
RECIDIVISM IN INDIA: A SOCIO-LEGAL STUDY

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ABSTRACT

To ensure public safety, create a just society, and assist in the rehabilitation of offenders, it is imperative that crime be controlled and recidivism be decreased. Enacting and upholding laws, rules, and procedures that deter potential offenders, punish offenders, and prevent criminal conduct constitute effective crime regulation. Those who repeat the illegal activity for which they were initially punished are referred to as recidivists. They are not the same as repeat offenders. For example, a person is referred to as a recidivist if they have been convicted of a murder and then do the same crime again after being punished. On the other hand, a habitual offender is someone who commits crimes on a frequent basis. Recidivists are frequently characterised as violent, antisocial, and unconcerned with other people's welfare. These are the individuals who have accepted crime as a way of life and bravely commit crimes. These criminals seem to have fewer prospects of rehabilitation because they commit crimes with premeditation and malice. For them, incarceration is the only remaining option to keep them under constant observation and stop them from committing crimes again. Public safety, prevention, justice and fairness, restoration, a decrease in social and financial expenses, community well-being, preventing vigilantism, and personal accountability and responsibility would all benefit from recidivism regulation. The main determinants of recidivism rates are summarised in this document, including access to rehabilitation, mental health, substance addiction, socioeconomic position, and family support. In addition, it looks at structural injustices in the criminal justice system and assesses how well treatments work to lower recidivism.

Keywords: Recidivism, Criminal Justice, Habitual Offender, Crime

1. INTRODUCTION:

Recidivism is defined under the Cambridge Dictionary¹ as, “the act of continuing to commit crimes even after having been punished”. The synonyms of this word; tendency, re-offending, repetition, habit, relapse, and many more indicate the sole meaning which is the recurrence of something or can also be mentioned in Latin as *ad infinitum*. As per various definitions available for the same, it can be said that recidivism is the habitual relapse of a crime. It is the persistent tendency of an individual towards repetition of criminal or any sort of antisocial or illicit patterns of conduct. There is a tendency within the offender to return to his/her criminal life by repeating the same offence that has been committed before and for which he/she has been reprimanded. Recidivists, often known as repeat offenders, provide a significant problem to the criminal justice system, as recidivism is frequently viewed as a failure of correctional justice. Many key criminal justice issues, such as incapacitation, deterrence, and rehabilitation, are closely tied to recidivism. There is nothing specified as to why the offender would repeatedly act in the same manner for which he/she has been convicted before. A convict released from prison will either cease from crime or repeat the crime. The reasons why convicts repeat the crime are numerous and recidivism cannot be attributed to one single factor. A few of the reasons could be, the absence of socialization & education, inability to obtain employment, failure to fit into society after returning from prison, incorrigibility, antisocial outlooks, edginess, they tend to associate themselves with other criminals, thoughtlessness, lack of sustenance or substance abuse.

Recidivism is a significant element when it comes to considering the core criminal justice matters of incapacitation which is the effect of a sanction to stop people from committing a crime by removing them from the community, specific deterrence is the terminology used to denote whether a sanction stops people from committing further crime once the sanction has been imposed or completed, and rehabilitation which is the extent to which a program is implicated in the reduction of crime by "repairing" the individual in some way by addressing his or her needs or deficits. It is important to note that the research on recidivism varies as to within what period reoffending should be treated as recidivism but in general understanding, 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.

¹ Subha Sattwa Bandyopadhyay, “Concept of Recidivism in Criminal Law”, Legal Service India

2. CAUSES OF RECIDIVISM:

There were a few reasons mentioned above as to what causes the relapse in the criminal behaviour of the convicts. Some of them are explained below-

