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Three Strikes Law: A Tool to Deter Crime in India

Lavanya G T

ABSTRACT

The objective of punishment and its role in the criminal justice system is to prevent the commission of crime and to deter the repetition of crime. In accomplishing this objective, the Three Strikes Law (TSL) was developed in California. The TSL was enacted as a part of the general political thrust in order to mandate the enhancement of prison terms for the habitual offenders. The TSL has led to the significant reduction in the serious crimes as it is considered as the model that measures both incapacitation effects and deterrence of crime in the society. This paper emphasizes on the significance of TSL have had on crime and the criminal justice system in Washington, California and other parts of the United States. It also examines TSL's effects on several aspects of correctional system. This paper focuses on the ambiguities present in the Penal laws of India and its impact in the increase of the crime rates. It also further examines the need for the enactment of TSL and its enforceability mechanism for the deterrence of crime in India.

Keywords: - California, Crimes, Criminal Justice System, India, Three Strikes law, United States, Washington.

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INTRODUCTION

Criminal justice system of any country is the basis of establishing peace and tranquillity and is considered as the formal social institution designed to respond to deviance defined as crime. Crime control is the primary purpose of the criminal justice system, but it also serves other latent functions. Criminal law itself is built and developed socially and politically, often in a more disjointed way than it first appears, so the criminal justice process of enforcing the law is not carried out equally for all crimes and all criminal offences.

Kellogg observed that “*has never made much of an impact on the administration of criminal justice, most likely because there is so little agreement as to the ‘objectives’ of criminal justice, the purposes of punishment, and the most appropriate strategy to reduce crime*”¹. The criminal justice system in India is divided into the following parts: the legislature, the police, the prosecution, the court and the correctional system. These components work individually or jointly to achieve a specific objective and the main objective of the above components is to render justice, to ensure that the trial goes expeditiously and to punish the offender or criminal. However, due to the changing phase of the society, the need also arises to improve the criminal justice system by punishing the repeat offenders. The reasons for the failure of criminal justice system in India is due to the failure of accountability and enforceability of law and due to the overburdened court system and poor prison system.

According to **Justice M.N. Venkatachaliah**, former Chief Justice of India opined that- “The challenge to ‘Rule of Law’ by the present criminal justice system is perilous. I am afraid, if something is not done by a determined and concerted effort immediately, the whole system might collapse. The administration of criminal justice in the adversarial mould depends entirely on evidence and quite often on oral evidence of witness. Today, witnesses are intimidated, suborned, bribed and won over. The result is for all to see. It is not the severity of punishment but the certainty of punishment that deters crime. No amount of economic development or desired social change is ever possible or enduring without an efficient criminal justice system. An efficient criminal justice system is the worst negation of the Rule of Law”² and **Justice Dr. A.S.Anand**, former Chief Justice of India viewed that- “While speaking on ‘Approaching the Twenty-first Century: The State of Indian Judiciary and the Future Challenge’, Justice Anand said, One of the greatest challenges that stares in the face as we approach the 21st Century is the failure of judiciary to deliver justice expeditiously, which has brought about a sense of frustration amongst the litigants. Human hope has its limits and waiting endlessly is not possible in the

¹ Kellogg, F.R, *Organizing the criminal justice system: A look at operative objectives*. *Federal Probation*, 40 YALE L.J, 9 (1976).

² Venkatachaliah, M.N., *Rule of Law: Contemporary Challenge*, I.J.P.A, 327 (1999).

current life style”.³ Therefore, taking into consideration the impediments pointed out by Justice M.N. Venkatachaliah and Justice Dr.A.S.Anand it can be viewed that India is facing a lot of setbacks in the Criminal Justice System due to many reasons.

The control of crime in India is a perennial concern and the main principle of which the system of legal jurisprudence is based upon is *to let many persons get away free than to have even one innocent man punished*.⁴ There are many instances where the criminals or offenders get away with their crime easily due to the lack of evidence, enforceability of laws or failure of accountability of authorities. Thus, this eventually encourages the offenders to repeat the crimes in the society. This would obviously lead to the repeat of serious offences in the society and there is no appropriate sentencing to deter these crimes in India. Due to which over the period of time, the criminal justice system in India is flawed. Therefore, there is a need to implement a new ways or tools to deter crime in India.

