

- **UNIT VII –**
- **SUPER CRIMES & VICTIMLESS
CRIMES**

- **Content –**
- Definition & nature of Terrorism
- Nature of terrorism
- Causative factors
- Organized crime
- Ingredients of terrorism
- Funds for terrorism
- Types of terrorism

- Victimless crime – definition
- Hidden victims
- Drug addiction – Causes
- Drug and crime
- Treatment of drug addict

- **Organised Crimes –**
- **Definition**
- Organised crimes is an act which is committed by two or more criminals as a joint venture in a systematically organised manner.
- It is an illegal act which the members of an unlawful association commit with mutual cooperation & adventure.

- **Dr. Walter Reckless –**
- It is an unlawful misadventure which is carried on by a boss, his lieutenants and operators who form a hierarchical structure for a specific period.
- **INTERPOL –**
- Any group having a corporate structure whose primary objective is to obtain money through illegal activities, often surviving on fear & corruption.

- **Characteristics of Organised Crimes -**

- 1) Team Work.
- 2) Hierarchical Structure.
- 3) Planning.
- 4) Division of Labour.
- 5) Violence/threat of violence/ intimidation/
coercion/ other unlawful means
- 6) Effective control of its members.
- 7) Not limited to illicit services

- **Types of Organized Crimes -**

- 1) Organized predatory crime
- 2) Crime syndicate
- 3) Criminal racket
- 4) Political graft

- **1) Organized Predatory Crime -**

- In this crime, the benefit is enjoyed completely by the gangster with no service or benefit to the victim.
- In this system, juvenile delinquents & occasional offenders turn into professional gangsters over time.
- Because the victim of the crime gets nothing, the society generally reacts sharply at this.

- Professional criminal gangs require experience and careful planning than occasional criminals. This includes prior selection of "spots" as well as preparing escape from punishment in case of detection.
- **Eg.** Theft, dacoity, extortion, kidnapping, pick-pocketing etc. Terrorism is a larger form of an organized predatory crime.

2) **Crime Syndicate-**

- **Crime Syndicates** refers to a criminal gang which offers an illegal or forbidden service to the desirous customers who are ready to pay handsomely.
- These operate because there is a market for the illegal / prohibited goods / services.
- Unlike Organized predatory crime, the victim gets some good / service for which he paid.

- These crime syndicates are master minded by skilled and professional mastermind.
- Further, they are protected by political organizations who have respectable businessmen and lawyers giving money necessary to 'buy' or 'fix' law enforcing persons and shield in case of a problem.
- **Eg.** Gambling, Commercial prostitution, bootlegging, supply of narcotic drugs and intoxicants.

3) Criminal Racket (Racketeering) -

- It is a systematic extortion under some kind of threat usually of personal injury or property.
- It is an illegal exploitation from some legitimate or illegitimate demand.
- Criminal Rackets differs from Organized predatory crime in the sense that there is some service involved in it and not completely predatory.
- Criminal Rackets differs from Criminal syndicates in the sense that the service is rendered to people who are normally engaged in legitimate businesses while in the syndicate the activity is totally illegitimate and prohibited.

- **Eg.** Business rackets in which fictitious names are put on labor rolls and huge sums are drawn in their names and the expenses are shown on record.
- Gambling rackets lure people to put in more and more of their money in horse races or game of chance and luck and then dupe them.
- Cyber casinos and internet gambling have become modern forms of this crime.

- **4) Political Graft -**

- **Political graft** is the usage of notorious offenders by politicians so that they can come into power or get some benefit for their political party such as getting victory in polls etc. These offenders use both legitimate and illegitimate methods (such as violence and threats) to get their master win.
- Examples range from the common method such as 'buying votes' by paying the voter to advanced methods of setting up inquiry commission against a big politician to save him than to really inquire him.

