In India, the classification of prisoners was first forwarded by the Prison conference of 1877. Initially the conference did not agree as to the definition of ‘Habitual’, but was unanimously in favour of separating the worst class of offenders from other prisoners. After some discussion finally, the Government of India issued orders defining habitual offenders and determining the authority by which habitual offenders were to be so classified. The definition was based on section 75 of Indian penal code under which enhanced punishment may be imposed even if a single previous conviction for an offence punishable with three years imprisonment or upwards under chapter XII of XVII of the Indian Penal Code is proved against the accused. Under the definition a man may be classed as habitual offender either because he was previously convicted of an offence under chapters XII or XVII of the Indian Penal Code or because “he is believed to depend on crime as means of livelihood or to have attained such an eminence in crime as to warrant his being classed as habitual.”

In 1910, the definition was revised. The definition made a previous conviction under the said chapters an essential one for being classed as habitual offender: Now a prisoner could not be classified as habitual offender, merely because, “he is believed to depend on crime as means of livelihood or to have attained such an eminence in crime as to warrant his being classified as habitual offender.”

Indian jails committee, 1919, made improvement over the existing definition. The committee defined a habitual as “any person convicted of an offence punishable under chapter XII, XVII. XVIII, of the Indian Penal Code, whose previous conviction was made in conjunction with facts of the present case,
show that he is by habit a robber, house-breaker, dacoit, thief, or receiver of stolen property, or that he habitually commits extortion, cheating, counterfeiting coins, currency notes or stamps or forgery; any person convicted of an offence punishable under chapter XVI, Indian Penal Code, whose previous conviction or convictions were made in conjunction with the facts of the present case show that he habitually commits offences against the person; any person confined in default of security under section 123 read with section 110 Criminal Procedure Code”.

Bombay Jail Reforms Committee-1948 recommended “that the man may have been convicted fore the first time, but he may have by that time developed the criminal habits and may have many crimes to his account, although not proved. In such a case the prisoner ought to be classified as habitual prisoner. In this respect it is very difficult to come to any conclusion unless the sentencing court has before it the antecedents and previous history of the prisoner concerned. The committee recommends that in case where the prosecution or the probation officer of the court is able to prove not in the strict legal sense of the Evidence Act, but in a moral sense, court should have authority to class him as habitual.”

The main purpose of classification of habitual from Non-habituals is to avoid contamination. Now, let us move towards the classification of habitual according to practices followed in the western countries and in India.

In England classification is done by expert’s team. In-depth enquiries are made of the convicts family history, his past and his mental condition, and the individual case is considered in every aspect before final classification. It is carried out there with a view not only to “minimizing the danger of contamination” but also “to facilitating the training.”

In Illinois all the new prisoners are first studied and classified at the diagnostic depot at the Joliet prison or at the receiving station at Menard.
In Michigan, prisoners are being classified for a month in a quarantine block.7

In New Jersey state prison in Trenton in 1918, a classification clinic was established, since then an elaborate classification programme has been developed in all correctional institutions of that State.8

The Federal Bureau of prisons has also organized classification committee in its Federal Institutions.9

In India, the classification of habitual is made by the court concerned. According to G.R.Oberai, Ex-Inspector-General of prisons, Uttar Pradesh, "The system of classification of prisoners into habitual and casual is highly unsatisfactory. It is a legal concept not a behaviour concept."10 In country like India, legal focus is given more on crime, its nature and the number of times it was committed before, rather than on the man who is to be treated.

The Bombay Jail Reforms Committee of 1948 recommended the appointment of a psychiatrist in the central jails. The committee stated that "Another principle of classification may also be followed, while classifying prisoners into habitual. The prisoners’ previous history, association, environments and present conviction are taken into account. An equally necessary step is an in-depth medical examination and careful determination of the mental condition of the prisoner by modern psychology and psychiatric methods."11 But unfortunately these recommendations have not been put into practice even today.