In order to accomplish or meet the objective of the criminal justice system in India, there arises a need to implement Three Strikes Law (TSL) which would play an important role in deterring crime in India. The TSL was enacted as a part of the general political thrust in order to mandate the enhancement of prison terms for the habitual offenders. The TSL has led to the significant reduction in the crimes in California, Washington and other parts of the United States where it has been considered as the model that measures both incapacitation effects and deterrence of crime in the society. TSL mandate heavy sentences which is to be imposed on persons who are convicted of a third felony. The minimum imprisonment sentence of such a law is typically between 25 years and life imprisonment and thus, need arises for India to enact the law.

HISTORY OF THREE STRIKES LAW

TSL has been called “*the largest penal experiment in American history*”⁵. This law took effect in March of 1994. As there was an increase in the crime rates in 1993 at California and which subsequently led to the epic proportions. Thus, Californian State showed concern and they put efforts to find a solution; Those efforts led to the enactment of TSL and the main intention for creating this kind of sentencing policy was mainly to reduce serious and violent crimes. Many incidents that traversed over the country, triggered the law-abiding citizens of California. Some of the incidents

³ A.S. Anand, *The Indian Judiciary in the 21st Century*, 28 ICQ 78 (1999).

⁴ William Blackstone, *Commentaries* 358.

⁵ Eric Helland and Alexander Tabarrok, *Does Three Strikes Deter? A Nonparametric Estimation*, 42 *The Journal of Human Resources* 309 (2007).

are- In the case of *The People v. Richard Allen Davis*⁶, on Oct 1st, 1993, Polly Klass was kidnapped at knife point from her Petaluma, California home, where she had been enjoying a sleepover with two teenage girlfriends. Subsequently she was found dead on a road about 45 miles from her house strangled. The man identified in the Court documents as the killer had been convicted repeatedly of the most serious and dangerous crimes, including kidnapping, robbery, burglary and assault. Yet he was released from prison a few months before Polly's murder, serving only half of the 16-year sentence for his most recent felony and another case where the nation was stunned in July 1993 by the fatal shooting of James Jordan, known as "Pops" to his basketball-star son, Michael Jordan. The elder Jordan's death occurred at a rest stop on Interstate 95 in North Carolina, at the hands of two men with long criminal histories of violent crimes.⁷

From the above incidents and several other high-profile murders committed by the ex-felons spurred the Californian citizens and thus, the Legislatures and voters proposed and enacted TSL. This was enacted in 26 States and the law which had the provisions implementing the Three Strikes rule is known as the Violent Crime Control and Law Enforcement Act, 1994. The main rationale behind considering only the repeat offenders was that they are considered most difficult to manage by the State and local criminal justice system and also, they were considered to be unresponsive to imprisonment as means of behaviour modification and undeterred by the outlook of serving time in prison. The law was laid out in the California Penal Code to the conviction for a serious or violent felony such as murder, rape, robbery, attempted murder, assault with intent to rape or rob, any felony resulting in bodily harm, arson, kidnapping, mayhem, burglary of an occupied dwelling, grand theft with firearm, drug sales to minors and any felony with a deadly weapon. A criminal with one strike who is convicted of any subsequent felony faces an automatic doubling of the sentence length on that conviction and cannot be released prior to serving at least 80 percent of the sentence length. A criminal with two strikes who is convicted of any subsequent felony faces a prison sentence of 25 years of life and cannot be released prior to serving at least 80 percent of the 25-year term.⁸

The purpose of TSL generally fall under the moniker "three strikes and you're out," is to remove repeat offenders from society for long periods of time, if not for life. The laws have both proponents and critics. Proponents of the laws claim that they protect the public by incapacitating and deterring repeat offenders. Critics, however, argue that because of the relatively short length of criminal careers about 10 years on average incapacitating offenders for

⁶ *The People v. Richard Allen Davis*, No. S056425, Decided: June 1, 2009.