- **Activities of Organised Crime -**
- Narcotics distribution.
- Gambling.
- Prostitution.
- Illegal Sale or Distribution of Firearms.
- Money Laundering.
- Kidnapping.
- Human Trafficking.
- Bank Robberies.
- Blackmailing.

- **Collective Violence –**
- It is a form of organised crime.
- **Definition –**
- It may be defined as violence by people who identify themselves as members of a group whether such group is transitory or has a more permanent identity, against another group or set of individuals, for achieving a political, economic or social objective.

- Various forms of collective violence may include –
- 1) Wars, terrorism and other violent political conflicts that occur within or states.
- 2) State perpetrated violence such as genocide, depression, disappearances, torture and other abuses of human rights.
- 3) Organised violent crimes such as banditry, gang warfare.

- **Communal Violence –**

- It is a form of collective violence which like terrorism, creates an impression that a particular region, place or locality is unsafe to live in and work, specially for the minorities that may be religious, social or linguistic. It is a great security threat & constraint on smooth functioning of the democratic polity and communal harmony.
- **Eg.** The anti-Sikh riots of 1984, Ramjanma Bhoomi-Babri Masjid violence at Ayodhya in 1992, Godhra Gujrat riots of 2002, Muzaffarnagar communal riot in 2013.

- **Terrorism**
- **Meaning of Terrorism -**
- Terrorism actually comes from the Latin word **“Tersere”** which means **“fear”**.
- The unlawful use of force against persons or property to intimidate the government ,civilian population for the furtherance of social or political objectives is called **“Terrorism”**.

- **Definition of Terrorism –**

- It is a form of exercising power by systematically provoking alarm, fright or horror.

- **Characteristics of Terrorism –**
- 1) Organised groups to intimidating civilians or non-combatants.
- 2) Political motive.
- 3) Systematic & indiscriminate use of violence & breach of law.
- 4) The use may be assassination, hijacking, sabotage, biological or chemical agents, explosives, arms, fire-arms, lethal weapons, or nuclear weapon or device &
- 5) Intention to arouse fright or alarm.

- **Who is a Terrorist -**
- One who engages himself in acts or an act of terrorism.
- One who is the member of an armed group that kills civilians as a mean of political intimidation.
- One who is the member of a group that engages in kidnapping and murder.

- **Causes of Terrorism -**
- Belief in violence
- Religious extremism
- Poverty and economic problems
- Political instability
- Injustice
- Politicians
- Poverty and Illiteracy
- Media (Controlled By Politicians)
- Religious causes

- **Mumbai Terrorist Attack (26 Nov -29 Nov 2008) -**
- It was the biggest terrorist attack in India ever.
- Nearly 173 people were killed and 308 were wounded.
- The terrorists attacked eight places in South Mumbai.
- Ajmal Kasab who was the only attacker captured alive was hanged last November.
- **Attack on World Trade Centre (11 Sep 2001) -**
- Two airlines crashed into the north and south tower of the world trade centre.
- Within two hours both the towers collapsed.
- Totally 2996 people died in the attacks including 19 hijackers.

- **Ingredients of Terrorism –**

- 1) The systematic use of violence.
- 2) Its unpredictability
- 3) The random selection of its targets
- 4) Obstructive effectiveness/threat to system
- 5) Utter disregard for moral considerations
- 6) Secretive nature.

- **Major Types of Terrorism-**

- 1) National Terrorism Eg. Godhra case.
- 2) International Terrorism Eg. Sept. 11 attack

- **Other Types of Terrorism-**

- 1) State Terrorism
- 2) Bio Terrorism
- 3) Cyber Terrorism
- 4) Nuclear Terrorism
- 5) Narco Terrorism

- **Psychological Impact of Terrorism-**
- Strong motivation to terminate terror
- Evokes classic ego defense mechanisms and displacement
- Often produces -
 - frustration-aggression reaction
 - general increase in mental illness
 - Acute Stress Disorder (ASD)
 - Post Traumatic Stress Disorder (PTSD)