STATE ACTS ON HABITUAL OFFENDERS

Several state legislatures have passed special law for regulating the conduct, and restriction on the movements, of habitual offenders. At present, the
enactment and operation of the special laws on habitual offenders by the various states are as follows.

i) Nine states have enacted their own legislation on the subject and have put the same into operation (Table 4.1, infra).

ii) The union Territory of Delhi has extended the Madras Act of 1948, in addition to its recently enacted police Act. (Table 4.2, infra).

iii) The state of Orissa and the Union Territory of Goa, Daman and Diu have laws on their statute books, but the governments of the respective states have not yet enforced the same (Table 4.3 infra).

iv) Eighteen states have not yet enacted any special law on the subject. They leave the matter to the provisions of the Code of Criminal Procedure and the Police Act. (Table 4.4 infra).

v) The state of Uttar Pradesh, having passed a law on the subject, has chosen to repeal it (Table 4.5 infra).

The Tables are as follows.

**Table 4.1**

States/Union Territories, which have enacted a law on habitual offenders

<table>
<thead>
<tr>
<th>State / U.T</th>
<th>Title of the Acts</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Andhra Pradesh</td>
<td>-Habitual offender Act, 1962</td>
</tr>
<tr>
<td>2) Gujarat</td>
<td>-Habitual offenders Act, 1959 (Bombay Act of 1959, which continues to be in force in Gujarat)</td>
</tr>
<tr>
<td>3) Haryana</td>
<td>-Restriction of Habitual offenders Act (Punjab Act 5 of 1918, which continues to be in force in Haryana)</td>
</tr>
<tr>
<td>6) Maharashtra</td>
<td>-Habitual offenders Act, 1959 (Bombay Act of 1959 which continues to be in force in Maharashtra)</td>
</tr>
<tr>
<td>7) Punjab</td>
<td>-Restriction of Habitual offenders Act (Punjab Act 5 of 1918), supplemented by the Punjab Habitual offenders (control and Reform) Act, 1952.</td>
</tr>
</tbody>
</table>
8) Rajasthan - Habitual offenders Act, 1953.
9) Tamil Nadu - Restriction of Habitual offenders Act, 1948 (Madras Act of 1948, which continues to be in force in Tamil Nadu).

**Table 4.2**
Union Territories which have extended a state law on habitual offenders.
The Delhi Administration does not have its own law on the subject, However, Delhi has its own Police Act which contains, inter alia has been referred to earlier.
1) Delhi – (Madras) Restriction of Habitual offenders Act, 1948, as extended to the Union Territory of Delhi.

**Table 4.3**
State/Union territories where a law on habitual offenders has been passed but not yet put into force.
1) Goa, Daman and Diu - Habitual offenders Act, 1976
2) Orissa - Habitual offenders Act, 1952

**Table 4.4**
States / Union territories which have not enacted a law of habitual offenders
1) Andaman and Nicobar Island
2) Arunachal Pradesh
3) Assam
4) Bihar
5) Chandigarh
6) Dadra and Nagar Haveli
7) Himachal Pradesh
8) Jammu and Kashmir
9) Lakshdive Islands
10) Madhya Pradesh
11) Manipur
12) Meghalaya
13) Mizoram
14) Nagaland
15) Pondicherry
16) Sikkim
17) Tripura
18) West Bengal
Table 4.5
States where a law on -Habitual offenders, having been once passed has been repealed.

1) Uttar Pradesh,

Pattern of the Habitual offenders Act

As we have seen above, several state laws on habitual offenders present almost similar pattern. Each Act is divided into 4 parts,

i) The Preliminary part, where the title and definition of "Habitual offenders" is to seen:

ii) The registration of habitual offenders and the procedure to be followed therein and restrictions on their movement.

iii) Provisions for corrective training of the habitual offenders.

iv) The Act also prescribes penalties for non-compliance with the requirements imposed under the Act on habitual offenders.

Definitions of Habitual Offender, of Various States law on Habitual offenders.

Now let us move towards the definition of Habitual offenders, regarding which various states have enacted a law on habitual offenders. If we go through chronologically, we see that the Punjab Act on Habitual offenders of 1918 is the first local Act on habitual offenders.