- 2.1 Peer Pressure's Unconscious Influence- Peer pressure is an often-overlooked but significant factor in the repeated commission of crime by a number of people in society. Once released, many criminals enter into the company of socially irresponsible but powerful people, and retaining such company imposes moral demands on them, the fulfilment of which leads to their reincarceration on new criminal charges.
- 2.2 Law Enforcement Deficits- Another factor that frequently leads to the conduct of crimes is law enforcement deficiencies. This inability to respond to crime, as seen by the delay of criminal proceedings and poor crime-solving rates, as well as a breach of the law requiring a thorough, complete, and objective investigation of the circumstances of the offence.
- 2.3 Substance Abuse- To obtain drugs for their drug addiction, first-time criminals or recidivists conduct crimes such as thievery. The simple availability of narcotics, the addiction created by the psychological urge to belong to the majority, and the lack of finances to obtain such drugs are the main causes for such addiction developing among such people. Ex-convicts re-offend for a variety of reasons, including obtaining resources to prolong their drug addiction after being evicted from their houses by their families by engaging in theft, burglary, or dacoity. Such people may or may not have had a difficult childhood, but they practically abandon moral standards to meet the physical needs imposed by an uncontrollable drug addiction.
- 2.4 Familial Issues and Improper Upbringing- A person's moral value system is rooted in his or her family, and his or her future behavioural pattern is fully determined by it. The majority of violent criminals and recidivists in the world grow up in an atmosphere that instils deviant behaviour in their personalities subconsciously. Parental presence and supervision are critical for a child's development into a law-abiding citizen, as it is the parent's primary responsibility to instil in their children a sense of good and wrong. In certain circumstances, parents' over-supervision causes youngsters to develop an amoral or anti-social attitude as they hide their actions for fear of being detected. Both types of aggressive parenting can lead to major problems in a child's life. Almost none of the well-known serial killers, murderers, or rapists had the good fortune of

having a caring or educated childhood, making them vulnerable to developing their own distorted sense of right and wrong for the people around them.

2.5 Inadequate Education- Inadequate education is the root cause of most of the problems that plague our society. Poverty occurs, ironically, because education costs money and only education produces money. Several inmates in the jail discussed how dropping out of school was the single most important reason in their overall criminal behaviour. Education and schooling do, in fact, instil a sense of discipline and integrity in kids, which aids in the development of a strong conscience on some levels. Without education, youngsters become socially aimless and, because of status frustration, depart from commonly accepted social behaviour.

2.6 Dwelling Place- The place where a person lives has a significant impact on recidivism. The researchers' conversations in the Tihar jail demonstrate that criminality is ingrained in the culture of the country. Most people commit crimes on a regular basis in such settings and face little or no punishment, reinforcing the culture. The environment in which a person spends his or her life certainly shapes his or her socialisation, and illegal and violent locations greatly impede a person's sense of right and wrong, leading to continuous criminal activity.

2.7 The Labelling Theory of Criminology- This theory explains how society prohibits an ex-convict from leading a normal life by labelling him or her a criminal. One of the most typical human tendencies is to judge a person based on their previous conduct. Ex-convicts find it difficult to reintegrate into society because they are just one individual struggling against society's stigmatisation and degradation. Due to the unavoidable stigma of having been a felon, a prisoner who is released from jail finds it nearly impossible to get work. Aside from that, society does not tolerate such a person, forcing him back into criminality.

2.8 Change of location- In practice, a family's migration from a rural to a metropolis necessitates a certain number of financial resources to keep them afloat. On countless occasions, families have been forced to be homeless or in slums after migrating to a city to survive and earn enough money to afford a better place. Such low living circumstances instil a sense of deprivation in young people, leading them to commit crimes to meet their basic needs and desires. More often than not, a person's vulnerability to deviant or illegal behaviour is due to their basic need hierarchy structure, not their moral character.

2.9 Unemployment and Financial Instability- As a result of the labelling hypothesis, obtaining work for an ex-convict is extremely difficult. Because of the circumstances provided by society, one has little choice but to commit tiny crimes in order to survive. As a result of this unemployment, financial instability develops, necessitating the adoption of dishonest tactics. A few responses elaborated on the specific scenario; reintegration into society for an ex-convict is difficult when aftercare is not offered. The stigma lasts a lifetime, and no one wants to hire such people, regardless of the type of work they do. This is why most ex-convicts keep their personal information hidden.

2.10 Complete Lack of Institutional Rehabilitation- A big loophole in our country's criminal justice system is one of the most aggravating elements of recidivism. The system just follows the process, with no regard for the goal of justice. The method is followed without actual justice being served. Within prisons, there are no institutional rehabilitation programmes, and there is no provision for ex-convict support. After spending years in an overcrowded prison full of dangerous criminals, inmates are supposed to transition to normal social life without demonstrating deviation. Ex-convicts become recidivists as a result of a lack of rehabilitation or aftercare programmes. To adjust to society, they commit new crimes.