⁷ Edwin Meese III, *Three Strikes Statutes: Goals, Problems and Precedents*, 7 *Three-Strikes Laws Punish and Protect*, Federal Sentencing Reporter (1994).

⁸ Helland and Tabarrok, *supra* note 5.

long periods has little effect.⁹ However, the constitutionality of the law was challenged on numerous occasions by the critics; considering both the proponents and critics views, some Court rulings have limited the law whereas others have upheld most provisions of TSL. In the case of *Ewing v. California*¹⁰, the criminal was involved in a repeat offender and thus was sentenced to prison for 25 years to life under the TSL for stealing golf clubs from a Los Angeles country club, a nonserious, nonviolent offense. Ewing argued that the sentence violated the Eighth Amendment's prohibition against cruel and unusual punishment. In the past, the court had interpreted the Eighth Amendment to prohibit the imposition of a sentence that is grossly disproportionate to the severity of the crime. In 2003, the U.S. Supreme Court, in a 5-4 decision, upheld the constitutionality of California's TSL. The court argued, "Ewing's sentence is justified by the State's public safety interest in incapacitating and deterring recidivist felons" and that "selecting sentencing rationales is generally a policy choice to be made by state legislatures, not federal courts."¹¹

Further in the case of *Lockyer v. Andrade*, the Court decided that the sentence imposed upon the criminal under TSL cannot be relieved by means of a petition for a writ of Habeas Corpus on the basis of violation of the Eighth Amendment's prohibition of cruel and unusual punishments.¹² Thus, by the decisions of the Courts it is evident that by significant enactment and implication of TSL there has been substantial drop in the crime rates in the United States and also brought an uniformity in the disposition of the criminal cases. It is imperative to note that, India is facing problems in managing the repeat offenders who get away with their charges easily due to lack of Criminal Justice System in India. Henceforth, the law (TSL) should be laid down to the repeat offenders who would be responsive to imprisonment as means of behaviour modification.

⁹ Joanna M. Shepherd, *Fear of the First Strike: The Full Deterrent Effect of California's Two- and Three- Strikes Legislation*, 31 *The Journal of Legal Studies*, 160 (2002).

¹⁰ *Ewing v. California*, 538 U.S. 11 (2003).

¹¹ Brian Brown and Greg Jolivet, *Three Strikes - The Impact After More Than a Decade*, LAO Publications, 254 (2005).

¹² *Lockyer v. Andrade*, 538 U.S. 63 (2003).

SIGNIFICANCE OF THREE STRIKES LAW IN THE REDUCTION OF CRIME RATES IN CALIFORNIA, WASHINGTON AND OTHER PARTS OF UNITED STATES

While TSL have punishment and deterrence among their goals, these policies are also based, in part, on the idea that a small proportion of habitual offenders commit most crimes, and that incarcerating the most active and incorrigible criminals will therefore dramatically improve public safety. In California, twenty-one violent felonies, listed in California penal code section 667.5(c), and forty-two serious felony offenses, attempted offenses, or enhancements, listed in California penal code section 1192.7(c), can count as strikes. The law requires a state prison term (rather than jail or probation), restricts “good time” credits to twenty percent, and prohibits plea bargaining. The key difference between California and other states is that the offender’s current crime need not be serious or violent. About five hundred different felony offenses can set the second- or third-strike provisions of the law into motion (Moore, 1999).¹³

By August 1998, California had sentenced 40,511 offenders, including 36,043 second-strikers, under the law (Dickey, 1998). In comparison, Washington, the first state to pass a Three Strikes statute, had sentenced approximately 120 third-strike offenders and three second strike offenders under its more restrictive law (Dickey, 1998). Most other states and the federal system had sentenced even fewer prisoners. The relatively narrow TSL in most jurisdictions limit strikes-eligible offenses to a small number of violent felonies, and require three violent convictions to trigger a mandatory sentence. In some states, the law can be set into motion by more or fewer strikes. Georgia’s law stipulates life without parole after the second violent felony conviction from a list of specified offenses. However, far fewer offenses are covered by Georgia’s law than by California’s.¹⁴

