

# Recidivism and Desistance: Correspondence Between The 3Rs and The 3Ds

Shreya Modi

UG Student (Final Year)  
Psychology Honours  
Bethune College, University of Calcutta  
Kolkata, India

**Abstract-** This scholarly abstract aim to encapsulate the intricate interplay between the trinity of Retribution, Reformation, and Rehabilitation (3Rs) and the triumvirate of Deterrence, Dissuasion, and Denunciation (3Ds) within the realm of recidivism and desistance. By delving into the labyrinthine theories of punishment, namely retributive, reformative, and compensatory theories, this erudite exposition endeavours to unravel the enigmatic tapestry that perpetually shrouds the realm of crime and its corresponding consequences. Through a meticulous examination of India's contemporary recidivism rates, this abstract elucidates the pressing need to address this issue within the criminal justice system. Furthermore, by emphasizing the objectives of the criminal justice system, particularly in relation to reducing recidivism through eclecticism, this article underscores the importance of an eclectic approach to punishment, one that judiciously amalgamates the strengths of disparate theories to foster amelioration within the criminal justice system. The overarching message conveyed by this article is the imperative of striking a delicate balance between retribution and reformation, ultimately contributing to a more equitable and efficacious criminal justice system.

**Keywords:** Retribution, Reformation, Rehabilitation, Deterrence, Dissuasion, Denunciation, Recidivism, Desistance, Eclecticism, Criminal Justice System.

## Introduction:

"If it were not for injustice, man would not know justice."- Heraclitus.

We all love watching movies from the 3-Dimensional view, but what if I say that not only movies but also the criminal justice system induces axiomatic effectiveness when it develops a correspondence between the 3Rs and the 3Ds. **3Rs - Retribution, Reformation and Rehabilitation. 3Ds - Deterrence, Dissuasion and Denunciation.** Which indirectly implies that the need of the hour is not only to provide justice but to also curb recidivism, but prior to curbing recidivism, let us learn what this sesquipedalian term annotates in the first place!

'**Recidivism**', in simple terms mean, the return of an offender to criminal behaviour following conviction, whether the conviction results in incarceration or release on probation, etc. It's like a cycle that keeps repeating itself, similar to a thriller movie with a sequel!

In the Indian context, let's take the example of the infamous dacoit Phoolan Devi. The inception of her criminal career was at a young age in the Chambal Valley, a region known for its lawlessness. Phoolan Devi became a feared bandit and was involved in numerous crimes including kidnapping and murder.

After being captured and serving a long time behind bars, Phoolan Devi underwent a colossal transformation. She aimed to leave her criminal past behind and entered politics. She won a seat in the Indian parliament and fought for the rights of marginalized communities, especially women. However, despite her efforts to reform she couldn't escape the clutches of recidivism. In 2001, Phoolan Devi was assassinated outside her official residence in New Delhi. This tragic event elucidates and highlights how arduous it can be for some individuals to break free from their criminal past and reintegrate themselves into the society.

Therefore, recidivism is a complex issue that involves a variety of factors such as social circumstances, lack of rehabilitation opportunities, incorrect imposition of punishment and individual choice. It goes beyond just one person; it reflects systemic issues within the society and the justice system that needs to be addressed.

The case of Phoolan Devi demonstrates the challenges and complexities of recidivism in the Indian context. It reminds us that breaking the cycle of repeated offenses requires not only individual effort but also societal support and effective rehabilitation programs.

Perhaps, by delving into the labyrinthine theories of punishment, namely retributive, reformative, and compensatory theories, this treatise aims to unravel the enigmatic tapestry that perpetually shrouds the realm of crime and punishment. With a keen focus on curbing recidivism, this erudite exposition endeavours to provide sagacious insights into India's contemporary standing vis-à-vis recidivism rates. Moreover, by meticulously examining the objectives of the criminal justice system, particularly in the context of reducing recidivism through the prism of eclecticism, this scholarly discourse helps to engender a nuanced understanding of the

multifarious facets of punishment. In essence, this strives to advocate for an eclectic approach to punishment, one that judiciously amalgamates the strengths of disparate theories to foster amelioration within the criminal justice system.

### Theories of Punishment

There are various theories of punishment, such as, **Retributive Theory, Restorative Theory, Reformatory Theory, Deterrent Theory, Compensatory Theory**, etc. Predominantly, India follows the Theory of Retribution and Theory of Reformation.

[The Code of Hammurabi](#) (Babylonian legal text composed during 1755 – 1750 BC) refers to the **Retributive Culture** as, “life for life, eye for eye, tooth for tooth, hand for hand, foot for foot.” As opposed to vengeance, retribution - and retributive justice – is not personal, it is directed at wrongdoing, involves no schadenfreude and employs procedural standards. The Roman lawyer and Cicero proposed that, “the punishment shall fit the offence” furnishing examples of violence being punished by death, fines being

imposed on those convicted of greed. To this, there are two broad limitations. One being, the traditional philosophers condemning retributivism with utilitarianism. For, utilitarianism is progressive, justified by a purported ability to achieve future social benefits, such as crime reduction. For reformationists, punishment is regressive. Punishment is carried out to atone for the damage already done. Second being, this law of proportion is in itself disproportionate in the context of proportionality. “An eye for an eye” – will it not make “the whole world blind”?

