

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 4 | Issue 5

2021

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Critical Evaluation of the Imprisonment and Recidivism

ANKITA¹

ABSTRACT

Criterion of Imprisonment in criminal law is to deter the offender from falling back into criminal behavior. The purpose of punishment is to reform a person who committed a crime and find the opportunity of living again in the society so that they could gain what they have lost. There has been an increase in the recidivism among offenders across world, and India presents a very twisted picture of rate of Recidivism, despite that there is no universally accepted parameters for reporting Recidivism. Therefore it becomes imperative to study about Recidivism and how it is related to imprisonment, which is cog in the wheel for determining journey of an offender and recourse to be taken. This article endeavours critically analyses the patterns across the world of offenders who recidivate ; causes of Reoffending ; the association and extent of such association with Recidivism ; and lastly this article gives some suggestion to ebb this evil, over the world, along with analyzing some best practices around the world.

Keywords: *Imprisonment, Recidivism, penology, criminology, punishment.*

I. INTRODUCTION

In terminology of criminal law, “imprisonment” means to deprive freedom and authority of individual within a certain or infinite period of time so that there is no expectance of freedom. Hence, prison is a place where the offenders and criminals are kept under a written warrant of judicial authority temporarily or permanently for a certain time with the aim of reforming, correcting and treating social disorders. So it can be said that prison is a corrective mechanism to reform human.²

The main philosophy of prison is: 1. Punishment; 2. Prevention from evilness; 3. Preventing criminal from escape. The expectation that imprisonment will deter the offender from future criminal activity is central to criminal justice system, around the world.³

In terms of education, the pivotal task of prison is rehabilitation and renovation of prisoners.

¹ Author is a student at Campus Law Centre, University of Delhi, India.

² Amir Alahdadi, "Prison and Its Impact on Recidivism" (2016) 9:5 J Pol & L 59.

³ *ibid*

The period of imprisonment is an opportunity for the prisoner to gain technical skills and utilize them for a job after releasing from prison. If the prisoner had a particular career or occupation before that, he can enhance the technical capacity using the training facilities.

Recidivism is a central phenomenon of criminal justice. “Recidivism” as a concept is a microcosm of whatever is wrong with a nation’s criminal justice system. Recidivism is the part of a criminal’s behavior that proves that once a criminal, always a criminal.

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”. 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).

Recidivism research is often a difficult topic to address. Researchers often debate the measures of recidivism in order to identify the indicators that offer the best predictors. However, it has been concluded that researchers typically define recidivism by three measures: re-arrest, reconviction, and re-incarceration (re-imprisonment); however, researchers operationalize recidivism as re-incarceration.⁴

II. STATISTICAL ACCOUNT OF IMPRISONMENT AND 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 accepted standards and parameters for measuring and reporting true recidivism which exacerbate Recidivism landscape across world.

Recidivism has grown into a serious issue in many countries over the world including developed ones like the United Kingdom and the United States, wherein the national rate of recidivism is very high. Considering that the overall rate of crime increases with time, there will be a corresponding increase in the rate of recidivism which will affect such countries adversely unless swift and drastic measures are taken to fundamentally overhaul sentencing and prison system⁵. The recidivism rate in India is much lower as compared to the above-mentioned nations, being a mere 3% according to the 2019 report by the NCRB (National

⁴ Chappell, Cathryn A. “Post-Secondary Correctional Education and Recidivism: A Meta-Analysis of Research Conducted 1990-1999.” *Journal of Correctional Education*, vol. 55, no. 2, 2004, pp. 148–169.

⁵ S. Manikandan and K. Jaishankar, ‘Recidivism among Prisoners in Tihar Jail and Contributing Factors: A Qualitative Study’ (2018-19) 46 & 47 *IJC* 46.

Crimes Record Bureau). Such a low rate gives rise to the obvious perception that India probably either has a low conviction rate or that it has in place a concrete legal and social rehabilitation framework for ex-convicts, whereas the reality is that the current conviction rate is 46.8%, based upon only the cases registered under the Indian Penal Code (IPC) while ignoring the cases registered under the local and special legislations.