- **How Terrorist operate –**
- Assaults & Murders
- Kidnapping & Skyjackings
- Arson & Bombings
- Weapons of mass destruction

- **Purpose of Terrorism -**
- 1) Fear
- 2) Panic
- 3) Disruption
- 4) Demoralization
- 5) Intimidation
- 6) Embarrass Government &
- 7) Media Attention

- **Some of the Terrorist Groups -**
- Al-Qaeda
- Boko- Haram
- Al-Ummah
- Lashkar-e-Toiba
- Armed Islamic Group(GIA)
- Al-Jihad a.k.a Egyptian Islamic Jihad
- National Liberation Army (ELN)-Columbia
- Islamic state

- **Impact of Terrorism -**
- 1) Loss of property.
- 2) Effects on productivity.
- 3) Effect on tourism.
- 4) Effects the living condition of population.
- 5) Destabilization of an existing government.
- 6) Effect on financial market.
- 7) Impact on the society, economy of the country

- **Prevention of Terrorism –**
- 1) Primary prevention is education.
- 2) Creating awareness among people against terrorism.
- 3) Increasing security around the nation.
- 4) The one & only strength against terrorism is unity of people.
- 5) By protecting and mobilizing civil society.
- 6) By eliminating the root of Terrorism.

Counter- terrorism in India –

- Counter-terrorism practices cannot be effective in the absence of firm and clear anti-terrorism law. In the last several decades, India has developed wide-ranging counter-terrorism practices and mechanism.
- Yet, it has neither a comprehensive anti-terrorism law nor a definition of terrorism. Plethora of separate legislations are being used in counter-terrorism practices. The concept of federal crime is also missing.

- The **National Investigation Agency (NIA)** set-up in 2008 to investigate into terrorism cases. Increasingly its remit is being diluted as it is being burdened with investigation of other crimes.
- The efforts to set-up a **National Counter-Terrorism Coordination Centre (NCTC)** has also not succeeded due to apprehensions of the Indian states.

- **Relevant Laws –**
- 1) Unlawful Activities (Prevention) Act, 1967
- 2) Terrorist & Disruptive Activities (Prevention) Act, 1987 (TADA)
- 3) The Maharashtra Control of Organised Crime Act, 1999 (MCOCA)
- 4) Prevention of Terrorism Act, 2002
- 5) Unlawful Activities (Prevention) Amendment Act, 2004

- **Laws related to Terrorism in India -
Kartar Singh v. State of Punjab [1994]**
- The Supreme Court of India observed that the country has been in the firm grip of spiraling terrorist violence and is caught between deadly pangs of disruptive activities.
At present, the legislations in force to check terrorism in India are the National Security Act, 1980 & the Unlawful Activities (Prevention) Act, 1967.

- **Unlawful Activities (Prevention) Act, 1967** - The UAPA was designed to deal with associations and activities that questioned the territorial integrity of India. The ambit of the Act were strictly limited to meeting the challenge to the territorial integrity of India.
- The Act was a self-contained code of provisions for declaring secessionist associations as unlawful, adjudication by a tribunal, control of funds and places of work of unlawful associations, penalties for their members etc. The Act has all along been worked holistically as such & is completely within the purview of the Union list in the 7th Schedule of the Constitution.

- **Terrorist and Disruptive Activities (Prevention) Act,1987(TADA) -**
- The second major Act came into force on 3 September 1987 was The Terrorist & Disruptive Activities (Prevention) Act 1987.
- This Act had much more stringent provisions than the UAPA and it was specifically designed to deal with terrorist activities in India.

- When TADA was enacted it was challenged before the Supreme Court as being unconstitutional. The Supreme Court upheld its constitutional validity on the assumption that those entrusted with such draconic statutory powers would act in good faith & for the public good.

(Ref- **Kartar Singh V State of Punjab (1994)**)

- However, there were many instances of misuse of power for collateral purposes. The rigorous provisions contained in the statute came to be abused in the hands of law enforcement officials.
- TADA lapsed in 1995.