According to the [Reformatory Theory](#), the aim of punishment should be to transform the culprit through the individualization approach. It is premised on the humane concept that a wrongdoer does not simply cease to be a living human being just because he commits crimes. Individualism is central to the reformatory theory. It involves the transformation of offenders and faith in re-educating and trying to reform them. According to this theory, crime is linked to the prevalent physical or emotional condition of the criminal as well as the society’s environment and circumstances. As a result, the criminal is regarded as a patient. Therefore, penalization is not used to reclaim the offender and not to torture or harass them. For example, a prisoner cultivating the skill of pottery-making during his or her stay in jail.

According to the **Compensatory Theory**, the victim is entitled to compensation for the crime done by offender. This theory is mostly applicable to civil cases than criminal cases. Nearly similar to this theory is the **Theory of Restoration**, which advocates that the goal of any justice system should be to restore the victim to his or her original state of being (which was pre-crime).

### Recidivism: India’s Contemporary Status

The rate of recidivism in India has increased to 4.7% in 2021 from the rate of 2.8% in 2016. If we corroborate statistically, we see that numerous cases of recidivism have one underlying origin, which is, the incorrect imposition of punishment. Weighing the theories, barring the plausibility, if we classify the nature of crimes, we get the tandem elements: felony and misdemeanour. Either the lawbreaker faces the reformatory punishment or the retributive punishment. In both the cases, the effects analysed by the courts are myopic in nature. The several causal factors for recidivism are – lack of education, poverty, lack of reintegration, lunacy insights, lack of edification. The inability of the punitive measures to reform, rope in the vicissitudes, not only to the perpetrator but also to the victim and the society. As for the felonies, we can evidently gauge how the convicts return to the society and sprout his or her period of relapse. In India, ‘[Capital Punishment](#)’ is considered the monumental application of retributive justice but to perceive this from the utilitarian approach, we can question ourselves this – Does capital punishment suffice the retributive justice theory - “To serve as you do”?

### The Major Objectives of a Criminal Justice System

Following are the major objectives of a Criminal Justice System:

- To provide justice
- To curb recidivism

The theory that allegedly works to reduce recidivism effectively, post assessing culpability, is the **Theory of Deterrence**. It holds that the institution of criminal punishment is morally justified because it serves to deter crime. The fear of external sanction is a crucial incentive in deterrence of crime. The theory is often associated with the notion of severity and disproportionality. The primary aims of this theory are:

- To lessen recidivism
- Denunciation
- Incapacitation
- Retribution and Rehabilitation

Criminal deterrence theory has two possible applications: the first is that punishments imposed on individual offenders will deter or prevent that particular offender from committing further crimes; the second is that public knowledge that certain offences will be punished has a generalized deterrent effect which prevents others from committing crimes, and it is observed that the countries which follow the deterrent theory of punishment has remarkably marked lower rates of recidivism. Such as, Norway and Italy.

This theory of punishment inclusively corroborates the principles of retribution in its application; through severity, punitiveness

and its congenital ability to deter wrongdoer and the public from wrongdoing, but if you are wondering whether deterrence is the only effective approach to reduce recidivism or not, you are on the right direction. Let's assist you with this!

### Research Findings

Research has found evidence that prison can exacerbate, not truncate recidivism. Prisons themselves may be schools for learning to commit crimes. In 2009, Nagin, Cullen and Jonson published a review of evidence on the effect of imprisonment on reoffending.

The review included a sizable number of studies, including data from outside the U.S. The researchers concluded: "... compared to non-custodial sanctions, incarceration has a null or mildly Criminogenic impact on future criminal involvement. We caution that this assessment is not sufficiently firm to guide policy, with the exception that it calls into question wild claims that imprisonment has strong specific deterrent effects." (Nagin, Cullen, & Jonson, 2009)

Some policymakers and practitioners believe that increasing the severity of the prison experience enhances the "chastening" effect, thereby making individuals convicted of an offense less likely to commit crimes in the future. In fact, scientists have found no evidence for the chastening effect.

Therefore, it is pivotal to take into consideration all the factors of crime before sentencing the convict based on the structures of the punishment theories.

### Eclectic Approach

If we put forward the psychological perspective to this, we have an intriguing twist to it!

[Kurt Lewin](#) was a German-American psychologist. Known as the father of social psychology. He had curated a formula to determine an individual's behaviour. The formula is:  $B = f(P, E)$ , implying that the behaviour is a function of the person and their environment.

Personal factors (**p**) may include a range of individual characteristics such as biological predispositions psychological traits, upbringing, education, values, beliefs, attitudes and past experiences. These factors contribute to shaping an individual's predisposition to engage in criminal behaviour and maintaining it.

