

Subject: **Criminology**

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Paper : **Penology and Sentencing**

Module : **Recidivism**



ज्ञान-विज्ञान विमुक्तये

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### Component - I (B) Description of Module

Subject Name	Criminology
Paper Name	Penology and Sentencing
Module No.	Criminology/Penology & Sentencing/10
Module Name/Title	Recidivism
Pre-requisites	A basic knowledge of crime causation theories will be helpful in understanding the module.
Objectives	<p>At the end of this module, the learner is</p> <ul style="list-style-type: none"> <li>Expected to understand the concept of recidivism in general and recidivism in India in particular.</li> <li>Expected to understand the reasons for recidivism and</li> <li>Able to answer the question as to why certain individual reoffend while others desist from committing crime again.</li> </ul>
Keywords	Recidivism, recidivists, crime causation



## 1- Introduction:

Recidivism has bothered criminologists since ages and is considered to be one of the most complex problems of criminology that has eluded a precise answer. Recidivism is also at the same time, one of the most basic concepts in criminal justice. Recidivists or repeat offenders pose considerable challenge to the criminal justice administration as recidivism is often seen as a failure of the correctional justice. Recidivism is directly related to many core criminal justice issues such as incapacitation, deterrence and rehabilitation.

There is no universally accepted definition of recidivism, however, according to the Merriam-Webster Dictionary, recidivism means “a tendency to relapse into a previous condition or mode of behaviour; *especially*: relapse into criminal behaviour”.<sup>1</sup> The Washington State Department of Corrections (DOC) has defined recidivism as, “a return to a DOC facility within five years as a result of a new conviction or parole violation by an offender, who either had been paroled or been discharged from such a facility”.<sup>2</sup> Thus, recidivism means return of an offender to criminal behaviour following conviction whether the conviction results in incarceration or release on probation etc. Generally, recidivism means reoffending by a person after he or she has been punished and undergone the sentence.

The National Crime Records Bureau (NCRB) of India defines recidivism as the tendency of relapsing into crimes by criminals. Accordingly, a recidivist is a person who relapses into crime again and again after having been convicted on previous occasion(s).<sup>3</sup> It is important to note that the studies on recidivism and practices of countries vary as to within what period reoffending should be treated as recidivism but generally, recidivism is measured by a person’s re-arrest, reconviction or resentencing during a period of three years after the end of previous sentence and release from prison.

## 2- Learning objectives:

At the end of this module, the learner is expected to understand the concept of recidivism in general and recidivism in India in particular. She is also expected to understand the reasons

<sup>1</sup> <http://www.merriam-webster.com/dictionary/recidivism> (last visited on May 28, 2016).

<sup>2</sup> Michael Evans, “Recidivism Revisited”, Washington State Department of Corrections, available at <http://www.doc.wa.gov/aboutdoc/measuresstatistics/docs/Recidivism%20Revisited.pdf> (last visited on May 17, 2016)..

<sup>3</sup> See “Recidivism”, Chapter 11, available at <http://ncrb.nic.in/StatPublications/CII/CII2014/chapters/Chapter%2011.pdf> (last visited on May 17, 2016)..



for recidivism and should be able to answer the question as to why certain individual reoffend while others desist from committing crime again.

### 3- Statistical Account of Recidivism:

Statistics on recidivism vary from country to country and place to place. This variation is largely explained on various factors including the efficacy of correctional system. It is also important to note that there is no universally agreed standard for measuring and reporting true recidivism which is a very complex matter. Official records in most countries are taken either from the police or courts. However, these records may not reflect the real extent of recidivism as only a proportion of crimes are reported, even lesser number of crimes are detected and crimes are not recorded on any centralised system.

It is interesting to note that the countries, where the correction system is arguably more modern in dealing with the prisoner, rate of recidivism is substantially higher.

In the United States of America (USA), the Bureau of Justice Statistics studies have reported very high rates of recidivism among the released prisoners. In one of such studies<sup>4</sup> that tracked 404,638 prisoners in 30 states after their release from prison in 2005, it was found that:

- More than two-thirds of prisoners (67.8%) were rearrested within three years of their release.
- More than three-fourths of prisoners (76.6%) were rearrested within five years of their release.
- Of all those prisoners who were rearrested, more than half of the prisoners (56.7%) were rearrested even before the end of first year of their release.