Now, taking into account the large percentage of sub-judice cases under the IPC, that is 65.1% in 2018, what is clearly understood is that the rate of conviction and the rate of recidivism both stand severely affected, resulting in a misleading statistical interpretation of the country's actual position on Recidivism⁶. The important and concerning thing to note here is that India is not having a separate, specialized and dedicated institution for training of officials and authorities in prison administration system. The same is the case with Recidivism, there isn't any dedicated institution or wing to deal with the issue of prisoners reoffending postrelease. The only people in the business of working toward the correction and reformation of former offenders are the nation's prison authorities, albeit following particular and rigid orders for prison management. Therefore, the low rate of recidivism happens to be the direct outcome of the numerous factors causing recidivism on a sociological scale instead of prisoner reformatory programs.

It is pertinent to note here that, Prison Statistics of India Report, 2019 also exhibits huge regional variations, with some states like Mizoram and Nagaland having Recidivism rates of 45% and 12% respectively, Some Union Territories with rates like Delhi and Andaman and Nicobar islands having recidivism rate of 32.8% and 9.8% respectively.

A May 2018 U.S. Department of Justice report on state prisoner recidivism followed a sample of the 412,731 prisoners released by 30 states in 2005 - Overall, almost 45% of the former prisoners were arrested within one year of release; 16% were arrested for the first time in the second year, 8% in the third, 11% in years four to six and 4% in years seven to nine. Thus, about 68% were arrested within three years, 79% within six years and 83% in nine years. ORF data states that Recidivism rate in USA is 55%.

Ministry of justice report for England and Wales provides key statistics on proven reoffending for adult and juvenile offenders who were released from custody, received a non-custodial conviction at court, or received a caution in the period January to March 2018. The overall proven reoffending rate was 28.7% for the January to March 2018 offender cohort. This was reported to be lowest in twelve years but this rate was fluctuating between 28.7% and 31.8%

⁶Ibid supra note at 6

over the same period. It also pointed out that adult offenders had a proven reoffending rate of 28.0% . While Observer Research Foundation (ORF) states the recidivism rate in UK to be 72%.

It is also important to address the risk factors that influence recidivism or an offender's propensity to recidivate. Many risk factors influence recidivism, specifically race, age, gender, marital status, socioeconomic status (SES), educational attainment, and employment status.

III. CAUSES OF RECIDIVISM

(A) Unemployment

Unemployment is one of the main reasons why probation or correctional programs aren't bearing fruits. Unemployment makes it smooth for offenders and prisoners to slip back to criminal culture. Unemployment is cause and effect of recidivism, as people are embracing criminal culture because of high rates of employment and on other hand people slipping back to this culture are unemployed because of their criminal track record or criminal status. Unemployment brings poverty which increases the prospects of taking up the petty offences than starving and living in degraded conditions. Unemployment means no payment for correctional programs and no court fees, and to seek a recourse, offenders might engage themselves in some illegal avenues which in turn result in higher reoffending. It is to be noted that Unemployment leads to people lacking conformity i.e., they have little to lose which increases probability of their indulgence. Unemployment also means that not much is at stake if a person re-offends, which if not propelling him/her to recidivate, can surely makes indulgence into criminal culture smoother. It makes recidivating much easier for a person than to acquire skills and look for a job.

(B) Age, Gender and Education

The age, gender and education of a prisoner are very relevant to be considered while predicting whether that person is likely to backslide into recidivism. Often, age is identified as a risk factor of recidivism. The statistics available on recidivism rates collected by the Bureau of Justice Statistics in USA from prisoners released in 1994 with a three-year follow-up was utilized in a 2015 study in order to show the risk factors of recidivism. According to the said study, as an offender ages the likelihood for that offender to return to crime at six months post-release reduces from 38.6% to 25.9% among the 21–30 years of age group. As well, this reduction in recidivism can be noted for all indicators utilizing follow-up periods ranging from six months

to three years.⁷ Literature has also shown that with increase in age, people often develop more stability, which leads to a reduction in criminal activity or desistance. This maturation provides some explanation of the influence of age on recidivism.⁸

Without education, children tend to become socially aimless and eventually deviate from normally accepted social behaviour owing to status frustration⁹. This again is true for adults as well. The likelihood of a male, who has not completed his high school in addition with a prior arrest record, to slip back to previous offences, is more likely than others¹⁰. Education provides a meaningful and gainful employment which allows a person to take licit means of earning money to fulfill all their needs. Whereas a person without a gainful employment, can take up illicit means to get their needs fulfilled, as it appears to be a low hanging fruit to them, as licit means by gainful employment means longer waiting periods for developing the relevant skillset and fighting the competition of getting a job among suitably skilled pool of job seekers. Another aspect of correlation between education and recidivism is that, a person with education has a social and academic circle which apart from motivating to achieve particular goals and therefore a sense of achievement also gives a person an anchor in life to have a sense of belongingness and something to lose.