By the middle of 1998, three states that had implemented TSL in 1994 or 1995 had not yet sentenced any offenders under the law, twelve other states had a dozen or fewer Three Strikes convictions, and the federal system had sentenced only 35 offenders under its version of Three Strikes (Dickey, 1998). Telephone and e-mail interviews with state criminal justice authorities conducted from September through November 2006 found that after more than a decade in place, TSL still had not been used with great frequency in states other than California, because few offenders were eligible to be charged under the far more restrictive terms of most states’

¹³ Elsa Y. Chen, *Impacts of ‘Three Strikes and You’re Out’ on Crime Trends in California and throughout the United States*, 24 J. Contemp. 370 (2008).

¹⁴ *Id.*

TSL. Washington had sentenced 281 offenders under its TSL and 66 offenders under a Two Strikes provision (State of Washington Sentencing Guidelines Commission, 2006). Nevada had 349 “habitual offenders” in its corrections system, and the South Carolina Department of Corrections reported seventeen inmates sentenced under its Three Strikes legislation and 334 inmates sentenced under the state’s Two Strikes legislation as of June 30, 2006.

The Virginia Dept of Corrections reported 316 “three-time losers” including individuals convicted of murder, robbery and drug offenses out of 35,000 classified inmates as of Dec 30, 2005. Pennsylvania’s “repeat offender mandatory sentences – second, third, and subsequent strikes – have rarely been imposed,” with “only about ten to fifteen cases per year.” The Arkansas Department of Correction housed 56 Three Strikes inmates, North Carolina reported twenty-six convictions up to July 31, 2006, Wisconsin had twenty-five cases, Tennessee had twelve, and other states had also made sparing use of the law, with only eight inmates in New Jersey and three in Vermont serving “Three Strikes” sentences, and five inmates sentenced under Maryland’s “Four Strikes” law. Nine “Three-Time Felony Offenders” and five “Repeat Sexual Batterers” had been sentenced under Florida’s law, which also includes separate provisions for drug trafficking and offenses against law enforcement officers and senior citizens.¹⁵

Alaska reported two Three Strikes cases, Connecticut reported one case, and Montana and Utah reported that their TSL had never been used. Every state other than California reported fewer than 400 second- and third-strikes convictions since the passage of Three Strikes. In contrast, by the end of 2003, a total of 80,087 second-strikers and 7,332 third-strikers had been admitted to the California Department of Corrections and Rehabilitation (California District Attorneys Association, 2004). The total has most likely exceeded 100,000 “strikers” by now. California’s Three Strikes policy is particularly atypical in that it is widely applied towards nonviolent offenders. As of 2005, thirty-seven percent of second- and third-strike offenders had been incarcerated for “crimes against persons,” thirty percent for property crimes, twenty-three percent for drug offenses, and ten percent for other offenses such as weapons possession (Legislative Analyst's Office, 2005).

In contrast, 96 percent of the cases prosecuted under TSL in Washington by March 2006 involved violent offenses (State of Washington Sentencing Guidelines Commission, 2006). Most states’ TSL are even more narrowly written than Washington’s: very few offenses are eligible to be counted as strikes, and all three “strikes” and the current offense must be violent for Three Strikes to be applied (Clark et al., 1997; National Conference of State Legislatures, 1996).