Punjab Habitual offenders Act,

Defines habitual offenders as one (i) Who, during any continuous period of five years, has been convicted and sentenced to imprisonment more than twice on account of any one or more of the offences mentioned in the schedule committed on different occasions and not constituting part of the same transaction and (ii) Who as a result of such conviction suffered imprisonment at least for a total period of 12 months.
The Act prescribes restriction on the movement of the habitual offenders in the state. The Act provides that a person declared as habitual offenders should report to the local authorities about his being present in an area. The Act also contains provisions for initiating proceedings under section 110 of the Code of Criminal Procedure with a view to binding a habitual offender for good behaviour for a limited period of time.

The supplemented Punjab habitual offenders (control and Reform) Act, 1952 providing for the correction, treatment and rehabilitation of the habitual offender.

**Madras Restriction of Habitual offenders Act, 1948.**

This Act defines habitual offenders as a person who has been sentenced to substantive term of imprisonment, such sentence not having been set aside in appeal or revision, or not less than three occasions, for one or other of the offences set forth in the scheduled (which includes offences under chapters XII, XVI and XVII of I.P.C) each of subsequent sentence having been passed in respect of an offence committed after the passing of the sentence on the previous occasion.

The Act also empowers the district magistrate to notify habitual offenders and impose restriction on them. The Act aims, whether the offender has been usefully engaged in a lawful vocation or not, and enables the authorities to determine the nature and extent of restrictions to be imposed on movement of the habitual offender.

The Madras Habitual Offenders Act empowers to place the notified offenders in one or the other industrial, agricultural or reformatory settlements set up by the government for the purpose. The Madras Act is thus the forerunner of the penological thought in India which is considered as a correctional approach.
for dealing with habitual criminals, and seeks to implement the same by adopting rehabilitative measures.

The Rajasthan Habitual Offenders Act, 1953.

The Rajasthan Habitual Criminals Act defines habitual offenders as a person who, whether, he is a member of a notified tribe or not, has within any period of ten years following the aforesaid date been convicted for not less than thrice of any of the offences specified in the schedule (which covers chapter XII, XVI and XVII of I.P.C)

Uttar Pradesh Habitual Offenders Restrict Act,

Habitual offenders means a person who before or after the commencement of the Act, has been sentenced to a substantive term of imprisonment, such sentence not having been set aside in appeal or revision, or not less than three different occasions for one or another of the offences set forth in the schedule (which includes offences under chapter XII, XVI and XVII of I.P.C)

Grouping or Classification of Habitual Offenders Under State Acts

For more understanding, the offenders covered by state laws regarding habitual offenders may be classified as below.

1) Offenders against personal liberty: - Under this category the offenders are guilty of kidnapping or abduction or allied offences or their aggravations.12

2) Offenders Who tend to disturb the peace and order of the community:-
These are offenders who do so by (a) repeatedly engaging in the commission of offences involving breach of peace, either directly or by abetment, (b) high-handed acts of desperate and dangerous characters.

3) Offenders committing offences against property: - Offender committing
   i) Theft, dacoity, housebreaking and allied Offences. 13
   ii) Extortion, 14 cheating, forgery or mischief.

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4) **Economic Offenders**: - Offenders who habitually commit
i) Offences related to coins, bank notes, government stamps and currency notes:
ii) Offences under laws relating to essential commodities or laws against hoarding, profiteering and allied subjects: iii) Offences under laws regulating foreign exchange or laws relating to customs duties.

5) **Aids and auxiliaries of offenders against property**: - Offenders who habitually
   i) gives protection and shelter to thieves
   ii) assist in the concealment of stolen property or
   iii) receive and dispose of stolen property, knowing the same to be stolen.

6) **Social legislation**: - Offenders who repeatedly transgress the provision of specified social legislation, such as laws dealing with i) beggary ii) gambling iii) prohibition iv) prostitution v) protection of civil rights (untouchability) or vi) similar anti-social acts that have their genesis in deep-routed social prejudices requiring firm action.

7) **Other Legislation**: - Offenders who commit offences under certain welfare legislation such as, legislation relating to provident fund.

**THE KARNATAKA HABITUAL OFFENDERS ACT, 1961**

As the study is limited to the Karnataka state, it is based on Karnataka Habitual Offenders Act, 1961. The Karnataka Habitual Offenders Act also present similar pattern as other state laws on habitual offenders. The Act is divided into four chapters.

