
CRIMINAL TRIBES TO HABITUAL OFFENDERS: HISTORICAL ROOTS OF LEGAL FRAMEWORK IN INDIA

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ABSTRACT

This paper analyses the historical roots of the law relating to habitual offenders and the concept of criminal tribes in India, the role of the colonial policies that targeted the whole tribal community as criminals by birth. The British rulers introduced the idea of “Criminal Tribes” Through the enactment of the Criminal Tribes Act 1871, which targeted specifically some communities and castes as inherently criminal. This Act serves as the foundational framework for the current laws relating to Habitual Offenders in India. This law pertains to individuals who repeatedly commit crimes. It has been used to identify and monitor individuals with a history of recurrent criminal behaviour who pose a danger to society. After the enactment of the Indian Constitution, the Criminal Tribes Act of 1871 was repealed from the central Act. Currently, the laws relating to repeat offenders are governed by laws enacted in various states in India, which replace the title “Habitual Offender” with “Criminal Tribes”. However, discriminatory or targeting mindsets still exist in the police administration system. This study focused on the concept of Criminal Tribes and analysed the roots, current situation, and judicial trends regarding Habitual Offenders in India.

Keywords: Habitual Offenders, Criminal Tribes, Recidivism, Crime, Criminal Law.

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I. Introduction

Crime is an integral part of human history. It is a universal phenomenon. No country is entirely free from it. A person who has been convicted, released, and then commits another offence is considered a Habitual offender.³ Specifically, this term refers to a person who recurrently engages in unlawful acts and exhibits antisocial behaviour, posing a danger to society.

Understanding who qualifies as a habitual offender under Indian law is essential to grasping how the legal system responds to repeat offenders. In the Indian context, the concept of habitual criminality originated in the colonial era, when habitual offenders were perceived as ruthless and barbaric. The British rulers took action against them, enacting a separate law to tackle these criminals, known as *the Criminal Tribes Act 1871*. This represented the whole tribe community as a criminal.⁴ And this is the basic legal framework for habitual offenders in India.

II. Who Were the 'Criminal Tribes'?

Repeat offenders have existed in India since medieval times, especially in cases of theft, robbery, and dacoity. During British rule, the colonial government viewed tribal communities as criminals by birth and passed laws to control them. *The Criminal Tribes Act of 1871* was introduced to register and monitor these groups. Therefore, the term 'Criminal Tribe' came into existence,⁵ Via this Act. The Idate Commission highlighted that "the phrase 'criminal tribe' was first concocted, and the system of registration began". The CT Act provided for "a gang, a tribe, or a class of people" to be affirmed criminal, and was enhanced throughout India in the decadal.

In 1924, it was enacted in British India. It's labelled certain whole communities as criminal in a drastic manner.⁶

Origin of this policy from Regulation XXII of 1793, which gave the power to the magistrates to imprison specific tribes on mere suspicion. After that, the Indian Penal Code of 1860 and the

³ Dr. RAJ KUMAR, HABITUAL OFFENDERS AND THE LAW, 2, 1st ed. 2017.

⁴ Sona Singh,Criminal Tribes Act 1871 and Pakhiwars of the Punjab, International journal of History 2024, 26/09/2024, <https://www.historyjournal.net/article/412/7-5-12-709.pdf>, (last Visited 15/09/2025)

⁵ S.N Gordon, Scarf and Sword: Thugs, Marauders, and state Formation in 18th century Malwa, IESHR, 403. (1969). see also F.C. Daly, Some Types of the Indian Hereditary Criminal, Vol. 1. (1928)

⁶ Ministry of Social Justice and Empowerment, Idate Commission, 08/01/2018,<https://socialjustice.gov.in/writereaddata/UploadFile/Idate%20Commission.pdf>. (last Visited 15/09/2025)

Criminal Procedure Code of 1861 regulated the registration of dacoits and thugs. This formation was established by the Criminal Tribes Act, which permits an entire tribe or caste to be designated as criminal. Even though the Act was repealed after Indian independence, its influence continues to shape how law enforcement authorities treat repeat offenders in modern democratic societies.