Education is cause and effect of Recidivism- it makes people recidivate because they do not have the required educational standards to work and understand what is right and what is wrong, no education also leads to prisoners get zero social knowledge, which turns them into “anti-social elements”, whereas, on the other hand it is because people recidivate and relapse into criminal culture, they never happen to have a basic level of education. According to Bureau of Justice report, there is a 43% reduction in recidivism rates for those prisoners who participate in prison education programs. Indeed, the higher the degree, the lower the recidivism rate is: 14% for those who obtain an associate degree, 5.6% for those who obtain a bachelor’s degree, and 0% for those who obtain a master’s degree.

A study by Alison Hill (2015) of Loyola University School of Law shows that Inmates are statistically an under-educated community compared to the general population. Many inmates come in with lower reading levels for their ages. Inmates tend to also lack basic writing and math skills. Academic education for inmates can include anything from General Educational Development (GED) and literacy classes to community college courses. Not only do such

⁷ : Hall, Lori L. “Correctional Education and Recidivism: Toward a Tool for Reduction.” *Journal of Correctional Education* (1974-), vol. 66, no. 2, 2015, pp. 4–29.

⁸ Ibid.

⁹ IANS, ‘Vinci Da movie review: the most original thriller of India’ (*The New Indian Express*, 14 April 2019)

¹⁰ Joseph, Jennifer, "Characteristics of Recidivism among Intensive and Regular Probationers." (2001).

academic educational programs help advance the educational ability of the inmates, but after their release many state funded higher education institutions won't admit convicted felons into college programs. Inmates have limited opportunities to obtain degrees post-release. The glaring obstacles that released offenders must face post-release include not only social stigma but bans of licensure and denial of employment. It has also been pointed out in the study , one more prong of inmate education, which is free vocational services. It is a challenge for anyone without formal education to obtain stable employment. For inmates, the chances of getting employment postrelease are grim. However, for those who participated in inmate education , their chances of receiving post-release employment are greater than for those who did not. This has been the general scenario throughout the world.

(C) Race

Race is also a risk factor of recidivism, and is useful in the prediction of recidivism. According to Coley and Barton (2006), among all racial categories, blacks have the highest rates of incarceration. In addition, the highest rates of recidivism among all racial categories can be seen among blacks.¹¹ Blacks have a recidivism rate of 77.6% at three years post-release compared to 69.3% recidivism among whites.¹² Very important to mention here is the Casteism prevalent in India , which does not allow people from “lower” castes to come out of the vicious web of crimes and incarceration. The “caste tags” with prisoners along with their past criminal records makes it very difficult for such former inmates to get employment in a social environment where caste is given obnoxiously high importance.

(D) Social Ecology

Research shows offenders who are married, often have lower rates of recidivism than single offenders. In fact, literature states marital status as reducing crime and recidivism due to familial ties or bonds.¹³ These social bonds play significant role in reducing incarceration and also the recidivist tendencies among past offenders. These give a sense of “something to lose” and hence decrease the chances of recidivating and putting these social bonds in a disadvantageous position. Familial ties has been shown to have positive relationship with parole success and decreasing rate of recidivism. Some studies wherein- Ohlin (1951) constructed an "index of family interest" and compared the number of visits and number of visitors for a sample of releasees from Illinois state prisons drawn from 1925-1935. Inmates

¹¹ Ibid, supra note 8

¹² Ibid, supra note 8

¹³ Burton, Velmer S., Francis T. Cullen, T. David Evans, and R. Gregory Dunaway. "Reconsidering Strain Theory: Operationalization, Rival Theories, and Adult Criminality." *Journal of Quantitative Criminology* 10, no. 3 (1994): 213-39.