The problem of recidivism is also acute in the United Kingdom where the rate of recidivism is as high as 28%. From July 2013 to June 2014 around 504,000 offenders, both adults and juveniles were convicted with some kind of punishment such as caution, a non-custodial conviction at court or were released from custody. Around 131,000 of these offenders

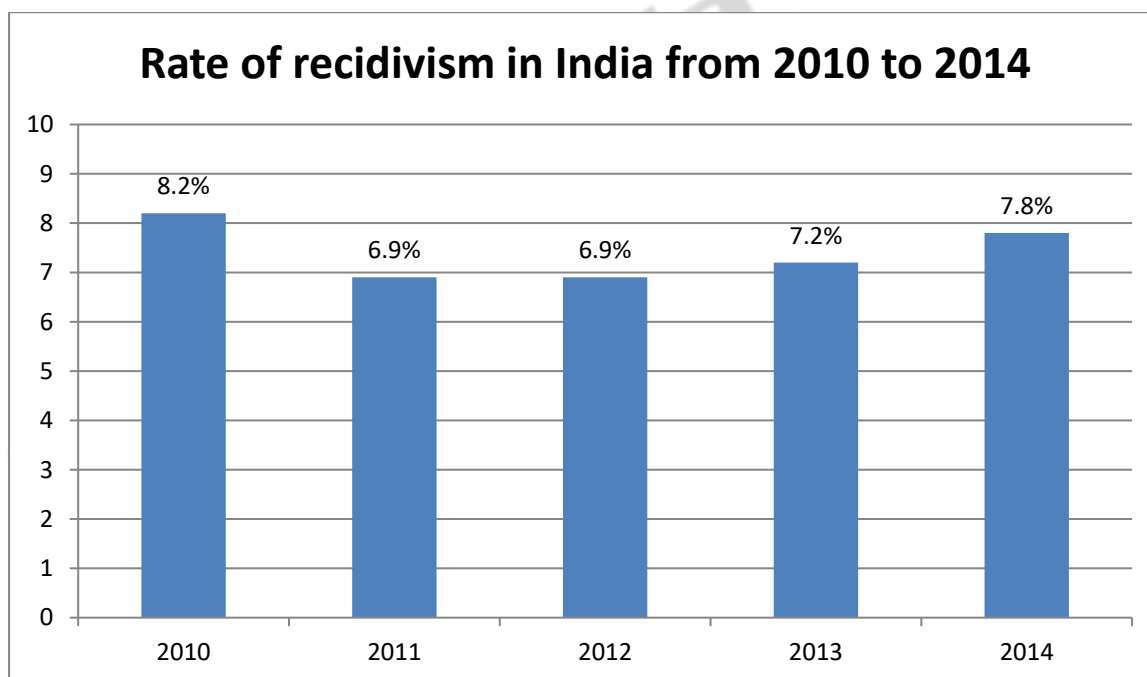
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<sup>4</sup> Durose, Mathew R. *et al*, "Recidivism of Prisoners Released in 30 States in 2005: Patterns from 2005 to 2010", Bureau of Justice Statistics Special Report, April 2014, NCJ 244205.

committed a proven reoffence<sup>5</sup> within a year. This brings the overall proven reoffending rate to 26.0%. The rate of reoffending has remained stable, fluctuating between around 26% and 28% since 2003.<sup>6</sup>

Recidivism in India is reflected in the data collected and collated by the NCRB every year.

According to the data released by NCRB in 2015, out of total number of persons arrested in 2014 (37,90,812), the number of those who were second time convicts was 2,34,896 (6.2%), and the number of third time convicts was 47,884 (1.3%) and those convicted for the fourth or more time was 12,960 (0.3%). Apparently, the rate of recidivism is low in India as shown in the following graph A<sup>7</sup>:



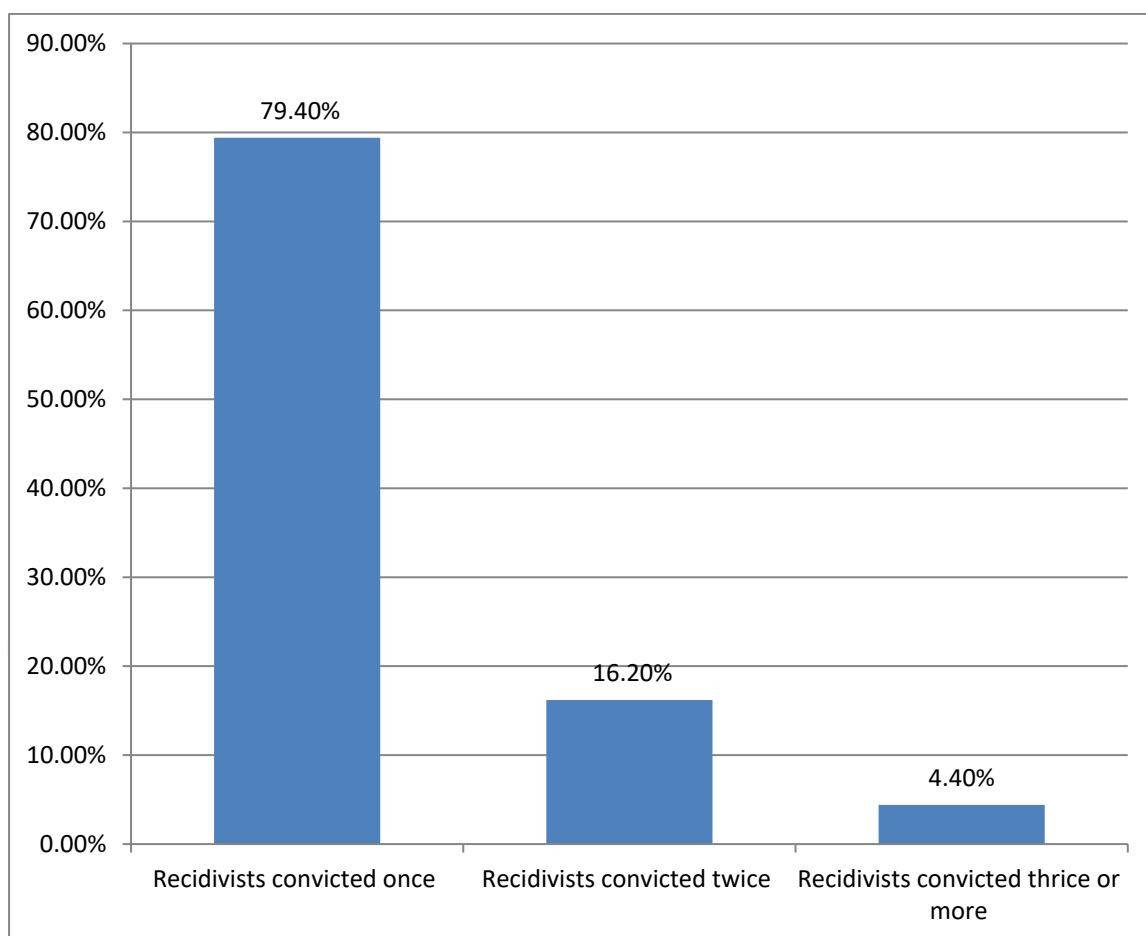
The share of recidivists among all offenders increased to 7.8% during 2014 as compared to 7.2% in 2013. In 2011 and 2012, the rate of recidivism remained static at 6.9%.

<sup>5</sup> A proven reoffence is defined as any offence committed in a one year follow up period that leads to a court conviction or caution in the one year follow-up or within a further six month waiting period to allow the offence to be proven in court.

<sup>6</sup>“Proven Reoffending Statistics Quarterly Bulletin July 2013 to June 2014”, England and Wales, Ministry of Justice Statistics Bulletin, April 28, 2016.

<sup>7</sup> Adapted from Figure 11.1, Crime in India-2014 available at <http://ncrb.nic.in/StatPublications/CII/CII2014/chapters/Chapter%2011.pdf> (last visited on May 19, 2016).

The data released by NCRB in 2015 also analysed the frequency of repeat offending in the year 2014 and found that 79.4% recidivists were convicted once while the figure stood at 16.2% and 4.4% for the recidivists who were convicted twice and thrice respectively. It means that the rate of recidivism lowers with the frequency of conviction as shown in the following graph B<sup>8</sup>:



From the above data it is clear that recidivism is comparatively low in India in spite of many problems plaguing the correctional administration.