The roots of this policy go back to Regulation XXII of 1793, which gave magistrates the power to imprison or force labour on certain tribes based on mere suspicion. Later, the Indian Penal Code (1860) and Criminal Procedure Code (1861) helped maintain registers of “dacoits and thugs.” The Criminal Tribes Act formalised this system, allowing entire tribes or castes to be designated as criminal. Although the CT Act was repealed in 1952 following the adoption of the Indian Constitution, its effects continue to influence how repeat offenders are treated under Indian law.⁷

III. Concept of Habitual Criminality

The ideology of habitual criminality is based on the notion that repeated offences show a personal behaviour. In India, the individual character of the accused is admissible for his recurrent offences, as in other countries. The law assumes that if someone has committed multiple crimes over time, they are likely to continue doing so unless restricted.⁸ A habitual offender is not just someone who has committed crimes more than once, but someone whose repeated actions suggest a deep-rooted tendency toward criminal behaviour. This concept is recognized as a separate legal category, and courts must determine whether an individual fits this definition based on evidence of repeated offences.⁹

i. Meaning and Legal Definition of Habitual Offenders

A habitual offender is an individual who repeatedly commits illegal acts despite having been convicted and punished for earlier offences. These individuals often repeat the same or similar offences and are considered difficult to rehabilitate. While all repeat offenders are called

⁷ Ministry of Social Justice and Empowerment, Idate Commission, 08/01/2018, <https://socialjustice.gov.in/writereaddata/UploadFile/Idate%20Commission.pdf>. (last visited 16/09/2025)

⁸ J.A. Royce McCuaig, *Modern Tendencies in Habitual Criminal Legislation*, 15 Cornell L. Rev, 64 (1929).

⁹ Vijay Narain v. State of Bihar, AIR 1984 SC 1334 at 1338; see also, Debu V. State, 1995 Cr.L.J 3547 Oris.

recidivists, habitual offenders are seen as more dangerous due to their consistent criminal behavior.¹⁰

According to the *Encyclopedia Britannica*, a term habitual offender refers to “a person who has habitually been apprehended and punished, who has manifested a settled practice in crime and who is thought to be a danger to the harmony of society.¹¹ A dangerous person means a person who either himself or as a member of, or leader of, a gang habitually commits, attempts to commit, or abets the commission of a crime.¹²

Criminologist Cesare Lombroso (he has been called the father of modern criminology, an Italian who lived between 1835 and 1909, a specialist in psychiatry) believed that habitual criminals are not inherently with abnormal traits but are moulded by negative environmental factors such as poor upbringing, lack of education, poverty, or bad company.¹³

In India, various state laws define habitual offenders similarly. Key criteria include:¹⁴

- The person must have been sentenced to prison at least three times.
- The offences must be listed in the schedule of the relevant law.
- Each offence must be separate and committed on multiple occasions.
- The age of the offender must be 18 years.

“Habit” means a consistent pattern of behavior.¹⁵ It is to be demonstrated by an aggregate of illegal acts. One or two offences are not enough to label someone a habitual offender. Instead, repeated and similar acts over time must be shown to prove a criminal habit.¹⁶ However, it reveals the person's habits and character as evidence.¹⁷

¹⁰ Ayub v. S.N.Sinha, 4 SCC 552 (1990).

¹¹ The New Encyclopedia Britannica, 603, 15th ed, 2002.

¹² THE KARNATAKA HABITUAL OFFENDERS ACT 1961 Sec 2(c).

¹³ PARVESH K. ATRI, SOCIOLOGY OF CRIME AND CRIMINOLOGY, 234. (1st ed. 1998,).

¹⁴ BARNES & TEETERS, NEW HORIZONS IN CRIMINOLOGY, (3rd ed. 1955,).

¹⁵ Rashidmiya v/s Police commissioner Ahmedabad 3 SCC 321, (1989).

¹⁶ Mohan Parmanand v. M.G Ingle Cr. L.J. 1017, (Bom) (2004)

¹⁷ Dulal Nishad v. State of Jharkhand, 2002 Cr. L.J 2845 (Jhar).

ii. Nature of Habitual Criminality

In India, the ideology of habitual criminality is closely tied to the concept of recidivism, repeated criminal behaviour despite prior punishment. The term recidivism connotes a persistent tendency to reoffend. A recidivist is a person who repeatedly relapses into an offence. The foundation for this approach was laid in England through the *Prevention of Crime Act 1908*, which shifted the focus from merely identifying repeat offenders to recognising habitual criminals as a distinct criminological category. This Act empowered courts to impose preventive detention in addition to regular sentencing, based on different charges of being a habitual criminal.¹⁸

iii. Key Characteristics of Habitual Criminals

Habitual criminals typically exhibit the following traits:¹⁹

1. **Crime as Livelihood:** They treat crime as a profession, often engaging in property-related offences.
2. **Early Delinquency:** Many begin with juvenile delinquency, though not all delinquents become habitual criminals.
3. **Prison as Training Ground:** They use incarceration to learn new methods of committing crimes.
4. **Anti-Social Attitudes:** They develop favourable views toward crime and hostility toward law enforcement and society.
5. **Psychological Normalcy:** They are generally not mentally ill or abnormal; their criminality stems from environmental and social influences.