¹⁵ *Id.*

California's Three Strikes statute was designed to be substantially broader than the TSL in any other state. This distinction was reaffirmed by California's voters in November 2004, when Proposition 66, a ballot initiative that would have brought California's statute more in line with TSL in other states by requiring that all three offenses be serious or violent, was defeated at the polls (Furillo, 2004; Lundstrom, 2004; Walters, 2004). Because of the tremendous difference in scope and scale, one might expect California's law to influence crime rates differently than TSL in other states.¹⁶

The effect of TSL in other parts of the United States: -

The analysis produces both expected and unexpected results with regard to the impacts of TSL on crime rates. The coefficient associated with the crime trend in Three Strikes states after the law's adoption is negative and statistically significant for each of the "instrumental offenses": robbery, burglary, larceny-theft, and motor vehicle theft. The effects are not large, but they are consistent. Relative to the declines in crime already taking place nationwide and captured by the year fixed effects, the robbery rate in Three Strikes states fell 3 percent more rapidly, in the years after the law's adoption. The rate of burglary fell 1.8 percent more quickly, larceny-theft fell 1.1 percent faster, and motor vehicle theft fell 2 percent faster in 21 Three Strikes states each year the law was in place. At first glance, this seems to support the hypothesis that policies intended to deter crime are most effective against offenses that are likely to involve premeditation or rational decision-making, as opposed to "crimes of passion."

However, the Three Strikes dummy variable, which is intended to capture deterrent effects, is associated with non-significant coefficients for every category of crime except murder. These findings are somewhat puzzling, particularly because nonviolent offenses like burglary, larceny, and motor vehicle theft are not eligible for sentencing under Three Strikes in most states, and therefore rates of those offenses would not be expected to decline as a result of Three Strikes related incapacitation effects. In California, the coefficient on the Three Strikes dummy variable was negative and significant for two offenses: motor vehicle theft and robbery, suggesting that some deterrent effects might exist with regard to these types of crime. Contrary to expectations, although statistically significant crime-reduction effects on some crime types were found for Three Strikes policies nationwide, few additional incapacitation effects were measurable in California, the state in which the greatest deterrence and incapacitation effects would be expected. And subsequently, from 1994, the year of the law's passage, until 2005, design capacity of the Prisons increased by 18,884 beds, while the population of the state's severely overcrowded

¹⁶ *Id.*

prisons increased by 47,898 inmates.¹⁷ California's amendment to the TSL (Proposition 36) represents an advance in criminal justice law and a move towards retroactive resentencing reform. Proposition 36 allows inmates who are currently serving a life sentence under the TSL to appeal and adhere a resentencing to acquire a shorter sentence (Mills & Romano, 2013). The Department of Corrections compiled data that found that inmates serving a sentence under the TSL were the least likely to commit a new crime and return to prison, in comparison to inmates sentenced under a different law. Stanford Law School and their Three Strikes Project (2014) concluded that the low recidivism rate of inmates released under Proposition 36 has confirmed that the risk projection implementation has indeed worked. They also found that in comparison to inmates released under different propositions inmates sentenced to life under the TSL for non-serious, non-violent crimes are among the safest to release from custody (Stanford, 2014). After Proposition 36 was implemented, California's budget improved but the redistribution of the money was not used suitably. Veeh, Renn, and Pettus-Davis (2018) found that during the initial placement of Proposition 36 a need for re-entry programs was evident. An estimate of about 640,000 inmates was released, and just as it could have been predicted, their release came with co-occurring needs upon their entrance to their communities.¹⁸ Therefore, in this way TSL is been playing an important role in achieving the objective of curbing crime in the society.

LOOPHOLES IN CRIMINAL JUSTICE SYSTEM IN INDIA

The rate of repeat criminal offence is called recidivism and it measures the effect of a jail sentence on a convict. India has evidenced the long-term imprisonment which is provided in case of habitual criminals, but somewhere, it fails in its objectives. The Criminal Procedure Code (CrPC) provides for Preventive measures of two kinds against the habitual offenders i.e., Section 110 of CrPC provides Security for good behaviour from habitual offenders and Section 565 of CrPC provides the order for notifying address of previously convicted offender or in simple words habitual offenders are kept under police surveillance for a period extending up to five years in the event of their conviction of certain offences. The State Legislature have enacted special laws for regulating the conduct and restricting the movement of habitual offenders. Accordingly the Restriction of Habitual Offenders Act, 1918 (Punjab), U.P Habitual Offenders Restriction Act, 1952, the Karnataka Habitual Offenders Act, 1961, the Kerala Habitual Offenders Act, 1960 etc under which a habitual offender can be restricted in his movements to a certain area or required to report himself at times and places in the manner prescribed in the

