *Danda* gave us an early map for this, showing that the state's "rod" should be used to protect the weak, not to act like a bully.

In the 20th century, judges in India led the way by proving that fundamental rights do not disappear when someone enters a prison. While the *Bharatiya Nyaya Sanhita* (2023) is a huge attempt to put *Nyaya* (Justice) first, the real test will be how it works in daily life. The ongoing problem of crowded jails and poor people stuck waiting for trials shows that new laws are not enough without real changes to the system.

As we move toward a future of healing and restoration, we should remember the lesson from Sri Rama: the point of punishment is not to cause pain, but to bring peace back to society. For those working in law today, the goal stays the same: to make sure the government's power to punish is always balanced with kindness and the moral rules of our Constitution.

16. Recommendations: -

Based on the research provided, it is understood that crime is typically the result of opportunity, environmental triggers or societal conditions, and can be prevented by

ISSN: 2582-6433

altering these factors which would directly lessen the number of crimes taking place. Lesser number of crimes will lead to decreased number of punishments sentenced.

Here are the primary theories used to prevent crime:

[9]1. Routine Activity Theory (RAT)

This theory posits that for a crime to occur, three elements must converge in time and space: a motivated offender, a suitable target, and the absence of a capable guardian.

Prevention Application: Preventing crime involves disrupting this convergence by increasing guardianship (e.g., CCTV, police patrols, neighbourhood watch) and making targets less suitable (e.g., locking doors, using anti-theft devices).

2. Situational Crime Prevention (SCP)

Rooted in rational choice theory, SCP focuses on the immediate setting of a crime. It works on the premise that offenders consciously weigh risks versus rewards and can be deterred if the effort and risk of committing the crime are increased.

Prevention Application: Involves "target hardening" (e.g., bullet-resistant glass, deadbolts), managing property (e.g., tracking systems), and reducing rewards to make the offense unappealing.

3. Crime Prevention Through Environmental Design (CPTED)

Developed by C. Ray Jeffery, this theory examines how the physical and social environment precipitates or inhibits criminal acts. It suggests that the design of the "total environment" can be altered to deter criminal behaviour naturally.

Prevention Application: Achieved through natural surveillance (e.g., strategic lighting, open visibility), natural access control (e.g., landscaping, designated pathways), and territorial reinforcement (e.g., fencing, low walls).

4. Broken Windows Theory

Developed by James Q. Wilson and George Kelling, this theory suggests that visible signs of physical and social disorder (e.g., broken windows, graffiti, begging) create an urban environment that encourages more serious crimes.

Prevention Application: Prevention requires rapid repair of disorder and proactive

[9] Oxford Academic British Journal of Criminology and UNODC Key Crime Prevention Typologies.

ISSN: 2582-6433

policing to maintain a well-ordered community and signal that criminal behaviour will not be tolerated.

5. Developmental and Social Prevention

Unlike environmental theories, this approach focuses on the root causes of criminality. It argues that addressing early risk factors, such as poverty, lack of education, and poor family dynamics, stops individuals from developing into offenders.

Prevention Application: Utilizes social programs like early childhood education, youth mentoring, and family support systems.