Chapter -III
ORIGIN AND DEVELOPMENT OF HABITUAL OFFENDERS

The dealing and controlling of habitual offenders has become very, difficult in understanding the subject all over the world. There is, or was, a common stereotype of the habitual criminal as a tough, ruthless, gangster like individual, habitually at war with lawful society and a constant menace to decent persons, who must be suppressed at all cost and by every means in society's power.

Regarding the origin and development of habitual offenders, initially they were mainly belonging to 'criminal tribes.' We find many criminal tribes in India. The majority of these tribes are nomads who keep moving from place to place. Like gypsies of Europe they have no fixed homes. There are varieties of views among scholars about their origins. According to one view, the Indian tribes also belong to original gypsies of Europe, who spread all over the world and in India too. This view was supported by some scholars, with little scientific evidence in its favour. This view is at best a conjecture.

The history of criminal tribes is very old. It is the British imperialist government who gave the name and classification for these tribes in India. In 1871, the British government passed an Act, known as 'Criminal Tribes Act', which was amended twice in the years 1897 and 1911. This Act provides that, all the criminal tribes are born criminal and therefore any born in this tribe is bound to take to crime. The Act also, stated that the children in these tribes were enlisted as criminal in police records to keep a strict surveillance and supervision on their activities. After independence, Indian government paid serious attention, and number of committees were set up to solve the problem. The main basic theoretical and practical drawbacks were that, as to why these tribes persons were considered criminals by birth and what steps could be done to bring them back to
normal life and keep them away from criminality. Shri V. N. Tiwari, the committee chairman of U.P. Government, studied the various aspects of life of criminal tribes, and after discussion of various proposals, they came to the conclusion that the first and foremost way for any possible improvement in the condition of such tribal is that the appellation 'criminal' should be dropped. According to this committee, “The removal of the appellation criminal will have a salubrious psycho-social impact upon the children of these tribes. This will enable to eliminate from the minds of these people anti-social feelings and sentiments, because they will be relieved of the stigma and evil of considering themselves criminals and also relieved of the painful obligation of registering themselves with the police as soon as they attained the age of 15.” On the basis of this and many other reports of the committee, the Bombay Criminal Tribes Act was repealed in 1949, and soon all states repealed Criminal Tribes Act from their respective jurisdictions.

Due to the repeal of Criminal Tribes Act, police were unable to track the criminals on the basis of their records, because these were outdated and the sources of fresh information had dried up. However, the long record of criminal activity and propensity could not be abolished by the repeal of Act. Therefore, the Criminal Tribes Act was replaced by, “Habitual Offenders Restrictions Act, 1952”. About these tribes T.V. Stephen has written, “The special feature in India is caste system: a family of carpenters will be carpenters, for centuries. When the fact is like that the meaning of professional criminal is clear, it means a tribe whose ancestors were a criminal continues to be the tribe of offenders against law until the whole tribe is exterminated.”

Many criminologists have given different statements on Habitual Criminals in the Classification of criminal types.
Havelock Ellis Says,

Habitual criminals are those who have tasted crime and enjoyed its thrill and wish to have them repeated as and when there is an opportunity, are habitual criminals. For example, a Kleptomaniac steals not because he needs money or goods but simply because it provides him thrills. The same is true of a voyeur. He does not enjoy watching sex activity if it is on screen or in theatre but is moved tremendously by peeping into other people’s bedrooms.

Haye’s.

An eminent criminologist who has graded criminals according to nature of their crime; has considered gravity or seriousness to the crime. According to him ‘Habitual Criminals’ are the persons who have developed the habit of crime; and though they are not totally devoted to crime, they commit crime whenever there is opportunity for it. Such persons derive certain pleasures out of crime, and this pleasure generates in them the urge to repeat those experiences. For example, a thief may discover unusual objects, which thrill him. He may repeat his attempts merely to get the thrills once again.

Scientific Classification:

Many scholars have attempted a rational classification of criminals based on canons of scientific classification. Accordingly, it is known as scientific classification in which they considered ‘Criminals’ as a person who is in the habit of committing crime. Repetition of crime is the special feature of the criminal. Besides, repetitiveness, deliberation is another characteristic of the criminal. A criminal therefore chooses to commit a crime and will do so whenever there is suitable opportunity. Accordingly, a criminal takes to crime not out of any compulsion but out of free choice and adopts it as his valid profession. It is believed that certain groups of tribes have crime as their profession.
Dr. Walter Reckless

A technical expert of the United Nations on crime prevention and treatment of offenders, who discriminates between the ordinary repeater, the habitual offender and the professional criminal; as ‘The recidivist, habitual offender, and professional criminal apparently represent gradations on a scale of criminal sophistication, with the habitual criminal occupying the middle position between the untortured second-time offender and the tortured professional. The professional criminal is the most highly process offender, the one whose career has represented a thorough schooling in criminal techniques, arts, attitudes, and philosophy of life’.