2.11 Incurability of Some Criminals- Some criminals may be resistant to reformatory and rehabilitative programmes, opting to return to their criminal ways. Although the exact causes of incurability are unknown, there is evidence that heredity may have a role in recidivism. Research has found a strong link between negative hereditary traits, particularly inherited psychopathy, and recidivism. Recidivists have a biologically, physically, and cognitively weaker constitution, making them unable to live a regular life and unable to control their emotions and impulses, allowing them to succumb to criminal temptations.

3. THE COURSE OF RECIDIVISM OVER THE TIME:

The course of recidivism explains about the pattern of the actions of the recidivists. It is as follows-

3.1 Repeat property offences are the most common type of offence. More than 75% of property offenders had been convicted or involved in a previous property offence. That appears to be the motivation behind Section 75 of the IPC, which focuses on harsher penalties for recidivists who

commit property crimes. Drug and sexual offenders are also more likely to relapse into their criminal behaviour.

3.2 Reoffending occurs in most cases within one year following release from prison. Recidivism occurs almost entirely within three years of completing a sentence or being released from jail.

3.3 Violent criminals have the lowest chance of relapsing. Sexual offenders with psychological or biological problems are more prone to re-offend.

3.4 Age, poignantly, is a significant influence in recidivism. People who are penalised at an early age are more prone to relapse into crime, according to research. Because juvenile delinquent records are not kept in India, except when a child between the ages of 16 and 18 is tried as an adult for a heinous crime, the data on recidivism does not contain estimates for the rate of reoffending by juveniles when they become adults. However, there is no reason to suppose that the finding that young offenders are more likely to recidivism applies to India.

3.5 Gender also plays a considerable part in recidivism and men are more prone to reoffending as compared to women.

3.6 People who reoffend are almost always punished harshly. When a person has reoffended, reformatory measures are less likely to be used. For instance, the benefit of probation is denied to an offender against whom a previous conviction has been recorded.

3.7 It has been observed over the time that the offenders with a poor socioeconomic situation and a limited educational background are more prone to re-offend.

3.8 Recidivism is a common, reason for a sentencing court to increase an offender's sentence, and recidivism has little to do with the crime itself, but rather with the penalty.

4. RELATION BETWEEN CRIMINOLOGY AND SOCIOLOGY IN TERMS OF RECIDIVISM:

Before learning about the relation, the exact meaning of the given terms i.e., Criminology, sociology and recidivism must be understood.

The scientific study of crime and delinquency's nonlegal components, such as its causes, remedies, and prevention, from the perspectives of several academic fields such anthropology,

biology, psychology, psychiatry, economics, sociology, and statistics, is known as criminology². Therefore, the study of crime is the essence of criminology. Criminology includes the study of the nature of the crime and the offender, the history of criminal law, the causes of crime, the response of society to delinquency, and the operations of law enforcement and disciplinary institutions.

The empirical investigation of offences, lawbreakers, and the criminal justice system is known as criminology. It looks at the variables that lead to criminal behaviour, including its causes, effects, prevention, and social, economic, and psychological aspects. It is multidisciplinary and encompasses areas such as statistics, law, psychology, sociology, and law. Criminologists investigate prevention tactics, analyse crime from multiple angles, and have a close relationship with criminal justice, which is concerned with the administration of criminal justice systems.

According to its definition, sociology³ is "a social science that investigates human societies, their interactions, and the mechanisms that both conserve and modify them." Along with societal disorder in the form of crime, deviance, and revolution, sociology also analyses social rank or stratification, social movements, and social transformation. Studying the nuances of crucial societal components including organisations, communities, people, and gender, racial, or age groups can be one way to accomplish this research. Sociology focuses on a variety of topics, including social strata, social class, social mobility, religion, secularisation, law, sexuality, gender, unconventionality, health and the medical establishment, the economy, the military, punishment and control systems, the Internet, education, social capital, and the contribution of social activity to medical knowledge.

The theoretical investigation of human communities, their connections, and the mechanisms that both maintain and alter them is known as sociology. It looks at the relationships between groups of people, communities, institutions, age, gender, and race; it also looks at social status, movements, and social change. With roots in the Western tradition of logical inquiry, sociology has a lengthy history, having developed into a specialised field in the 18th and 19th centuries. It addresses a wide range of topics, including shared values, social stability, crime, religion, family, and state. Sociologists employ a variety of research techniques to learn more about the social dynamics influencing people's lives and current issues.