#### 4- Causes of Recidivism:

Prison is not only the place for a convict to serve his or her sentence, but also a place from where he should come out as a law-abiding individual desisting from crime. Of late, it has

<sup>8</sup> Adapted from Figure 11.2, *Ibid.*



been found that a very important relationship exists between the concept of recidivism and criminal desistance. The latter is defined as a process by which a person arrives at a permanent state of non-offending. A convict released from prison will either desist from crime or will reoffend. The reasons why convicts reoffend are various and recidivism cannot be attributed to one single factor. Let us now discuss the principal causes of recidivism.

#### 4.1. The Prisons

As a recidivist is someone who reoffends after being released from prison, it is imperative that the role of prison in recidivism is properly investigated and analysed. Ideally, the correctional institutions, as the prisons are referred to in modern criminological literature, should be the harbinger of reform. Correctional treatment, with a rehabilitative orientation, is an imperative of modern penology which has abandoned *jus talionis*.<sup>9</sup>

However, the truth is just the opposite. In his eighteenth century treatise, Cesare Lombroso likened the prisons to “criminal universities”.<sup>10</sup> By this he meant that the prisons act as centres of criminal education and training rather than being places for punishment and rehabilitation. A convict is exposed to notorious and hardened criminals and the overall prison environment is not conducive to any reform and rehabilitative measure. But curiously, even the differential classification of prisoners on the basis of seriousness of their crime has not yielded desired result, as has been found in many researches. On the contrary, it has been found that differential placement may affect increase in recidivism. It is seen that more hardened criminals or those convicted of heinous offences are placed in high security barracks that are more punitive and it is intended that it would decrease reoffending among the peers with similar criminal propensities. It has been found that exposure to inmates who have similar or higher propensities of crime may increase recidivism.<sup>11</sup>

In *Sunil Batra v. Delhi Administration*<sup>12</sup>, the condition of prisons has been portrayed thus: “For years and years, prisoners don’t see a child, a woman or even animals. They lose touch with the outside world. They brood and wrap themselves in angry thoughts of fear and revenge and hatred; forget the good of the world, kindness and joy. Oscar Wilde says: ‘Every

<sup>9</sup> *Lingala Vijay Kumar v. Public Prosecutor*, (1978) 4 SCC 196.

<sup>10</sup> *L’Uomo Delinquente* (The Criminal Man).

<sup>11</sup> M.K. Chen and J.M. Shapiro, “Do Harsher Prison Conditions Reduce Recidivism? A Discontinuity-Based Approach”, *American Law and Economics Review* 9 (1) (2007): 1-29.

<sup>12</sup> AIR 1980 SC 1579.



prison that men built is built with bricks of shame and bound with bars, lest Christ should see, how men, their brothers maim’.” In India, the prisons are still governed by the archaic Prisons Act, 1894 and state prison manuals framed under it. In the year 2003, the Bureau of Police Research and Development (BPRD), Ministry of Home Affairs, Government of India prepared a Model Prison Manual (MPM 2003) to fine tune prison administration and treatment of prisoners in accordance with the modern norms of penology. However, even in the MPM 2003, concern for recidivism has not been adequately addressed. The only reference to recidivism in the MPM 2003 appears in Chapter XXV where it has been provided that “Young persons are impressionable. A young offender of today can be a hardened recidivist of tomorrow. Such offenders can be reclaimed as useful citizens and can have better prospects for being re-educated to a socially useful way of life. A scientific and progressive approach needs to be adopted if these offenders are to be saved from the damaging and traumatic experiences of incarceration”.<sup>13</sup> The MPM 2003 laid down two guiding principles for treating young offenders: *firstly*, as far as possible young offenders should not be kept in institutions meant for adult and habitual offenders and *secondly*, institutions for young offenders should be so classified that diverse training programmes, designed to suit each homogeneous group, can be conveniently organized.<sup>14</sup> However, it all seems to be a distant dream and in spite of judicial interventions in prison administration for more than last three decades, little appears to be changed<sup>15</sup> as a result of which inadequate reform and rehabilitation measures have failed to check recidivism.