¹⁷ *Id.*

¹⁸ Mondragon, Sendy, *California's Three Strikes Law-proposition 36: A Policy Analysis*, ProQuest, 32 (2019).

order.¹⁹ The other recommendations of the Law Commission of India and other bodies which also contributes to solve the problem of habitual criminality and recidivism. The Law Commission of India has recommended to widen the scope of Section 75 of the Indian Penal Code by adding some more offences and it has also recommended to amend the section. Similarly, the Joint Select Committee also recommended to include socio-economic offences in the Section 110 of the Code of Criminal Procedure. As a result, a new clause (f) has been inserted in the Section 110 of the Code of Criminal Procedure, 1973. The study also reveals that the All India Jail Reform Committee (1980-83) recommended to prevent the misuse of the provisions under Sec. 110 of the Code of Criminal Procedure, some suitable instructions are needed to the police so that the law will be legitimated by coming into action where it must strike.²⁰ However, these recommendations have not been taken into consideration earnestly, due to which it has an impact on the crime rates in India. This is evidenced in the NCRB Report where it is stated that among 1,97,952 convicts who were admitted during the year 2017, the number of habitual offenders were 6,582.²¹ Under the heading of incidence of Recidivism, the Report enumerates that the States reporting highest share of habitual offenders to convicts admitted during 2017 were Goa (30.3%), Delhi (20.8%), Andaman & Nicobar Islands ((17.4%), Meghalaya (13.2%) and Punjab (10.4%).²²

The Indian Judiciary has also made an attempt to address the problem of dealing with habitual offenders. In para 63 of the case *Rajendra Prahladrao Wasnik v. The State of Maharashtra*²³, it was contemplated that “The scope of Section 75 of the IPC was discussed in the 42nd Report of the Law Commission of India in the following words: “[This] is an attempt to deal with the problem of habitual offenders and recidivism. Other penal systems also have tried to grapple with this complex problem, but nowhere have the attempts met with marked success, perhaps because the causes of crime are themselves complex. Because the previous sentence has failed both in its object of reforming the offender and in its object of deterring him from crime, the law, as a measure of last resort, concentrates on protecting society from the offender by sending him to jail for a longer term than before.” Henceforth, the Indian Government has initiated many steps like mentioned above to improve the Criminal Justice System but eventually it has failed miserably in meeting its objectives. Therefore, the reliance on the efficacy of law and legal

¹⁹ The Criminal Procedure Code, 1973.

²⁰ Report of Committee on Reforms of Criminal Justice System, Government of India, Ministry of Home Affairs, 1 (2003).

²¹ National Crime Records Bureau Ministry of Home Affairs, *Prison Statistics India*, (2017).

²² *Supra* Note 21.

²³ *Rajendra Prahladrao Wasnik v. The State of Maharashtra*, (2012) 4 S.C.C. 37 (India).

Mohd. Kasim Mohd Hasim Shaikh vs The State of Maharashtra And Anr, W.P. No. 1181 of 2014 (India).

reforms which initiate the change must be focused which would certainly decrease the rates of habitual offenders in India.

ENFORCEABILITY OF TSL IN INDIA

India is a nation that must come to grips with an ever-widening gulf between the laws on its books and the dysfunctional, partial and often corrupt manner which they are applied. The country's legal undergirding is badly outmoded and constrained by a tendency to pass new laws rather than modify or eliminate old ones. The change in the outlook of punishments with the emphasis should be shifted from offense to the offender which will naturally lead to recasting into new law. Therefore, it is time for India to enact TSL to curb the crime rates of habitual offenders and the reform recommended does not entail huge budgetary outlays. The situation is so dire in India that even modest changes will have a dramatic impact. Therefore, TSL is recommended in India. TSL provides for mandatory life imprisonment if a convicted felon (1) has been convicted in federal court of a "serious felony" and (2) has two or more previous convictions in federal or state courts, at least one of which is a serious violent felony (the other offense may be serious drug offense).²⁴ The term "serious felony" includes murder, manslaughter, sex offences, kidnapping, robbery and any offense punishable by 10 years or more which includes an element of the use of force or involves a significant task of force.