Sanjay Dutt Vs. State through C.B.I 1994 SCC 410

Sanjay Dutt arrested u/s 5 of TADA. But he is not punished while according to Section 5 of TADA and Section 4 of POTA clearly show that possession of certain unauthorized arms is punishable under TADA and POTA. But Sanjay Dutt is not punished. This is an example of loophole in laws.

- **The Maharashtra Control of Organised Crime Act, 1999 (MCOCA) -**

The MCOCA, 1999 was enforced on 24th April 1999. It deals with rising organized crime in Maharashtra and especially in Mumbai due to the underworld.

- For instance, the definition of a terrorist act is far more stretchable in MCOCA than under POTA. MCOCA mention organized crime and what is more, includes 'promotion of insurgency' as a terrorist act. Under this law a person is presumed guilty unless he is able to prove his innocence. MCOCA does not stipulate prosecution of police officers found guilty of its misuse.

- **4) Prevention of Terrorism Act, 2002**

With the intensification of cross-border terrorism and the continued offensive agenda of Pak, ISI targeted at destabilizing India & the post 11th September developments, it became necessary to put in place a special law to deal with terrorist acts. Accordingly, the POTA, 2002 was enacted. The POTA, 2002 clearly defines the terrorist act and the terrorist in Section 3 and grants special powers to the investigating authorities under the Act.

- PUCL Vs. UOI (2004) 9 SCC 580
- The constitutional validity of the POTA, 2002 was discussed.
- The court said that the Parliament possesses power under Article 248 & Entry 97 of List I of the Seventh Schedule of the Constitution of India to legislate the Act. Need for the Act is a matter of policy & the court cannot go into the same.

- However, in order to ensure that these powers are not misused and the violation of human rights does not take place, specific safeguards have been built into the Act.
- Some of these are -
 - 1) No court can take cognizance of any offence under the Act without the previous sanction of the Central Government or, as the case may be, of the State Government.
 - 2) No officer lower in rank than the Deputy Superintendent of Police can investigate offences under the Act.

3) Confession made by a person before a police officer not below the rank of Superintendent of Police is admissible as evidence under the Act provided such person is produced within 48 hours before a magistrate along with his confessional statement.

4) The Act provides for punishment for any officer who exercises powers maliciously. It also provides for award of compensation to a person who has been corruptly or maliciously proceeded against under the Act.

5) The POTA, 2002 is a special law for the prevention of and for dealing with terrorist activities and clearly defines the terrorist act and the terrorist.

6) The Act provides the legal framework to strengthen the hands of the administration against the terrorism can be applied against such persons and acts as are covered by the provisions of this law.

Unlawful Activities (Prevention) Amendment Act, 2004

This new law has retained all the operational teeth of POTA or it has made only cosmetic changes. The difference between POTA and UAPA is substantial even as a lot of provisions are in common.

- **Victimless Crimes –**
- **Definition –**
- There are certain offences which though punishable under the law, do not have any direct harm on others. Such offences are termed as “Victimless Crime”.
- **Eg.** Drunkenness and related offences, sale and use of prohibited substances, vagrancy, begging, homosexuality, etc.
- Do not cause any harm on any person.
- Legality or illegality of such acts depend upon the morality and economic interests of the community.

- Many of these activities are decriminalised and taken out from the purview of criminal law.
- **Eg.** Drunkenness and homosexuality are decriminalised in U.K. and many other European countries when not committed in a public place.
- Decriminalisation of such crimes is on account of helping measures such as social service programmes such as helping hands to drug addicts or homosexuals.

- **Important Points –**

- Victimless crime doesn't harm third party person thus there is problem of complaining of it and evidence while prosecuting.
- When the victim is unaware of crime & harm caused to him it is a case of victimless crime.
- There are kind of victimless crimes as suicide, drug abuse, prostitution, pornography and gambling etc.
- Victimless crimes normally don't harm the individual but harms society at large.