#### **4.2. Inappropriate Punishment**

One of the objects of punishment is to deter the convict from reoffending. Towards this end, punishment should be proportionate to the seriousness of crime. If the criminal sanction is too lenient, it fails to make people understand their extent of wrongdoing. On the other hand, if the punishment is too harsh, it may cause offenders to fall apart from the norms of the society and may lead to reoffending. Sometimes punishments may be inappropriate for the type of offence or offender, for example a substantially long prison term for a first time young offender in lieu of an alternative sanction such as probation.

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<sup>13</sup> Model Prison Manual, 2003 (Ministry of Home Affairs, Government of India), Chapter XXV, para 25.01.

<sup>14</sup> Chapter XXV, paras 25.02 & 25.03, *Id.*

<sup>15</sup> See *Inhuman Conditions in 1382 Prisons, In re*, (2016) 3 SCC 700 at 705.





### **4.3. Lack of reintegration opportunities**

Convicts who have served long period of incarceration, often find it difficult to reintegrate in the mainstream of the society. For a person who has served a long prison term, say for a decade or more, the world outside may be an entirely new place making it difficult for him to cope with the changes which he did not see happening. These changes may be technological, related to public policy, ideals or political. When they find it difficult to adapt to the new changes, they may relapse in crime to satisfy their needs. Recidivism may, therefore, be a result of an individual's struggle to survive in a new social milieu and not because of his personality or the sentence imposed on him.

### **4.4. Incurability**

Some convicts may not be responsive to reformatory and rehabilitative programmes and choose to go back to their criminal ways. Exact reasons for incurability are not known but heredity may play a role in recidivism. Researches have proved a very high positive correlation of bad hereditary, especially of inherited psychopathy and recidivism.<sup>16</sup>

According to one theory, recidivists are generally biologically, physically and mentally inferior in constitution so that they become unfit to live a normal life and fail to control their emotions and impulses, failing to resist temptations of crime.<sup>17</sup> However, the modern behavioural scientists in the United States of America do not accept relationship between physical abnormality and psychopathic personality of recidivists.

Similarly, white collar criminals and cyber criminals are not poor, deprived and demented individuals rather they are well educated, technology savvy and highly intelligent people who are smart, clever, courageous and risk-takers. The crimes that they commit are so lucrative that they keep on repeating such crimes. Tax evasions, corruption, bribery, cyber frauds and intellectual property related offences are often repeated by the convicts even after they have been found guilty of such offences on previous occasions.

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<sup>16</sup> Harman Mannheim, *Group Problems in Crime and Punishment*, (Oxon: Routledge, 1998 reprint).

<sup>17</sup> Walter C. Reckless, *The Crime Problem*, (Appleton Century Crofts, 1955).



#### **4.5. Materialistic way of life and peer pressure**

The world that we live in is driven by capitalist ideals and material gains. Success today is measured by amount of wealth and financial stability. At the same time, many people may not get equal opportunity to achieve these *goals* of life. This denial of opportunity leads them to employ illegitimate means of achieving them. If convicts fail to support themselves upon release or feel stressed due to their socioeconomic conditions, they may relapse in crime. In this way, recidivism occurs as a result of failure of an individual to cope up with the materialistic cravings and not because he fails to positively respond to a rehabilitation programme or does not appreciate the consequences of his crimes. Young offenders are especially prone to peer pressure and may reoffend due to social influences outside of the criminal justice system.

#### **4.6. Mental health and drug abuse**

Several convicts may be mentally ill and unable to respond to any kind of sanction including prison term, rehabilitative or any other measures taken in response to their crime. The mental illness may be due to biological reasons or induced by substance abuse. The result would likely be same in both the cases. However, drug addicts are more likely to relapse in drug related crime such as possession, pedalling and substance abuse.

Drug abuse and recidivism create a vicious circle and a cobweb making it very difficult for the convict to refrain from reoffending. Several surveys and data in the USA endorse the hypothesis that addicted recidivists makeup the majority population of all the recidivists. A study by the New York State Division of Parole showed that 30 percent of drug offenders on parole had their parole revoked for committing new felonies within three years.<sup>18</sup> Prison statistics invariably reveal that drug offenders are commonly recidivists.

Experience, common sense and studies, all indicate that the majority of recidivists are addicts who reoffend due to their addiction.

### **5. Containing recidivism:**

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<sup>18</sup> NYS Division of Parole, Office of Policy Analysis Memorandum, "Recidivism: Community Outcomes for Parolees Released from New York State Prisons, April 1, 1995 - March 31, 1996," Aug. 31, 1999, at 2.