Lombroso⁴ (1836-1909)

Lombroso classified or defined ‘Habitual criminals’ as “individuals who regard systematic violation of the law in the light of an ordinary trade or occupation and commit their offences with indifference”. Examples of this type of criminal include those convicted of theft, fraud, arson, forgery and blackmail. Lombroso suggests that the individual who is insane and who commits these crimes, need to be placed in lunatic asylums; otherwise, deportation is an appropriate punishment.

Raffaele Garofalo⁵ (1852-1934)

Garofalo one of the exponents of positive school, says that, violent criminals, who commit crimes under the influence of passion, may be habitual criminals, or their crimes “may be result of external causes, such as alcoholic liquors, high temperature, or even circumstances of a really extra ordinary nature, which are calculated to arouse the anger of any person”. (1914, pp. 115-116). Although these external factors can have a role in causing one to be a passional criminal, it is still the case that “there is always present in the instincts of the true
criminal, a specific element which is congenital or inherited, or else acquired in early infancy and become inseparable from his psychic organism”.⁶

Enrico Ferri (1856-1928)

A chief exponent of the positive school of criminology, classified criminals into six-types. In his fifth type of criminals; the ‘Habitual Criminal’, in which he says that, the habitual criminal commits crimes because of the social environment. For the habitual criminal the commission of crime becomes an acquired habit. From an early age, the individual grows up in an environment that is represented by poverty, poor education, and bad-companions. When this individual is first placed in jail, he or she comes in contact with those who are considerably worse in terms of criminal behaviour and he or she acquires the habits of criminals. Because of the problems associated with reintegration, these individuals often decide to make crime their trade.

Investigators at the Rand Corporation have also studied the careers of habitual offenders,⁷ in which the investigators addressed the problem from the “other end” by interviewing inmates. On self-reported estimates of criminality, the Rand researches discovered that habitual criminals represent only a small fraction of all offenders. Most career offenders were engaged in variety of crimes, almost all of them property offences. Many offenders were apprehended for at least some crimes and were placed on probation or in prison. When these prisoners were interviewed in prison, possessed criminal self-concepts, and most of the criminals perception was, that they planned to return to crime upon their release. Their motivation for committing crime was a desire for a high living, although many of the offenders also indicated that they experienced economic stress before their crimes.
Career property offenders have many other characteristics also. These offenders typically have criminal self-concepts; they also have long records of involvement with the police for their crimes. Their criminal careers began in their childhood and would continue until about middle age when for whatever reason, they will probably terminate their criminality and turn to conventional pursuits. The crimes such as burglaries and robberies, at least on an occasional basis, but without the degree of skill and sophistication as some other offenders who are able to better elude the police, semiprofessional burglars has been described as young non-white males from inner-city areas who come from lower-class backgrounds.8

If we go through the reviews of literature on habitual offender, which was published in 1986, by the Panel on research on criminal careers, a group gathered at the request of the National institute of Justice. This review suggested that most active offenders engage in only a few crimes a year, but the most active 10 percent of offenders engage in only a few crimes a year.9 The result is that much crime is committed by a relatively small proportion of offenders. The panel reported that about 15 percent of urban males are arrested for a serious crime by age 18, and about 30 percent will be arrested for such a crime sometime during their lifetime.10 Therefore, many people will ultimately be involved in crime. Most of these persons will not commit a large number of crimes; instead, a small group will eventually commit most of the offences.

Wilson and Herrnstein portrayed from a number of studies of habitual offenders and reported that chronic offenders are responsible for as much as 75 percent of all crimes.11 Clearly, if those chronic offenders could be identified and isolated, the benefit to the community would be substantial. Yet, to concentrate public policy efforts on habitual offenders may be a misguided effort.12
Still, a number of criminologists believe that longitudinal studies of chronic or habitual offenders would tell us much about career criminals and might suggest where intervention into their criminal careers might be undertaken.13

References
2) Quoted from. R. N. Sharma Criminology & Penology.
7) Joan Petersilia, Peter W. gReen Wood, and Marvin Lavin, Criminal Careers of Habitual Felons (Santa Monica, Calif.: Rand Corporation, 1982).
10) Ibid., P. 53.
13) David P. Farrington, Lloyd E. Ohlin, and James Q. Wilson, Understanding and controlling crime; Toward a New strategy (New York: Springer-Verlag, 1986).