On the other hand, environmental factors (**e**) refer to the external circumstances, situations and surroundings that influence an individual's behaviour. This can include the social environment, family background, peer pressure, socioeconomic factors, cultural influences and availability of resources or opportunities for criminal activities.

The formula suggests that criminal behaviour (**b**) is not solely determined by personal factors or environmental factors independently. Instead, the interaction between these factors is crucial in understanding the onset, maintenance and potential change of criminal behaviour.

For instance, the personal factors of an individual such as low self-control, impulsivity, criminal history and a lack of pro-social values may increase the likelihood of engaging in criminal behaviour. However, the presence of environmental factors such as living in a disadvantaged neighbourhood with high crime rates, limited opportunities for legal employment and exposure to deviant peers further reinforces or triggers criminal behaviour.

Conversely, if personal and environmental factors are modified or altered, behaviour change can occur. For example, interventions that focus on providing education skill-building rehabilitation programs and improving access to employment opportunities may reduce the likelihood of reoffending by addressing personal and environmental factors simultaneously.

Kurt Lewin's formula offers a framework for understanding criminal behaviour by highlighting the complex interaction between personal factors and environmental factors. It implies that addressing both personal and environmental factors is essential for promoting behaviour change and promoting desistance.

If this is not taken into consideration, how can the punishments be rewarded in a way that accentuates the absoluteness of the penology? There are twofold factors to understand it. First, the law of proportionality does not fit well in circumstances where reformation befits and reformation does not fit well where deterrence befits. Second, the cases of rape, homicide, trafficking, drug trade and abandonment often bring fallacious verdicts to the table.

From the sociological perspective, we get ample of historical evidences. In the ancient times, [Stoning](#), [Pillory](#), [Immurement](#), [Flogging](#), [Mutilation and Banishment](#) were the different forms of punishment. Even though some of the punishments were banned under the Whipping Act of 1864, which was ultimately abolished in 1955, some countries still follow these. All these methods were used under the **Theory of Deterrence**, with the rationale to deter the nefarious crime rate and recidivism. According to Salmond, criminal justice's deterrent components are crucial for crime control. In England throughout the Middle Ages, the punishment was based on the deterrence idea. Even for small infractions like pickpocketing and theft, severe and inhumane penalties were the standard practice. Therefore, this theory of punishment may not always be preferred as the sole basis for punishment because it overlooks the complexities of criminal behaviour and the potential for rehabilitation and the restoration of

justice.

Therefore, the intention here is not to corroborate or vouch for any one theory of punishment but to uphold the eclectic approach, inculcate the diverse rationalities and to reduce recidivism by placing the cognizant verdicts. Prior imposition of any punishment, it is indispensable to look into the nature of the crime, offender's characteristics and features, root cause behind offence, severity of crime, position of the offender in the hierarchy of any criminal enterprise, mental conditions, etc. It is significantly different from the doctrine of 'parity' in criminal law. It seeks fairness but at the same pedestal aims for equity and justice. While successfully minimizing recidivism and maximizing justice, this deliberation aims to generate an effective imposition of punishment following the eclectic approach.

Our Indian courts to a great extent have cultivated eclecticism and has pruned off ambivalence. Obliterating reformation would uphold what Martin Luther King said – "Returning violence for violence multiplies violence, adding deeper darkness to night already devoid of stars." On the other hand, promoting rehabilitation in all contexts would induce recidivism to a larger scale. Therefore, to curb recidivism, it is salient to strike a consequential balance between the 3Rs and the 3Ds. The theories do follow a trajectory. It is pivotal to nullify the loopholes of the approaches and absorb only the strengths of these to encourage betterment in the judiciary or in the criminal justice system.

#### **Conclusion:**

In conclusion, this comprehensive discourse has delved into the intricate relationship between the 3Rs (Retribution, Reformation, and Rehabilitation) and the 3Ds (Deterrence, Dissuasion, and Denunciation) within the realm of recidivism and desistance. By exploring the theories of punishment, including retributive, reformative, and compensatory theories, we have gained a deeper understanding of the complexities surrounding crime and its consequences. Our examination of India's contemporary recidivism rates has shed light on the pressing need to address this issue within the criminal justice system. Moreover, by emphasizing the objectives of the criminal justice system, particularly in relation to reducing recidivism through eclecticism, we have underscored the importance of adopting a balanced and eclectic approach to punishment. The message that resonates throughout this article is the imperative of combining the strengths of various theories to foster betterment within the criminal justice system. By doing so, we can strive towards a system that not only holds individuals accountable for their actions but also seeks to reform and rehabilitate them, ultimately contributing to a safer and more just society.

#### **Reference:**

1. Daniel S. Nagin, Francis T. Cullen, & Cheryl Lero Jonson,; "Imprisonment and Reoffending: Crime aand Justice"; The University of Chicago Press; Vol 38, 2009.