- Victimless crime have importance of consent and because of it is an offence of private nature not involving society at large like prostitution but it is against the social norms thus though it is private & with consent society interferes with it with instrument of law.
- Health protection & youth protection is in interest of the society thus legal instruments penalize victimless crime which is against health and youth protection.
- Victimless crime criminalized for the quality of life and causing no real harm to the society.

- **Hidden Victims -**

- A hidden victim may be ‘undeserving’ victims – that is, not considered to deserve a victim status.
- Hidden victims may be part of social groups which are known to underreport crime.
- They form part of the ‘dark figure of crime’.

- Lack of capable guardianship; vulnerable individuals
- Sex trafficking victims
- May lack contact with outside world
- Language or other barriers to reporting
- These individuals may be victimised by rape, violence, psychological abuse, imprisonment etc.
- Cybercrime victims
- Victim may not know they have been targeted
- Other hidden victims...
- Children
- Disabled

- **Drug Addiction -**
- **Meaning of Drug -**
- A drug is something that affects your body.
- Drugs pass through the body and interferes with brain's neurotransmitters.
- Drugs have been part of our culture since the middle of the last century.

- **Classification Of Drugs -**
- **1) Pharmaceutical drugs**
- **e.g.** Aspirin, Paracetamol, Brofin etc.
- **2) Recreational drugs**
- **e.g.** Alcohol, nicotine, caffeine etc.

- **Drug Abuse -**

- Drug abuse is the non permissive consumption of certain substance that may lead to physical & psychological dependence.

- **Commonly Abused Drugs -**
- Marijuana
- Cocaine
- Heroine
- Alcohol
- Prescription drugs
- Inhalant and solvents
- Sometimes sedatives,
- Coffee, cigarettes and nicotine etc.

- **Causes of Drug Addiction-**

- Trauma
- Mental illness
- Low self-esteem
- Poverty
- Relationship problems
- Loss of a loved one
- Stress
- Chronic pain or medical conditions

- • **Drug Addiction effects –**
- **I)** A surge in levels of dopamine in your brain, which trigger feelings of pleasure.
- **II)** Changes in your brain interfere with your-
 - Ability to think clearly
 - Exercise good judgment
 - Loss of coordination
 - Poor judgment
 - Slowed reflexes
 - Distorted vision
 - Memory loss
 - Blackout

- **Signs Of Drug Abuse/Addiction –**
- **Physical changes –**
- Bloodshot eyes
- Pupils larger or smaller than usual
- Changes in appetite or sleep patterns
- Sudden weight loss or weight gain
- Deterioration of physical appearance
- Unusual smells on breath
- Impaired coordination

- **Behavioral Changes -**
- Poor work
- Decline in performance
- Financial problems
- Secretive behaviors
- Sudden change in friends and associates
- Accident or trouble prone
- Lack of motivation
- Unexplained anxiety

- **Prevention & Control to Drug Addiction -**
- “Prevention Is Better Than Cure”
- **1) Avoid undue Peer Pressure -**
- A child/person should not be pressed unduly to do beyond his/ her capacities, be it studies, sports etc.
- **2) Education and counseling.**
- **3) Drug addiction may be caused due to the feelings of isolation, loneliness, anxiety etc. Hence, social service organizations, and NGOs should establish Youth Centers to overcome such feelings.**

- **Preventing drug misuse in children & teenagers -**
- **1) Communication with children** - Talk to your children about the risks of drug use & misuse.
- **2) Listening** - Be a good listener when your children talk about peer pressure, & be supportive of their efforts to resist it.
- **3) Setting a good example** - Don't misuse alcohol or addictive drugs. Children of parents who misuse drugs are at greater risk of drug addiction.
- **4) Strengthen the bond** - Work on your relationship with your children. A strong, stable bond between you and your child will reduce your child's risk of using or misusing drugs.