who were classified as maintaining active family interest were successful on parole, whereas those who were classified as loners experienced significantly lower rate of success. Holt & Miller's (1972) postrelease follow-up study of 412 men who had been paroled for at least one year compared reimprisonment rates among groups who differed in the number of different visitors during their final year of incarceration. Adams & Fischer (1976) compared the mean number of letters and visits recidivists received versus those of nonrecidivists. Leclair (1978) compared recidivism rates for parole releasees who participated in a furlough program to those who did not. Howser et al. (1983) compared recidivism rates for releasees who participated in a program specifically designed to strengthen family ties and prepare prisoners for returning to their families with the expected recidivism rate. Each of these studies found that stronger ties between inmates and families and close friends during imprisonment yielded better outcomes postrelease. Prisoners who experienced more family contact--whether through visits or mail, or via participation in programs intended to facilitate family contact--experienced lower recidivism rates and greater postrelease success.

The interviews of 49 New York state Prison inmates by Vera institute of Justice revealed two important areas of family support: emotional support and housing assistance. Researchers found family acceptance and encouragement as well as perceived emotional support from family were both related to postrelease success.

Large Gaps still exist in the literature relating to the findings relation to the factors why families do not wish to keep ties with the prisoner during their imprisonment and after their release, which exacerbate the situation of reoffending by such prisoners. Lacunae also exist in looking at the psychological pathways of prisoner regarding familial ties and on the other hand about psychological findings of the families in having ties with such prisoners.

Apart from this, one significant aspect in the literature relating to social ecology and recidivism have been brought out by a 2008 study. This study shows clearly that there is a positive relation between resource deprivation and increased risk of violence i.e., released prisoners who return to a resource deprived areas are more likely to get reconvicted of a serious , violent crime.¹⁴

(D) Substance Abuse

This is one aspect which is being overlooked while judging the propellants of substance abuse. This is the main cause behind the re-offending of convicts of drug abuse and violent crimes. This often urges to undertake criminal behavior for satisfying their addiction for such

¹⁴ Daniel P. Mears , Xia Wang, Carter Hay & William D. Bales, *Social Ecology and Recidivism: Implications for Prisoner Reentry*, 46 CRIMINOLOGY 301 (2008).

substances which in itself an illegal act. This further propels a person to go to extents of being convicted and imprisoned for any of the crimes under a country's penal law. Numerous ex-convicts reoffend for reasons as basic as getting involved in theft, burglary or dacoity to get the resources to continue their drug addiction after being thrown out of their homes by their family. Such persons do not necessarily have an unhappy childhood, but they practically give up on moral values due to the physical need established by an incorrigible drug addiction.

IV. RELATIONSHIP BETWEEN IMPRISONMENT AND RECIDIVISM

There are multitude of reasons for believing that incarceration reduces recidivism. One of the reasons is that people take up illicit adventures because of their personal failures, that can be remedied through correctional education and rehabilitation. This perspective is based on a range of criminological theories of offending, such as general strain theory and social learning theory.¹⁵ The general understanding is that through multiverse of programs and interventions , Rehabilitation seeks to subside those vices and iniquities which makes an individual to backslide in criminal behavior. A different line of reasoning suggests that something about the experience of incarceration produces a specific deterrent effect. According to this line of reasoning, the cost of committing a crime is less than benefits of not indulging in such offensive behavior. The costs are loss of liberty, severed social ties, foregone employment income, stigma etc and the benefits are money, getting "high" prestige .Under a deterrence model, the certainty, celerity, and severity of punishment are assumed to be related to punishment costs¹⁶. Prison is assumed to be a severe punishment, objectively although subjectively individual perceptions may vary. However, severity does not necessarily deter. For example, the costs associated with incarceration, such as reduced employability and access to public housing, may decrease the benefits of non-offending to make recidivism upon release the more rational option.¹⁷ Other aspects of incarceration, such as the experience of imprisonment, prison conditions, or the extent to which actual time served in prison accords with sentence length may affect deterrence and thus offending.¹⁸

¹⁵ See Robert Agnew, *Why Do Criminals Offend? A General Theory Of Crime And Delinquency* passim (2005); Gresham M. Sykes, *The Society of Captives: A Study of a Maximum Security Prison* 63 (1958) ; el S. Nagin & G. Matthew Snodgrass, *The Effect of Incarceration on Re-Offending: Evidence from a Natural Experiment in Pennsylvania*.

