

PART C.—DEFINITION AND CLASSIFICATION OF  
HABITUAL CRIMINALS.

The Central Government has framed the following rules defining and prescribing the treatment of "habitual criminals" for the purposes of jail discipline:

Persons liable to  
be classified as  
habitual criminals.

I. The following persons shall be liable to be classified as "habitual criminals", namely:-

- (i) Any person convicted of an offence punishable under Chapters XII, XVII and XVIII of the Indian Penal Code, whose previous conviction or convictions, taken in conjunction with the facts of the present case, show that he is by habit a robber, housebreaker, dacoit, thief or receiver of stolen property; or that he habitually commits extortion, cheating, counterfeiting coin, currency notes or stamps, or forgery.
- (ii) Any person convicted of an offence punishable under Chapter XVI of the Indian Penal Code, whose previous conviction or convictions; taken in conjunction with the facts of present case show that he habitually commits offences against the person.
- (iii) Any person committed to or detained in prison under section 123 (read with section 109 or section 110) of the Code of Criminal Procedure.
- (iv) Any person convicted of any of the offences specified in (i) above when it appears from the facts of the case, even although no previous conviction has been proved, that he is by habit a member of a gang of dacoits, or of thieves or a dealer in slaves or in stolen property.
- (v) Any person registered under the Punjab Habitual Offenders (Control and Reform) Act, 1952, (XII of 1952) as a habitual offender.

(vi) Omitted.\*

(vii) Any person convicted by a Court or Tribunal acting outside India under the general or special authority of the Central Government of an offence which would have rendered him liable to be classified as a habitual criminal if he had been convicted in a Court established in India.

*Explanation* —For the purposes of this definition the word "conviction" shall include an order made under section 118, read with section 110, of the Criminal Procedure Code.

Classifying authority. Right of prisoner for revision of the order of classification.

II. The classification of a convicted person as a habitual criminal should ordinarily be made by the convicting Court, but if the convicting Court omits to do so, such classification may be made by the District Magistrate, or, in the absence of an order by the convicting Court or District Magistrate, and pending the result of a reference to the District Magistrate, by the officer-in-charge of the jail where such convicted person is confined : provided that any person classed as a habitual criminal may apply for a revision of the order.

Power of District Magistrate or convicting Court not to classify certain convicts as habitual criminals.

III. The convicting Court or the District Magistrate may, for reasons to be recorded in writing, direct that any convicted person or any person committed to or detained in section 123 read with section 109 or section 110 of the Code of Criminal Procedure, shall not be classed as a habitual criminal and may revise such direction.

Revision of classification.

IV. Convicting Courts or District Magistrate, as the case may be, may revise their own, classifications, and the District Magistrate may alter any classification of a prisoner made by a convicting Court or any

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\*Clause (vi) has been omitted in view of paragraph 7 of the Indian (Adaptation of Existing Indian Laws) Order, 1947. It ran as follows;—

"(vi) Any person convicted of an offence and sentenced to imprisonment under the corresponding sections of the Indian Penal Code and the Code of the Criminal Procedure as applied by order under the Indian (Foreign Jurisdiction) Order in Council, 1902, or by the authority or any Prince or State in India."

other authority provided that the alteration is made on the basis of frity, which were not before such Court or authority.

NOTES.—The expression "District Magistrate" wherever it occurs in paragraphs II, III and IV above means the District Magistrate of the districts in which the criminal was convicted, committed or detained. The expression includes a Presidency Magistrate.

V. Every habitual criminal shall as far as possible be confined in a special jail in which no prisoner other than habitual criminal shall be kept, provided that the Inspector-General of Prisons may transfer to this special Jail any prisoner, not being a habitual criminal, whom for reasons to be recorded in writing, he believes to be of so vicious or depraved a character, and to exercise, or to be likely to exercise, so evil an influence on his fellow prisoners that he ought not to be confined with other non-habitual prisoners, but a prisoner, so transferred shall not otherwise be subject to the special rules affecting habitual criminals.—(Government of India Resolution No. F.-III Jails, dated 15th September, 1922)

Habitual criminal to be kept in a special jail.

VI With reference to rule I (v) above a habitual offender is defined in section 2(3) of Punjab Act No. XII of 1952 as a person :—

Member of a criminal tribe defined.

- (a) who, during any continuous period of five years, whether before or after the commencement of this Act, has been convicted and sentenced to imprisonment more than twice on account of any one of more of the offences mentioned in the Schedule to this Act committed on different occasions and not constituting parts of the same transaction; and
- (b) who has, as a result of such convictions suffered imprisonments at least for a total period of twelve months.

*Explanation 1.*—A conviction which has been set aside in appeal or revision and any imprisonment suffered in connection therewith shall not be taken into account for the above purpose.

*Explanation 2.*—In computing the period of five years, any periods spent in jail either under a sentence of imprisonment or under detention shall not be taken into account.

Convicting officer to decide about classification and should note it on the warrant.

VII. Whenever a person is sentenced to imprisonment for an offence, the Magistrate or Judge who passes the sentence should determine whether the prisoner is to be classed as an habitual criminal or otherwise, and should endorse the words "habitual" or "non-habitual" as the case may be, on the warrant of commitment, and sign such endorsement.

Statement of previous conviction should be attached to warrant.

VIII. If the prisoner has been previously convicted, statement containing the particulars of the previous convictions should be attached to the warrant of commitment.