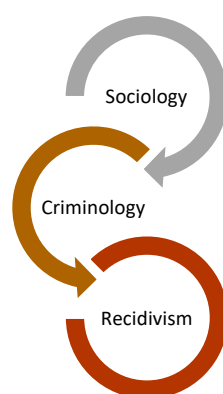
² Dr. Y.S. Sharma, "Crimin-ology And Penology", Law Studys

³ "What is Sociology?", College of Arts and Sciences, The University of North Carolina at Chapel Hill

Recidivism is a terminology that comes under criminology. It is the most fundamental theory of the criminal justice system that is, criminology.

Criminology is a field that combines behavioural and social sciences, focusing on the study of societies and individuals. It is often linked to sociology, which studies societal patterns and eccentricity. Criminology also involves the correction of crimes, or punishment, by studying a society or group of people. Sociology deals with society, while criminology focuses on the crimes and criminal behaviors of offenders within that society. Both fields are related to societal norms, as crimes are often influenced by these norms. Criminology and sociology are interconnected, as crime is closely tied to societal norms and the study of society.

Sociology and criminology are related disciplines that are vital to comprehending and resolving recidivism, the return of condemned criminals to criminal activity. Sociology provides a more comprehensive view of how social structures and factors influence recidivism rates within communities and cultures, whereas criminology concentrates on the psychological and individual components of criminal behaviour and reoffending. Sociologists examine how social interactions, organisations, and structures affect recidivism rates. They look at things like social support networks, poverty, inequality, and prejudice. Researchers and policymakers can create more comprehensive plans to successfully prevent and reduce recidivism by using findings from both fields. Sociology and criminology complement each other well and together offer a thorough understanding of the larger social context of recidivism.



The above pictorial depiction explains the relationship between the three terms sociology, criminology and recidivism. As mentioned in the above paragraphs, Sociology is the main branch, Criminology is a term that is a sub-branch of sociology and Recidivism is a term that is under the sub-branch criminology. Thus, it is understood that the three terms are interrelated.

5. LEGISLATIONS IN INDIA RELATED TO RECIDIVISM:

The tendency of an individual to commit crimes again after having been released from jail is known as recidivism, and the Indian legal system possesses measures in place to address this issue. Treatment of persistent criminals and recidivists is covered by a number of sections⁴ in both the Code of Criminal Procedure (CrPC) and the Indian Penal Code (IPC).

Individuals who commit crimes on a regular basis are classified as habitual offenders under the Indian Penal Code (IPC). For repeat offenders, the IPC stipulates more severe penalties, which may include preventive custody. The code's sections 75, 303, 307(2), 376E, and 413 provide the provisions for repeat offenders.

According to the Code of Criminal Procedure, 1973 (CrPC), habitual offenders are to be held in prisons with the highest level of security and round-the-clock monitoring. When an inmate is released from jail or another correctional facility, the Criminal Procedure Code also requires that they get proper after-care therapy to help them transition into society as law-abiding members. The Code's Sections 41 and 110 discuss repeat offenders.

Apart from these clauses, the Indian legal system has acknowledged the necessity of rehabilitation as a strategy to tackle the problem of recidivism. Rehab and mental health services are critical in lowering recidivism rates, according to India's 2014 National Mental Health Policy⁵. The policy acknowledges that criminal behaviour is frequently influenced by mental health concerns, and that treating these kinds of problems can help reduce the likelihood of reoffending.

Even with these limitations, there are concerns about how well the Indian legal system can prevent recidivism. Certain researchers argue that the high rates of recidivism stem from the prioritisation of retaliation over rehabilitation. They argue that a more all-encompassing approach incorporating after-care support, reintegration, and rehabilitation is necessary to effectively address the issue.

⁴ Marian Pinheiro, "Reforming the criminal justice system in India", O Herald, The voice of Goa

⁵ Snehil Gupta and Rajesh Sagar, "National Mental Health Policy, India (2014): Where Have We Reached?", Indian J Psychol Med. 2022 Sep; 44(5): 510–515

6. PREVENTION OF RECIDIVISM:

The tendency of an individual to commit crimes again after having been released from jail is known as recidivism, and it is one of the main concerns of the Indian criminal justice system. Reducing recidivism requires a comprehensive approach, including evidence-based rehabilitation programs⁶, vocational training, treatment for mental health disorders and drug addiction, and social and family reintegration initiatives. These strategies aim to enhance employability, address root causes of criminal behavior, and reduce recidivism.