¹⁶ Daniel P. Mears & Joshua C. Cochran, *Prisoner Reentry in the Era of Mass Incarceration* passim (2015).

¹⁷ See Raymond Paternoster, *How Much Do We Really Know About Criminal Deterrence?*, 100 *J. CRIM. Law & CRIMINOLOGY* 765, 800-04 (2010) (discussing the role of the deterrence doctrine in punishment);

¹⁸See Shawn D. Bushway & Emily G. Owens, *Framing Punishment: Incarceration, Recommended Sentences, and Recidivism*, *J.L. & Econ.* 301 passim (2013); M. Keith Chen & Jesse M. Shapiro, *Do Harsher Prison Conditions Reduce Recidivism? A Discontinuity based Approach*, 9 *Am. L. & Econ. Rev.* 1, 2 (2007); Mears et al., *supra* note 17

Evaluating effects of incarceration is important for at least two reasons. The first is that criminological theory provides grounds for gaining insight into incarceration effects; conversely, a focus on incarceration effects provides an opportunity to test and develop such criminological theory.¹⁹

(A) Special Deterrence and Recidivism

Literature already in public domain says nothing about the question whether penal measure in general and custodial measures in particular have a deterrent effect. They do, however, suggest that there is not too much of the special deterrent effects of penal measures. A study, which took into account offenders' characteristics such as sex, age and previous criminal career, showed that it is reasonable to assume that the special deterrent effects of mandatory custodial sentences on the whole are not greater than those of non-custodial penalties such as fines and conditional sentences²⁰. But it is very much possible that the greater likelihood of recidivism found for offenders with comparatively severe sentences is not attributable to these sentences but that it was this very reason that such severe sentences were imposed on them, i.e., to deter them from recidivating. Talking about any interrelationship between type of penalty (i.e., mandatory custodial sentences or non-custodial penalties) and recidivism, the said study indicates that custodial sentences tend to increase the likelihood of recidivism rather than reduce it. These findings could, however, also be interpreted as indicating that non-custodial sentences tend to lessen recidivism.

(B) Time Spent In Prison and Recidivism

The pains or strains of imprisonment, which could contribute to deterrent effects, may be felt more acutely during early stages than later stages of incarceration.²¹ Simultaneously, different durations of imprisonment may yield different effects on societal/familial bonds, prestige and social image, stigma attached to incarceration and on recidivism. As Clemmer long ago emphasized in 1958, lengthier stays in prison may allow for greater acclimation to prison culture and so it leads to a greater likelihood of offending after release to society.²² A 2017 study estimates the functional form of the time served and recidivism relationship. Results of

¹⁹ See Robert Agnew, *Why Do Criminals Offend? A General Theory Of Crime And Delinquency* passim (2005); Nagin, Daniel S., et al. "Imprisonment and Reoffending." *Crime and Justice*, vol. 38, no. 1, 2009, pp. 115–200.

²⁰ Van der Werff, C. "RECIDIVISM AND SPECIAL DETERRENCE." *The British Journal of Criminology*, vol. 21, no. 2, 1981, pp. 136–147.

²¹ See generally Joseph Murray et al., *Long-Term Effects of Conviction and Incarceration on Men in the Cambridge Study in Delinquent Development*, in *Labeling Theory: Empirical Tests* 209 (David P. Farrington & Joseph Murray eds., 2014).

²² Donald Clemmer, *The Prison Community* passim (Donald Clemmer ed., 2d ed. 1958).

the analyses reveal a curvilinear relationship: greater time served initially increases recidivism but then, after approximately one year, decreases it, and, after approximately two years, exerts no effect; it also shows that estimation of the effects associated with prison durations of more than five years are uncertain.²³

1. Efficacy of imprisonment and recidivism

Hopkins²⁴ by bringing out gaps in most of the previous studies specifically that, the different outcomes of previous studies are attributable to differences in pre-treatment recidivism, designed a research strategy by identifying truly comparable groups of offenders who were nevertheless subject to differential treatment. The basis for identifying such comparable group was that if cases are allocated at random to judges sitting in the same court, and if some judges are harsher than others, incarcerating a higher proportion of those who come before them, then differences in the subsequent recidivism rates of the groups coming before the various judges can be attributed to differences in the incarceration rates. To facilitate comparisons, a technique was developed for calculating recidivism probabilities for offenders who would be incarcerated by a harsh judge but not by a lenient.

