

- **UNIT X –**
- **RECIDIVISM**

- **Contents –**
- Who is recidivist ?
- Causes of recidivism
- Recidivism in India
- Supreme Court on recidivism
- Prevention of recidivism
- Reformatory method

- **Recidivism –**
- **Meaning of Recidivism-**
- Recidivism means the commission of the crime by habitual offenders.
- A/c to Lombroso's "**Theory of Born Criminal**", some people are born criminal. They cannot abstain themselves from committing a crime due to their peculiar physical traits & mental condition.
- Recidivism is a term used to mean people who are the repeaters of crime.

- **Recidivist –**
- An offender who has a long criminal record & has been a frequent inmate of penal or correctional institution & who shows scant regard for institutional adjustment is known as a recidivist.
- A recidivist or a person habitually addicted to crime is one who is a criminal by habit or by disposition formed by the repetition of crimes.
- These are the persons who have embraced criminality as a mode of life.

- They commit crime with boldness & courage.
- Reformatory measures of treatment completely fail in case of such offenders.
- Imprisonment is the only alternative to prevent recidivists from repeating crime.
- The ever –increasing commission of crime habitually is undoubtedly a crucial problem for penologists in the crime control & rehabilitation of offenders.
- Recidivists are different from Habitual offenders
- Recidivist are those convict having the same title or kind of offense, habitual offenders are persons who are repeatedly indulged in the crime as a habit.

- **Essentials of Recidivism –**

The following are the main elements of recidivism -

- 1) Frequent commission of crime.
- 2) Act of recidivism by those who had already been convicted for some offence.
- 3) The frequent commission of crime habitually like other routine works.
- 4) Recidivism has no connection with physical or mental capacity of other offender.
- 5) Recidivist or habitual offenders do not fear from law or society.

- **Causes of Recidivism –**
- Prof. Sutherland attributes two major causes for recidivism, namely-
  - 1) Social Psychology of the Offender**
  - 2) Inadequacy of Reformative Techniques**

## **Causes of Recidivism –**

- 1) Lack of socialization
- 2) Lack of job training/Unemployment
- 3) Inability to socialize after returning from prison
- 4) Anti-social attitudes
- 5) Restlessness/ Impulsiveness
- 6) Association with other criminals
- 7) Lack of education
- 8) Lack of support
- 9) Substance abuse
- 10) Neglect or abuse of parents or guardians.

- **Recidivism in India –**

- The problem of recidivism has reached alarming dimensions in India.
- The data compiled by the **National Crime Record Bureau (NCRB) in 2014**, shows that, the problem of recidivism has reached alarming dimensions in India.
- Notably, the incidence of recidivism in urban areas is far more than those of rural regions.
- Sex-wise, males are more prone to recidivism than female offenders perhaps because of their physical strength & adventurous temperament.

# **Laws Relating to Recidivism/Habitual Offenders**

## **1) Indian Penal Code, 1860**

**Section 413** - The provision relating to the persons who deal in stolen property habitually.

**Section 310** - Provisions relating to the thug.

## **2. Criminal Procedure Code, 1973.**

**Section 41**- When police may arrest without warrant.

**Section 42** - Arrest on Refusal to give name & residence.

**Section 43** - Arrest by private person & procedure on such arrest

**Section 110** - Security for good behaviour from habitual offenders.

### **3. Indian Evidence Act & Habitual Offenders**

- **Section 53** - Character when relevant –
- In criminal cases, previous good character is relevant.
- In criminal proceedings, the fact that the person accused is of a good character is relevant.
- **Section 54**- Previous bad character not relevant, except in reply.
- In criminal proceedings the fact that the accused person has a bad character is irrelevant, unless evidence has been given that he has a good character, in which case it becomes relevant.

- **Statutory Laws dealing with Habitual Offenders –**
- 1) The Water (Prevention & Control Of Pollution) Act, 1974.
- 2) The Air (Prevention & Control Of Pollution) Act, 1981.
- 3) The Protection Of Civil Rights Act, 1955
- 4) The Prevention Of Corruption Act, 1988
- 5) The Immoral Traffic (Prevention) Act, 1956
- 6) The Arms Act, 1959.

## Supreme Court on Recidivism –

- 1) Suresh Chandra V. State of Gujrat (1976)
- The Supreme Court suggested **liberal use of parole as a penological innovation** to check recidivism.
- The parole has the effect of premature release and it is an accepted mode of incentive to a prisoner as it saves him from extra period of incarceration & preventing from turning a recidivist.

- **2) Mohd. Giasuddin V. State of A.P. (1977)**
- The Supreme Court of India pointed out that the State has to rehabilitate rather than avenge. The sub-culture that leads to anti-social behaviour has to be countered not by undue cruelty but by re-culturisation.
- Rajendra Prasad V. State of U.P.
- Dalbir Singh V. State of Punjab
- Bachan Singh V. State of Punjab.

## **Prevention of Recidivism –**

- 1) Classification of Criminals
- 2) An adequate after care treatment & the correctional measures
- 3) Provision for money & assistance in finding suitable jobs.
- 4) Amendment in the undue lengthy procedure of criminal trial
- 5) Individualization method of treatment
- 6) Keeping recidivists in prisons under maximum security.

- **Reformative Methods & Recidivism –**

- 1) Meditation

- 2) Moralization

- 3) Clinical Method

- 4) Group Relations Method