Although, recidivism is not a major problem in Indian criminal justice system, yet ways must be found to contain recidivism before it takes a demonic proportion. As there is not one single reason or cause of recidivism, the ways and measures for reducing recidivism are also varied. Penologists in early and medieval ages considered harsher punishments as a panacea for recidivism. However, this approach has not yielded desired results rather, it has been seen that unduly harsh punishment, solitary confinements or strict vigil has proved to be counterproductive. Penologists today advocate individualised treatment of offenders where criminal is the prime focus of correctional system. In this method, criminality is regarded as an outcome of social disorder which can be cured only by individualised treatment of offender. Thus, efforts are made to identify the reasons and causes of crime and to address those causes that lead the convict to reoffend.

Following measures are preferred within the realm of criminal justice system to contain recidivism:

- (a) Harsher punishment is given to those convicts who reoffend or are habitual criminals. This is primarily due to the thinking that the punishment on the previous occasion of commission of crime was not sufficiently deterrent. Let us take the example of Indian Penal Code, 1860 (IPC). There are several instances in IPC where a repeat offender is given a much harsher punishment compared to the punishment prescribed for the first time offender. Section 75 of IPC provides that a previous convict for offences under Chapter XII (offences relating to coins and government stamps) and Chapter XVII (offences against property), punishable with sentence of imprisonment of three years or more, shall if found guilty of any offence punishable under these Chapters with like imprisonment for the like term, shall be subject for every such subsequent offence to imprisonment for life or to imprisonment of either description for a term which may extend to ten years.<sup>19</sup>

The idea that enhanced punishment for recidivists will deter them from reoffending is still in vogue. A previous convict of human trafficking as defined in Section 370 of IPC<sup>20</sup> shall be punished with life imprisonment which shall mean imprisonment for

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<sup>19</sup> The Law Commission of India, in its 42<sup>nd</sup> report (1971) recommended enhanced punishment for all the offences punishable with imprisonment of three years or more committed by previous convicts.

<sup>20</sup> Substituted by Criminal Law (Amendment) Act, 2013 (w.e.f. 03/02/2013) for the old Section 370.

the remainder of the natural life span of the convict.<sup>21</sup> Whereas the first time offender may be given punishment, ranging between, seven years to ten years of imprisonment.<sup>22</sup> Under Section 376-E of IPC<sup>23</sup>, a person who has been previously convicted of an offence punishable under Section 376 (rape) or Section 376-A (causing death or resulting in persistent vegetative state of victim of rape) or Section 376-D (gang rape), if subsequently convicted for any of these offences, shall be punished with imprisonment for life (for the remainder of the natural lifespan) or with death.

Similarly, a person habitually dealing in stolen property may be given life imprisonment<sup>24</sup> whereas a first time offender who receives stolen property is punishable with a maximum of three years imprisonment or fine or both.<sup>25</sup>

- (b) Recidivists and habitual offenders are also brought under constant surveillance so that the possibility of reoffending may be eliminated or reduced. Section 356 of Code of Criminal Procedure, 1973 (CrPC), provides that a competent court may, at the time of passing of sentence upon a previously convicted offender for certain offences (under Section 215, Sections 489-A to 489-D, or Section 506 or any offence under Chapters XII or XVI or XVII, if punishable with a sentence of imprisonment of three years or more), also order that the convict's residence or any change of or absence from such residence after release be notified for a term not exceeding five years from the date of expiration of such sentence. The state governments concerned may make rules to carry out the requirement of notification of residence etc. of a released convict. Any breach of notification order may be punished.

Habitual offenders may also be liable to execute a bond, with sureties, for their good behaviour for a period not exceeding three years.<sup>26</sup>

State governments have also enacted legislations or framed regulations to deal with the problem of recidivism by prescribing stricter penalties and surveillance of repeat

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<sup>21</sup> IPC, s. 370 (6).

<sup>22</sup> IPC, s. 370 (2). *See also*, IPC, s. 371 which prescribes a maximum punishment of life imprisonment for habitually dealing in slaves.

<sup>23</sup> Inserted by Criminal Law (Amendment) Act, 2013 (w.e.f. 03/02/2013).

<sup>24</sup> IPC, s. 413.

<sup>25</sup> IPC, s. 411.