Computations based on that technique revealed that the recidivism probability, of offenders who would be incarcerated by the harsh judge but not by the lenient judge, was considerably higher after incarceration than after non-institutional treatment like probation. This study provides further evidence for the proposition generated in previous studies that incarceration is no better than non-institutional treatment at preventing recidivism and may actually be worse.

There have been previous studies that demonstrate that offenders sentenced to imprisonment as opposed to a non-custodial sentence, are as likely, if not more likely to indulge in future criminal behaviour and criminal activities (e.g., Bales and Piquero 2012; Cochran, Mears, and Bales 2014; Nagin and Snodgrass 2013; Nieuwbeerta, Nagin, and Blokland 2009; Wermink et al. 2010). Similarly, evidence suggests that longer prison sentences either do not affect (Loughran et al. 2009; Snodgrass et al. 2011) or slightly inhibit subsequent involvement in crime (Meade et al. 2013). Furthermore, research indicates that harsher conditions of confinement do not decrease postrelease offending behavior (e.g., Drago, Galbiati, and Vertova 2011) and in some cases even seem to increase the likelihood of future criminal engagement (e.g., Chen and Shapiro 2007; Gaes and Camp 2009). Meat of the matter is, that the available

²³ MEARS, DANIEL P., et al. "RECIDIVISM AND TIME SERVED IN PRISON." *The Journal of Criminal Law and Criminology* (1973-), vol. 106, no. 1, 2016, pp. 83–124

²⁴ Andrew Hopkins, *Imprisonment and Recidivism: A Quasi-experimental Study*, 13 J. Res. CRIME & DELINQUENCY 13 (1976).

literature exhibits a null or a slightly criminogenic effect of imprisonment but has seldom supported the argument that there is a clear specific deterrent effect of incarceration on recidivism.

(C) Severity of Imprisonment and Recidivism

- > A recent study (2017) provided empirical testing to the concept of subjective severity. The concept of severity, applied in previous studies, relates in particular to the 'objective' severity of imprisonment, severity is a function of objective characteristics of the punishment²⁵ such as its duration and prison conditions, but how prisoners themselves experience the severity of their sentence, which is known as subjectively experienced severity of imprisonment, is rarely studied. Hence, that study focused on severity experienced subjectively with the objective to gather knowledge about the determinants of severity of imprisonment experienced by prisoners and how subjectively experienced severity by prisoners is related to the recidivism in future.

Specifically, it analyzed the extent to which differences in the subjectively experienced severity of imprisonment (SESI) result in differences in postrelease offending behaviour in a sample of male inmates six month following release among those who were incarcerated for a maximum of two years. An initial analysis showed an inverse relationship between the SESI and the recidivism following release, pointing out thereby that inmates who experience their imprisonment as more severe are, as it was hypothesized in that study, less likely to get reconvicted following release. While this inverse relation continued even after taking into account objective measures of prison severity, it disappeared when two other variables viz.- type of offence for which the prisoner was imprisoned and number of prior convictions.

(D) Prison Conditions and Recidivism

In their paper, Drago et al (2011), have investigated the effects of prison conditions on post-release recidivism among former Italian inmates. They studied the effects of two main dimensions of prison conditions: prison harshness (proxied by prison overcrowding and number of deaths in prison) and prison isolation (proxied by the distance of the chief provincial town from the prison and by the number of volunteers). The result from that study was that the researchers could not find any evidence consistent with specific deterrent hypothesis (which basically postulates that harsher conditions reduces recidivism), as they could not find any

²⁵ Raaijmakers, E. A.; Loughran, T. A.; de Keijser, J. W.; Nieuwbeerta, P.; Dirkzwager, A. J., *Exploring the relationship between subjectively experienced severity of imprisonment and recidivism: A neglected element in testing deterrence theory*, 54(1) J. Res. Crime & Delinquency 3 (2017).

inspiring evidence that higher degrees of prison harshness or isolation contribute to reducing the tendency to indulge in criminal activities again postrelease.. Overall, prison harshness, measured by overcrowding and numbers of deaths in prison, exacerbates recidivism. These results are in line with Chen and Shapiro (2007), who, using different set of data on prisoners of a different country , did not find evidence consistent with the specific deterrence hypothesis. It is important to remark that the results in this paper do not rule out the possibility that harsh prison conditions have a general deterrent effect on criminals who have never received prison treatment before.²⁶

V. WAY FORWARD

Imprisonment worldwide is a growing problem. It is this growing population of prisoners that creates the need for policies and strategies that establishes effective and comprehensive correctional institutions worldwide.