The term "habit" implies a consistent pattern formed through frequent repetition of similar acts. It reflects a moral and behavioural decline, evidenced by repeated offences. Habitual criminality must be proven through a series of acts, not isolated incidents. It is an aggregate of facts.²⁰ Social factors, such as poverty, family instability, inadequate education, and negative

¹⁸ vLex, <https://vlex.co.uk/vid/prevention-of-crime-act-808108161> (Last visited 17/9/2025).

¹⁹ BARNES & TEETERS, NEW HORIZONS IN CRIMINOLOGY, (3rd ed.1955,).

²⁰ Subhayam Achari Gopalanachari v. State of Kerala, Cr. L.J. 1359, Ker.(1981).

peer influence, play a significant role in shaping this behaviour. In essence, habitual criminals are often products of adverse socio-economic conditions.

iv. Crimes for Registering a Person as a Habitual Offender

State-level habitual offender laws include a schedule of offences that can trigger this classification. Common examples are:

- Being identified as a “robber”
- Membership in a gang of dacoits
- Living off the income of prostitution
- Repeated acts of “lurking” or suspicious behaviour

States maintained registers of habitual offenders and developed prison regulations to manage them. Jail manuals often adopted this terminology, and in some cases (e.g., Rajasthan), persons belonging to denotified tribes were still labelled as habitual offenders. In 1998, the custodial death of Budhan Sabar, a member of a denotified community, became a turning point. His custodial death sparked national-level protests and renewed scrutiny of how habitual offender laws are being misused by police authorities.

IV. Historical Evolution of Habitual Offender and Criminal Tribes Laws

British colonial rule drastically altered India’s rural socio-economic landscape. Many communities lost their traditional livelihoods and turned to theft and robbery for survival. The British labelled these groups as “Criminal Tribes,” viewing them as hereditary criminals who trained their families in unlawful activities.²¹

Even before British rule, highway crimes were common. Travellers in the seventeenth century often complained about robberies, especially near Delhi and Agra. As the Mughal Empire declined and British power grew, these crimes persisted. In response, the British government

²¹ SANJAY NIGAM, *'Disciplining and Policing the Criminals by birth, Part -I: The Making of a Colonial Stereotype-The Criminal Tribes and Castes of North India*, 27. IESHR, 135.1(1990).

enacted the *Criminal Tribes Act (CTA) 1871*, later revised in 1924, to monitor and control these communities.

With the adoption of the Indian Constitution, the *Criminal Tribes Act Enquiry Committee Report (1949–50)* recommended the abrogation of the CT. Act and replace it with an Act that targeted habitual offenders based on individual behaviour, rather than caste or birth. In 1952, the CTA was replaced, and troubled communities were recognised as *Denotified, Nomadic, and Semi-Nomadic Tribes (DNTs, NTs, SNTs)*.²²

Despite that, many states had already enacted their own habitual offender laws, such as:

- *Punjab Habitual Offenders (Control and Reform) Act, 1952*
- *Madras Restriction of Habitual Offenders Act, 1942*
- *Karnataka Habitual Offenders Act, 1961*
- *Himachal Pradesh Habitual Offenders Act, 1969*

These statutes transformed the focus from community-based profiling to individual criminal records. But the practice of the Criminal Tribes Act continues. The *Lokur Committee Report (1965)* highlighted that denotified tribes were considered to have an “affinity for crime,” and some specific communities were treated in this way, reflecting the enduring stigma of British administration.²³ In 1980, the concept was popularised, and laws were provided for higher punishment for repeat offenders, but they did not ensure the rehabilitation of those criminals in India.

V. Current Status in India

The British administration of justice, which criminalised the entire community through the Criminal Tribes Act, may have been formally repealed in 1952, but its oppressive legacy remains through state policing practices. In India, the existing state habitual offender

²² INDIAN CULTURE: <https://indianculture.gov.in/reports-proceedings/report-criminal-tribes-act-enquiry-committee-1949-50> (Last visited 17/08/2025).

²³ Tribal Affairs: <https://tribal.nic.in/downloads/Statistics/OtherReport/LokurCommitteeReport.pdf> Last visited : 17/09/2025)

legislation showcases a complex interplay of reform initiatives and evolving constitutional narratives.