According to the United Nations Office on Drugs and Crime (UNODC)⁷, treating prisoners' social integration problems—which cannot be resolved by incarceration alone—is necessary to prevent recidivism.

Providing socio-educational support to inmates while they are incarcerated and during their release, as well as actively involving community members in the rehab of offenders, is one strategy for reducing recidivism in India. Due to its proven ability to lower recidivism rates, music therapy has been employed by the Indian Department of Prisons as a preventive measure.

Finding the risk factors linked to juvenile offenders' recidivism in India is an alternative strategy. Improved juvenile offender rehabilitation programmes lower the recidivism rate, according to a study. youth recidivism is a problem that requires intervention because youth antisocial behaviour does not carry over into adulthood.

There could be certain prison-based programmes. This will include High school diploma and college degree programmes. Vocational training might also be made available. The educational programmes are proposed to aid the prisoners in gaining skills that they can apply when they finish their period of imprisonment and return back to society.

The motivational factors of the convict must be looked upon and it should be improved. This can be done during the period of sentencing. According to a National Institutes of Corrections study⁸ on evidence-based practices, building trust between the defendant, the judge and their

⁶ Chandini Pegu, "Identifying risk factors associated with juvenile offenders' recidivism in India: a theoretical understanding", *Humanities, Arts and Social Sciences Studies (HASSS)*, Volume 21, Number 2 (May-August), 2021

⁷ "Introductory Handbook on The Prevention of Recidivism and the Social Reintegration of Offenders", United Nations Office on Drug and Crime

⁸ Roger K. Warren, "Evidence-Based Practice to Reduce Recidivism: Implications for State Judiciaries", U.S. Department of Justice, National Institute of Corrections

counsel can be a vital factor of changing the convict's behaviour. The study explicitly indicates the effectiveness of trust-building and motivation-building for the convicts in the courts. In situations where the convict had personal communications with the judge, his/her engagement and participation in the sentencing process improved. As a result of such a conversation, the motivation level of the convict was promoted to higher levels. Trust and relationship-building help reduce the convict's feelings of despair and uncertainty in the process. It also inspires them to take an active part in the proceedings which in turn can result in improved chances of avoiding repetition of the offence in the times to come.

There must also be proper acknowledgement given to the mental health of the inmates and the same should be handled with the appropriate treatment. Apart from therapy related to mental health, there must be treatment for substance abuse as well. The convicts must be given proper information about the outside world from that of the prison so that it is easier for them to get back to the community. Collaboration among criminal justice institutions, community organisations, and social services is critical to providing a supportive environment that enables individuals to break free from the cycle of crime and successfully reintegrate into society.

CONCLUSION:

Understanding recidivism—the propensity of individuals to commit crimes again after serving their sentences—is essential to comprehending the criminal justice system. Even while recidivism rates in India are not very high, they nonetheless represent an important aspect of the country's criminal justice system. It is more difficult to comprehend the causes of reoffending and how frequently they occur. Recidivism can be avoided by keeping criminals under constant observation, offering proper aftercare following release from jail, and educating them to assist them find employment after release. This strategy guarantees both the ability to solve the recidivism issue and the protection of society.

Recidivism would not occur if there was a means to stop perpetrating an offence in the name of punishment. However, this is not the case. Recidivism typically carries harsher penalties, such as denial of probation or other releases. Stricter punishments and the denial of probationary status, however, might not always lead to rehabilitation and a decreased recidivism rate.

The only way to prevent an offender from becoming a recidivist is for society to change its perception of them. After all, criminals are products of society, and this can only be achieved

by raising awareness and providing education. This paper has discussed a few preventive strategies to prevent recidivism, but there are additionally many more that require to be found that encourage criminals to commit the same crimes repeatedly. Additionally, it is critical to take into account a foreign strategy for recidivism prevention that has been proven to be effective. Although it may seem unattainable, there are a few strategies that could lower the recidivism rate.

Therefore, preventing recidivism requires an all-encompassing and compassionate strategy that encompasses community support programmes, education, job, and mental health initiatives, as well as rehabilitation in correctional facilities. Society can end the cycle of recidivism by identifying the different factors that lead to criminal activity and giving them the resources and support they need to start over. In addition to enhancing public safety, funding successful reintegration and rehabilitation of ex-offenders also advances a fair and humane criminal justice system.