A focus on conditional effects of imprisonment (different result for one group and some other result for another group) is important for policy making and strategies, e.g., some groups may be more strongly deterred by prison, or some maybe more likely to engage in re-offending because of prison, and if it is so policy makers and the courts might well want to consider such information in drafting laws and sentencing respectively. An example of conditional effects of imprisonment on policy making is evident from the very existence of a separate juvenile justice system which is premised in part on the assumption that less serious punishment, including shorter terms of incarceration, may be more beneficial for youth as compared to for adults²⁷. Whether different punishment for individuals that is based on the relative effectiveness of the particular sanctions in reducing recidivism is appropriate, is a complicated issue. Even so, the effectiveness of sanctions lies at the heart of any policy discussion. To ignore it, especially if a given sanction yield conditional results, would run counter to correctional system and public safety goals.

- Correctional system: An effective reintegration and systematic rehabilitation must be in place within every prison in the country in order to provide prisoners with sufficient help during their stay and after leaving the prison for easier adjustment into ordinary life²⁸. A robust correctional system which focuses on in-prison

²⁶ Raaijmakers, E. A.; Loughran, T. A.; de Keijser, J. W.; Nieuwbeerta, P.; Dirkzwager, A. J., *Exploring the relationship between subjectively experienced severity of imprisonment and recidivism: A neglected element in testing deterrence theory*, 54(1) J. Res. Crime & Delinquency 3 (2017).

²⁷ Howell JC, Lipsey MW. Research-Based Guidelines for Juvenile Justice Programs. Justice Research and Policy. 2012;14(1):17-34. doi:10.3818/JRP.14.1.2012.17

²⁸ Ibid, supra note 5

developing and upscaling the skillset of prisoner for postrelease opportunities and employment and a system which also looks at postrelease trajectory of a former prisoner, to safeguard him/her from taking licit means of earning, or from indulging into criminal behavior, is the need of the hour. Policing and community education must be drastically improved to better govern areas that are less developed to prevent juvenile delinquency and customary criminal behaviour²⁹. Programs like “Tihar Kitchen” from Tihar jail complex are playing a meaningful role in vocational training and in self-reliance of prisoners.

- Changing the social notion: A social support in the form of familial support and community support can change the recidivism landscape of the country. A more warm attitude of the community towards the former prisoners and acceptance of such former prisoner would provide some incentive to the former prisoner to not indulge in Criminal behavior. Integration of such former prisoners into the social fabric of the society with inclusive policies and attitude will surely bring the much needed relief from phenomena of prisoners recidivating in any country.
- Education: According to the literature, correctional education significantly reduces inmates’ likelihood of returning to prison (recidivism). Specifically, the level of education obtained while incarcerated and whether the inmate participated or completed education programming determines the rate of recidivism (Harlow, 2003; Wilson, Gallagher, & MacKenzie, 2000). In a meta-analysis of 15 studies, researchers examined the relationship between participation and completion of post-secondary correctional education and recidivism.³⁰ It was shown by results that inmates who completed a post-secondary correctional education program had lower rates of recidivism than inmates who were participants only. Therefore the relationship between participation and completion of correctional education programs is important as education is a key tool for reduction of recidivism.

Prison education is a highly cost-effective investment. A study by the Department of Policy Studies at the University of California at Los Angeles, for instance, found that “a \$1 million investment in incarceration will prevent about 350 crimes, while that same investment in [prison] education will prevent more than 600 crimes. [Prison] education is almost twice as cost effective as incarceration.” Another study found that for every \$1 invested in prison

²⁹ Ibid, supra note 5

³⁰ Chappell, Cathryn A. “Post-Secondary Correctional Education and Recidivism: A Meta-Analysis of Research Conducted 1990-1999.” *Journal of Correctional Education*, vol. 55, no. 2, 2004, pp. 148–169.

education, taxpayers save \$4-\$5 in re-incarceration costs during the first three years post-release. Increasing educational spending would reduce recidivism postrelease and subsequently reduce the costs of incarceration which is paid for by taxpayers' money.