**Chapter-I**: - The Preliminary part, where the.
   1) Short title, extent and commencement
   2) Definitions

**Chapter-II**: - The Registration of Habitual Offenders and Restriction on their movement where the
3) Power of state Government to direct Registration of habitual offenders.
4) Issue of notice to habitual offenders and enquiry regarding entries to be made in the register.
5) Change of register and alteration therein.
6) Power to take finger impressions etc, at any time
7) Registered offender to notify every change of residence and to report themselves
8) Action to be taken when a registered offender changer his ordinary residence
9) Duration of registration, cancellation there of and re registration of habitual offenders.
10) Right to make representation against registration and re-registration etc.
11) Power to restrict movement of a registered offender
12) Power to cancel or alter restrictions on movement.

Chapter-III: Deals with corrective training of Habitual Offenders under which.
13) Establishment of corrective settlements
14) Power to direct habitual offender to receive corrective training
15) Power to transfer from corrective settlement

Chapter-IV: Under this chapter penalties and procedure related to the habitual offenders.
16) Penalty for failure to comply with certain provisions of the Act
17) Arrest of persons found outside restriction area or corrective settlement.

The above chapters show how the Karnataka Habitual Offenders Act, 1961, is divided and what are its content. As I am dealing with the habitual offenders, reformation and rehabilitation programs carried out by the Karnataka
habitual Offenders Act, 1961, where the chapter-III of the Act deals with corrective Training of habitual offenders.

According to section 13:- Establishment of corrective settlements
i) The state government may by notification, establish and maintain in the state as many corrective settlements as it thinks fit, for the purposes of placing therein such habitual offenders as are directed to receive training under this Act.

ii) The state government may also, subject to the conditions prescribed, approve or certify any institution (whether known as a settlement or otherwise) established or maintained by persons other than the state Government as corrective settlement for the purpose of this Act.

According to section-14 : Power to direct habitual offender to receive corrective training-(i) where the state-Government is satisfied from a report of the District Magistrate otherwise, that it is expedient for the reformation of a registered offenders and the prevention of crime, that the registered offender should receive training of a corrective character for a substantial time, the States Government may, by an order in writing, direct that the registered offender shall receive training of a corrective character for such period not exceeding the duration of his registration or re-registration as may be specified in the order.

ii) When a habitual offender who is not more than forty years of age-
a) is convicted of any offence punishable with imprisonment or
b) is require in pursuance of section 110 the code to execute a bond for his good behaviors, and the court or the District Magistrate is satisfied from the evidence in the case and other matters on record that it is expedient for his reformation and prevention crime that he should receive training of a corrective character for a substantial time, the court or the District Magistrate may, in lieu of sentencing him to execute such bond, direct that he shall
receive corrective training for such term of not less than two, nor more than five years as the court or Magistrate may determine.

iii) Before giving any direction under sub-section (i) or sub-section(2), the state Government or the court or the Magistrate, as the case may be, shall-
   a) taken into consideration the physical and mental condition of the offender and his suitability for receiving corrective training in a corrective settlement, and
   b) give a reasonable opportunity to the offender to show cause as to why such directions should not be given,

iv) A habitual offender in respect of whom a direction to receive corrective training has been made, shall be placed in a corrective settlement for the term of his training and while in such settlement, shall be treated in such manner as may be prescribed.

According to Section-15:- Power to transfer from corrective settlement:- The state Government or any other officer authorized by it in this behalf, may at any time by order in writing any habitual offender, who may be in a corrective settlement, to be transferred to another corrective settlement.

References

1) Government of India, Resolution No. 27-1804-14, date 14-12-1886.


3) Ibid., P-79.


13) For instance, a) The Karnataka Habitual Offenders Act, Schedule A, entries relating to these, robbery, dacoity, house breaking and their aggravations. b) The Madras Restriction of Habitual Offenders Act, 1948, entries relating to theft, robbery, dacoity, house-breaking and their aggravations.

14) For instance the Karnataka Habitual Offenders Act, 1961, Schedule A, entries relating to extortion.

15) For instance the Karnataka Habitual Offenders Act, 1961, Schedule A, entries relating to chapter XII, I.P.C.