<sup>26</sup> CrPC, s. 110.



offenders.<sup>27</sup> It is also to be noted that the provisions of these state laws must conform to the constitutional right to life and personal liberty as enshrined in Article 21 of the constitution and also the restrictions placed on a recidivist's movement must only be a reasonable restriction on the freedom of movement under Article 19 (1) (d) and right to privacy. In *Govind v. State of M.P.*<sup>28</sup>, validity of Regulations 855 and 856 of the Madhya Pradesh Police Regulations made by the Government under the Police Act, 1861. Regulation 855 provides that where District Superintendent of Police believes that a particular individual is leading a life of crime, and his conduct shows a determination to lead a life of crime that individual's name may be ordered to be entered in the surveillance register, and he would be placed under regular surveillance. Regulation 856 provides that such surveillance, inter alia, may consist of domiciliary visits both by day and night at frequent but irregular intervals. The Supreme Court held that "...it cannot be said that surveillance by domiciliary visit would always be an unreasonable restriction upon the right of privacy. It is only persons who are suspected to be habitual criminals and those who are determined to lead criminal lives that are subjected to surveillance. If 'crime' in this context is confined to such acts as involve public peace or security, the law imposing such a reasonable restriction must be upheld as valid."

Even in pre-independence period, it has been observed by the courts that the restrictions on residence and movement can be imposed only on a proven recidivist and not on a mere suspect of a crime.<sup>29</sup> Where an order to furnish bond has been passed against a habitual offender, it may not be permissible to place restrictions on his movement.<sup>30</sup>

(c) Recidivists are kept in high security prisons or prison barracks. In fact the Jail Committee had recommended in 1920 that habitual offenders or recidivists should be segregated from ordinary criminals and the former must be kept in high security prisons.<sup>31</sup> The Jail Reform Committee (1946) and the MPM 2003, also provide for segregation of habitual offenders from ordinary criminals. The Model Prison Manual,

<sup>27</sup> See for example, the Restriction of Habitual Offenders Act, 1918 supplemented by the Punjab Habitual Offenders (Control and Reform) Act, 1952; Rajasthan Habitual Offenders Act, 1953.

<sup>28</sup> (1975) 2 SCC 148.

<sup>29</sup> *Ahmed v. Emperor*, AIR 1926 Lahore 803.

<sup>30</sup> *Bhana v. Emperor*, AIR 1919 Lahore 87; *Emperor v. Gahina Kom Babaji*, 7 Born. L.R. 456 (1905).

<sup>31</sup> See the report of the Indian Jail Committee (1919-1920).

2016, which has revised the earlier manual of 2003, in Chapter XXV also provides for a more relevant and comprehensive security classification of high-risk prisoners including recidivists.<sup>32</sup>

- (d) The key to reform of a prisoner is the opportunities of his rehabilitation and reintegration in the society. After-care of convicts is essential to prevent reoffending. Many state laws dealing with habitual offenders or recidivists focus on corrective training for them. For example, under the Madras Restriction of Habitual Offenders Act, 1948, the state government is empowered to place the notified offender in industrial, agricultural or other reformatory settlement. The Madras Act is credited with being the trail-blazer in reformatory approach towards recidivists. This Act was followed by several states that also enacted laws focusing on correctional approach in dealing with recidivists. It has been seen that most of the property crimes are committed by people coming from the marginalised sections of the society. A state-sponsored robust programme focusing on elimination of poverty and generation of employment opportunities will be helpful in preventing relapse in crime. To prepare the offender only mentally is not sufficient to bring a change in his habits unless the conditions surrounding him are also changed.

## 6. Trends in Recidivism

In spite of variations in rate of recidivism and measures to contain the same, certain trends are universally visible vis-à-vis recidivism:

- (i) Property offences are most widely committed repeat offences. More than 75% of property offenders are previously convicted or involved in property crime. That seems to be the reason that Section 75 of IPC, primarily focused on enhanced punishment for property related offences committed by recidivists. Drug offenders and sexual offenders are also more prone to relapse in crime.
- (ii) In the majority of cases of reoffending, relapse occurs within one year of release from prison. Nearly all recidivism occurs within three years of completion of sentence or release from prison.