The impact of education goes well beyond the walls of the prisons themselves, extending into the home communities of the incarcerated students and also to the societies as that makes societies a peaceful and safer place to live in. Studies show, for instance, that postsecondary prison education has many positive effects on the children of the incarcerated, offering a chance to break the intergenerational cycle of inequality and incarceration.

It is worth mentioning here, the Belgian prison administration system, which provides prisoners with a flat screen computers in their prison rooms. The agenda behind this is that when prisoners come out of prisons they do not miss out on technological advances which have taken place during the years , prisoners were inside prisons and cut off from the rest of the world.

VI. CASE STUDY OF PRISONS IN TELANGANA, INDIA

Beena Chintalapuri is the cognitive psychologist who changed the imprisonment and recidivism landscape of Telangana, once a state with highest percentage of Recidivism. Chintalapuri, in 2016, was invited by the prison warden to conduct behavioral training workshops with inmates, a novel concept, but in a country with 400,000 prisoners — the fifth largest population in the world — it was worth a shot. Chintalapuri is the first person in the history of the prison reform movement in India to train inmates in the elements of cognitive behavioral psychology, “so as to bring about a change.” That’s not all. She has also introduced India’s first master’s program in psychology inside a prison. What started as an experiment in one jail in Telangana three years ago is now called Unnati, and is run in 10 prisons in the state. And in some of these jails, the rate of recidivism has dramatically dropped from 80 percent to 1 percent, according to the data collected by Institution of Correctional Administration in Telangana. Expansion of such innovative programs country wide , will have the thrust of bringing out a favourable outcome.

(A) Curious Case of Sri Lanka

Year 1974, saw the Sri lankan Government bringing out some major reforms in the prison administration of the country to bring it in line with the enlightened thinking as a rational approach to facilitate eventual rehabilitation of the offender after release to community⁶⁵. Most significant of those changes was establishment of “open work camp” for short and medium term offenders. Under this scheme, 9 work camps have been set up where first time short term offenders, serving sentences under 6 months are employed on agriculture and animal

husbandry, so as to avoid contamination with hard core criminals. As large number of prisoners came from agricultural backgrounds it was considered more useful to give them a training in agriculture rather than employing them on jail service work, which may not be of any use to them, after their release.³¹ Prisoners serving sentences of over 4 years become eligible for selection to an open prison camp on completion of one-fourth of their sentence. In these open institutions it has been attempted to make life as similar as possible to life in the community to which they will return. The basic principle in an open camp is that trust begets trust. Prisoners in these open prison camps are allowed to participate in local community development and shramadana projects and given a large measure of freedom in making their own decisions regarding the running of the camps.³² Such calibrated actions with meticulous motives along with focusing on background and future of prisoners will yield some very positive and efficient results.

VII. CONCLUSION

The real change starts when the criminal justice system starts treating prisoners as a “human being”. Importance of correctional and rehabilitation system is proven by literature in public domain. Incarceration is considered to be a significant element in reforming offenders, but it should not be blindly resorted to without going over the literature exhibiting relationship between imprisonment and recidivism. It is important to view the target group of prisoners with their backgrounds and special care that has to be given to them to according to their unique needs, this might include education, Physical wellbeing programs like Yoga and meditation, Organizing prisoners into social groupings to help them deal with drug addiction, vocational education like project Sanjeevan of Tihar jail in India, which provides diploma courses in yoga to prisoners. Apart from this it is to be noted that different aspects of Imprisonment yield variable results for different groups of prisoners, so it is to be judged by the authorities in criminal justice system about specific requirements of a specific group, this will entail costs but that will be, any day, less than cost of prisoners recidivating. Balanced policies and meticulous strategy with studies in these associations, between imprisonment and recidivism, according to differential circumstances of future, will bring forth favourable results.

³¹ Delgoda JP. Recent Prison Reforms in Sri Lanka. *International Journal of Offender Therapy and Comparative Criminology*. 1980;

³² Ibid.