However, in India it would be recommended that TSL would be initially applicable to petty offences which are minor offences of the Penal Law (Petty theft, assault, trespass and so on). Sentencing the habitual offenders of petty offences in India would meet the purpose of sentencing. According to Section 142(1) of the Criminal Justice Act 2003 states that any court dealing with the offender who has attained the age of 18 in respect of an offence must have regard to the following "purposes of sentencing":

- (a) The punishment of offenders
- (b) The reduction of crime (including its reduction by deterrence)
- (c) The reform and rehabilitation of offenders
- (d) The protection of the public
- (e) The making of reparation by offenders to persons affected by their offences.²⁵

²⁴ Editor FindLaw's Team, *Three Strikes Sentencing laws*, (Jan. 29, 2020, 23:12 PM), <https://criminal.findlaw.com/criminal-procedure/three-strikes-sentencing-laws.html>

²⁵ 9 PETER HUNGERFORD- WELCH, CRIMINAL PROCEDURE AND SENTENCING, Routledge Taylor & Francis Group, London & New York, 311 (2014).

These statutory purposes are not set out in order of priority rather it is set for the Courts which has to decide particular case keeping in mind these purposes. Therefore, by enacting TSL in India, the purpose of sentencing i.e., deterring crime and protection of public would be possible to achieve. The sentencing guideline of TSL in India should adopt this format- Firstly, the Court has to determine the category of the offence and classify it as a serious or minor offence. After determining, if it is categorised as minor offence, then the offender's background should be checked. If the offender has been accused of any offence earlier, then TSL must be applicable accordingly. Once the offender hits three strikes, he/she would be convicted for 25 years and this would create a sense of fear and lead to the reduction of crime in the society. When this objective is achieved, then TSL can be made applicable to serious crimes as well.

CONCLUSION

When an individual is convicted for the repeat offences, he or shall be dealt in accordance with the severity of the crime committed. Crime includes from petty to the serious and heinous offences. When the federal Government was pressurised for a stringent punishment to deter and curb the crime, the only solution was TSL and it worked effectively till today. In India, crimes can exist in various forms, which are generally classified on the basis of crime by location and crime over time. Under crime over time, murder rate has increased by 7% as compared to 1953 scenario and kidnapping has increased by 47% and cognizable crimes have increased by 1.5%. Moreover, rape has been declared as the most common crime committed in India.²⁶

With the ever-increasing crime rates in India and the lenient laws pertaining to the punishment given to such criminals, only add on to more rusty and dusty files in offices with no fair justice given to the victims of these crimes. Criminals roam around with no fear, whereas the victimizer suffers. One such classic example is the Nirbhaya rape case which shook the country to its roots and which still questions the existence of the Constitution that guarantees freedom to safety to its citizens, irrespective of their gender, but fail miserably in implementing. Its high time that Indian Government should realise the need for the new enactment which is TSL. In a country where the crime rates increase more than the literacy rates, implementation of TSL could be the hope for India. This law has an aptitude to eradicate such habitual offenders who have no fear of law or the Constitution. Once the habitual offender who hits three strikes would be convicted for 25 years and this would subsequently create fear and deterrence to the other criminals.

²⁶ Ghazala Sayeed, *Three Strikes Law in India?*, (Jan.29. 2020 23.22 PM) <https://www.indianfolk.com/three-strikes-law-india-knockout/>

Therefore, by enacting Three Strikes legislation in India, the objective of the punishment which is to prevent the commission of crime and to deter the repetition of crime would be achieved.