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<sup>32</sup> The Model Prison Manual, 2016 has been approved by the Ministry of Home Affairs, Government of India on January 21, 2016. See <http://pib.nic.in/newsite/PrintRelease.aspx?relid=134687> (last visited on May 16, 2016).

- (iii) Violent criminals are least likely to relapse in crime. Sexual offenders suffering from psychological or biological conditions are most likely to recidivate.
- (iv) Ironically, age is an important factor in recidivism. It has been seen that people who are punished at a relatively young age are more likely to relapse in crime. In India, thanks to the prohibition under the juvenile justice laws, records of juvenile delinquents are not maintained, except where a child between 16-18 years of age is tried as an adult for a heinous crime<sup>33</sup>, therefore, the data on recidivism does not include figures of rate of reoffending by juveniles when they become adult. But there is no reason to believe that the conclusion that young offenders are more prone to recidivism is not true for India.
- (v) Gender also plays a significant role in recidivism and men are more likely to reoffend than women.
- (vi) People who reoffend are invariably given more severe punishment. The reformatory approaches are less likely to be applied upon a person who has reoffended. For example, the benefit of probation is denied to an offender against whom a previous conviction has been recorded.<sup>34</sup>
- (vii) It is seen that offenders with a weak socioeconomic condition and having poor educational background are more likely to reoffend.
- (viii) Recidivism is a traditional, if not the most traditional, basis for a sentencing court's increasing an offender's sentence and recidivism does not relate to the commission of the offense, but goes to the punishment only.<sup>35</sup>

## 7. Conclusion:

There is no denying the fact that the theoretical construct of recidivism is not a difficult proposition. It simply means that some people relapse in crime after they have completed their sentence, be it a prison term, a treatment programme or any other sanction. Although the rate of recidivism is not alarming in India, recidivism is a vital component in

<sup>33</sup> See, proviso to S. 24 (2), Juvenile Justice (Care and Protection of Children) Act, 2015.

<sup>34</sup> See CrPC, s. 360. See also, Section 3 of Probation of Offenders Act, 1958.

<sup>35</sup> *Graham v. West Virginia*, 224 U.S. 616: 32 S.Ct. 583.



understanding the criminal justice. Why some people reoffend while others desist from crime is a question that eludes a scientific answer.

Rising rate of recidivism is often used as a justification to punish the first time offenders more severely. The same justification is applied to punish recidivists with harsher punishments. However, many believe that recidivism is a reflection on the failure of present system of punishment to accurately and effectively deal with offenders. Prison term spent by a convict as part of his sentence should be used in imparting industrial training and development of skills to help them cope with the modern world outside the prison. Indeterminate sentences should become norm whereby prisoners earn their release by showing significant improvement in their behaviour and not merely because their determinate prison term has come to an end. Education inside the prison should be holistic and individualised. It is also important to understand that drug addicts and psychopaths require an entirely different kind of rehabilitation programmes and should be treated differently from ordinary recidivists. Achieving a zero rate of recidivism may be a utopian ideal but with certain measures, rate of recidivism can certainly drop.

### **8. Summary:**

Recidivism simply means relapse in crime after one has been found guilty of an offence and visited with criminal sanction. The rate of recidivism varies from country to country and from place to place. It may vary significantly from state to state within the same country. Also, there is no universal formula to calculate the rate of recidivism. Generally, recidivism is measured by the rate of proven reoffending where the offender has had a previously recorded conviction. There is not one single reason of recidivism and multiple factors are responsible for the same. Prisons, hereditary causes, inappropriate punishments, lack of rehabilitation programmes, incorrigibility, failure to cope with the world outside of the prison, peer pressure and drug abuse are some of the principal reasons of recidivism. Responses to the problem of recidivism are also varied. Usually, recidivists are given more severe punishment and are denied release on probation etc. However, stricter punishment and denial of release on probation do not always result in reformation and reduction in rate of recidivism. Prison administration sees the recidivists as potential threat to the prison discipline and a bad





influence to ordinary criminals further segregating them and denying them the facilities available to other prison inmates.

### Self-check exercises

- 1- Define recidivism. Compare the rate of recidivism in India with that in USA and UK.
- 2- Discuss the role of prisons in recidivism.
- 3- How does drug abuse affect recidivism?
- 4- Critically examine the response of Indian criminal justice system to the problem of Recidivism.
- 5- What are the general trends in recidivism?