- **Preventing a Relapse –**

- Once you've been addicted to a drug, you're at high risk of falling back into a pattern of addiction. If you do start using the drug, it's likely you'll lose control over its use again — even if you've had treatment and you haven't used the drug for some time.

- 1) **Stick with your treatment plan.**

- 2) **Avoid high-risk situations.**

- 3) **Get help immediately if you use the drug again.**

- **Treatment For Drug Addiction -**

- 1) Hospitalization
- 2) Behavioral Therapies
- 3) Occupational Therapy
- 4) Change in Addict's Social Environment
- 5) Individual steps
- 6) Send such addicts to a rehabilitation facility
- 7) A humanistic form of treatment - most widely used and effective of all forms of treatment.
- 8) Awareness & prevention must start at home, with parents.

- **Behavioral therapy** looks at the specific things and behaviors that your child does - if they open the door 10 times before going in, cry when they see a specific statue, don't do their homework, etc and figures out the feelings and reasoning for those behaviors. Then, the behaviorist works on those issues with your child to change the behaviors that they are exhibiting.
- On the other hand **occupational therapy** deals with ideas around daily tasks, so helping your child get ready in the morning, eating breakfast, showering, talking to people, making friends, and going about their daily activities.

Drugs & Crimes –

- **1) Use-Related crime** - These are crimes that result from or involve individuals who ingest drugs, and who commit crimes as a result of the effect the drug has on their thought processes & behavior.
- **2) Economic-Related crime** - These are crimes where an individual commits a crime to fund a drug habit. These include theft & prostitution.
- **3) System-Related Crimes** - These are crimes that result from the structure of the drug system. They include production, manufacture, transportation, and sale of drugs, as well as violence related to the production or sale of drugs.

- **Important Points –**

- Drug addiction is closely inter-related with crime.
- Drug addict is susceptible to law violation.
- Such addicts often commit predatory crimes such as stealing, robbery, burglary, theft to obtain money for procuring drugs etc.
- Causation of stimulation & encouragement for commission of crime.
- The problem of criminality further aggravated by drug addiction.
- At international level, Bolivia, Peru, Columbia, Africa, Ghana, Brazil etc. have become notorious for illegal trafficking of drugs.

- **Laws relating to Drugs in India –**

- The Narcotic Drugs & Psychotropic Substances Act, 1985
- The Narcotic Drugs & Psychotropic Substances Rules, 1985
- The Narcotic Drugs & Psychotropic Substances (Execution by Bond by Convicts or Addicts) Rules, 1985
- The Narcotic Drugs & Psychotropic Substances (Amendment) Act, 1988

- **Punishment –**

- Rigorous imprisonment for a term which shall not be less than 10 years but extendable to 20 years & shall also be liable to fine which shall not be less than one lakh rupees but which may extend to 2 lakhs.

- **Important cases –**
- 1) **Dawood Lama V. State of Maharashtra (1990)**
- **Brown sugar** was seized from the accused which was a **narcotic drug** and **not a psychotropic substance**.
- The supreme court sentenced him to 10 years rigorous imprisonment and to pay a fine of Rs 1 lakh under the **NDPS Act**.
- The court also ruled that under NDPS Act the police officer taking search is duty bound to inform the person arrested that if he so desired he shall be searched in the presence of a Gazetted Officer or a Magistrate.

- **2) State of Mah. V. Nagpur Distillers, 2006**
- The Supreme Court took a serious note of liquor addiction among the younger generation & urged the Govt to work towards gradually reducing the consumption of liquor.
- The Court directed that the goal of prohibition of liquor as mentioned in **Art 47 of Constitution** casts a duty on the state at least to reduce the consumption gradually. Consumption of liquor has become fashion & obsession for many youngsters. The only excuse for not following the mandate of Art 47 is that this trade generates huge revenue income.
- This decision is consistent with Gandhian theory.