i. From Outrage to Advocacy

In 1998, the turning point came with the lockup death of Budhan Sabar, a denotified tribe member, in West Bengal.²⁴ In response, activist Mahasweta Devi and G.N. Devy took the initiative to form the *Denotified and Nomadic Tribes Rights Action Group (DNT-RAG)*, which started a magazine named *Budhan* to show the realities of these communities. DNT-RAG wrote a letter to the National Human Rights Commission (NHRC) and the United Nations Secretary General, pointing out how police and society treat DNTs as “born criminals” even after the repeal of the Criminal Tribes Act. The letter cited police atrocities and misuse of the law, particularly in Bombay.²⁵

ii. Institutional Responses and Legal Critique

The NHRC formed an Advisory Group in 2000, which recommended repealing habitual offender laws. Afterwards, the national commission examining DNT, NT, and SNT communities has acknowledged the adverse impact of these laws.²⁶ In 2007, the UN Committee on the Elimination of Racial Discrimination called for their nullification. The *Renke Commission Report* (2008) reiterated the obstructive consequences of these Acts on community life.²⁷ In 2014, the High-Level Committee on Tribal Affairs, chaired by Professor Virginius Xaxa, observed that the criminality tag labelled to DNTs persisted due to the replacement of the CTA with habitual offender laws.²⁸ In 2020, journalist Sukanya Santha highlighted caste-based discrimination in Indian prisons, as well as the treatment of those labelled as habitual offenders. Her findings led to a petition before the Supreme Court.

²⁴ The denotified and nomadic tribes of India: Appeal for justice and struggle for rights. (1999). *Interventions*, 1(4), 590–604. <https://doi.org/10.1080/13698019900510841> (Last visited 18/09/08/2025).

²⁵ Id. at 20.

²⁶ NHRC, <https://nhrc.nic.in/press-release/habitual-offenders-act-be-repealed-nhrc-takes-cause-denotified-and-nomadic-tribes> (Last visited 19/09/2025).

²⁷Shankar IAS Parliament, <https://www.shankariasparliament.com/current-affairs/gs-i/habitual-offender-laws-in-india> (19/09/2025).

²⁸Rajya Sabha Debates, https://rsdebate.nic.in/bitstream/123456789/649820/1/IQ_236_05082015_U1909_p314_p315.pdf. (Last visited 20/09/2025).

iii. Judicial Observations and State-Level Reactions

In 2024, Chief Justice D.Y. Chandrachud pointed out significant observations. While habitual offender statutes were not directly under challenge, the Court noted their historical misuse. It stated:²⁹

The ‘habitual offender’ legislations were enacted to replace the Criminal Tribes Act. However, in States such as Rajasthan, they were used to refer to members belonging to criminal tribes/denotified tribes... This cannot be accepted. A whole community ought not to have either been declared a criminal tribe in the past or a habitual offender in the present.” The constitutional bench urged States to review the continued relevance of such laws.

iv. Divergent State Responses

According to the Ministry of Home Affairs, several States have taken steps to disengage from the habitual offender framework:³⁰

- **Punjab:** No implementation or register maintenance in the past five years.
- **Odisha:** No charges have been brought under the law within the past five years.
- **Andhra Pradesh:** No prisoners under the current law.

Other States have adopted varied stances:³¹

- **Goa:** Argued that the absence of DNTs negates misuse, suggesting retention of the law.
- **Gujarat:** Opposed repeal, claiming no intent to harass.
- **Telangana:** Defended the law as preventative in nature.
- **Uttar Pradesh:** Claimed overlap with the Goondas Act renders repeal inconsequential.

²⁹ Sukanya Shantha v. Union of India & Ors. 10 SCR 493, (2024).

³⁰ Ibid 15.

³¹ The Hindu : <https://www.thehindu.com/news/national/habitual-offender-laws-in-effect-in-14-states-and-uts-says-government-in-lok-sabha/article69318507.ece> (Last visited 21/09/2025).

v. Statistical Snapshot

According to the National Crime Records Bureau (2022), approximately 1.9% of India's 1.29 lakh convicted offenders were categorised as habitual offenders.³² Notably, **Delhi** reported the outrageous proportion, with **32%** of offenders falling under this category.³³

VI. Conclusion and Suggestions

The evolution of habitual offender laws in India reflects a troubling continuity between colonial penal ideologies and post-independence legal frameworks. It begins with the *Criminal Tribes Act*, which was enacted through the states' *Habitual Offenders Acts*. Apparently focused on individual habitual offenders irrespective of caste and community, but often retaining the same prejudicial logic in practice. Regardless of the nullification of the CT Act in 1952 and the constitutional guarantees of equality and dignity, the tribal people (DNTs, NTs, SNTs) have continued to face systemic discrimination in surveillance and criminal profiling.

Some significant suggestions aim at genuine social justice; The State must initiate anti-discrimination policies within prison systems, remove discriminatory references to habitual offenders in jail manuals, police registers, and training centres. There is a need for a uniform law to tackle habitual offenders and avoid overlap with preventive detention laws, such as the *Goondas Act*. In its current form, the legal framework for habitual offenders merely showcases a superficial understanding of democratic justice. Still, it also stands as an ideology of colonial control, and this challenge ahead is not simply legal but also moral.

³² NCRB, <https://www.ncrb.gov.in/> (Last visited 22/09/2025).

³³ Delhi Prison, <https://tiharprisons.delhi.gov.in/>, (last visited 22/09/2025).