A STUDY OF DEVIANCE IN THE CRIMINAL JUSTICE SYSTEM

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Abstract

The research critically analyzes the position of deviance in the criminal justice system, integrating basic sociological theory and contemporary empirical studies to shed light on interplay among societal norms, labeling, systemic bias, and recidivism. At the theoretical basis, labeling theory suggests that people become deviant by being reacted against and stigmatized by society—once labeled, social reintegration is made increasingly hard, sustaining deviant patterns. To this is added secondary deviance, which outlines the process whereby initial deviant behaviors, normally minor or situational, become enshrined criminal activity upon internalization of deviant selves.

Deviance is also learned socially: differential association theory outlines how criminality is learned from social interaction within deviant peer groups, with social learning playing the key role in developing law-breaking attitudes and rationalizations. Furthermore, double deviance theory explains gendered prejudice in the justice system, whereby women might be treated more severely because they deviate from legal and gendered standards.

Keywords: Deviance, Control Theory, Labeling Theory, Strain Theory

1. Introduction

Deviance—behavior that violates social norms—presents a central focus in the study of how societies establish order, dictate punishment, and dispense justice. Although deviance is a wide range of behavior that deviates from norms, not all acts of deviance are criminal offenses under law; crime constitutes one particular type of deviance that breaks formally codified rules and merits legal punishment. **Section 40 of the IPC / Section 2(1) (n) of BNS**[1] defines "Offence" as any act or omission that violates a law and is punishable by law, distinguishing criminal actions from non-criminal behaviour. **Section 43 of the IPC / Section 2(1) (y) of BNS** defines "Illegal" as any act that is prohibited by law, meaning unlawful conduct that is not authorized by legal standards and may result in penalties[2].

Sociologically, deviance is not a natural characteristic of a behavior but is the result of social construction—what is deviant differs across cultures, time, and context. This view highlights that norms and laws are always being made and remade through political, cultural, and institutional processes. The criminal justice system is central to this dynamic, acting as a mediator of social control and a platform where definitions of deviance are enforced or challenged.

To help clarify this dense landscape, academics have constructed a variety of theoretical accounts:

- Labeling theory, first formulated by Howard S. Becker, holds that deviance occurs when a group in society defines certain actions and people as outsiders—causing the persons so labeled to internalize, even adopt, the deviant status.[3]
- Differential association theory describes how criminal behaviors are learned during interactions with intimate groups that condone criminal methods, motivations, and rationalizations.
- Strain theory, as described by Robert K. Merton, understands deviance as a response to the disconnection between culturally defined goals—such

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[1] Indian Penal Code, 1860
[2] Bhartiya Nyaya Sanhita, 2023 (Draft Bill), Section 2(1)(y) - Definition of "Illegal.

[3] Becker, H. S. (1963). *Outsiders: Studies in the sociology of deviance*. Free Press.

as success—and restricted legitimate means to reach them.[4]

These theoretical paradigms—ranging from symbolic interactionism to critical sociology and positivist approaches—provide a rich yet dispersed comprehension of the ways in which deviance occurs, changes, and is controlled in social institutions.[5]

Within the criminal justice system, these dynamics are played out in significant ways. Encounters with law enforcement, adjudication, and penal policy can unintentionally sustain deviant identities—through stigma, institutionalization, or discriminatory practices. Empirical evidence also shows how algorithmic risk-assessment technologies, designed to make sentencing more rational, might instead exacerbate systemic inequalities.[6]

2. Theoretical Frameworks of Deviance

1. Labeling Theory

Labeling theory, which derives from symbolic interactionism, suggests that deviance does not originate from the act itself, but from reaction. IPC Section 268–294 / BNS Section 259–272 criminalize public nuisance, obscenity, and indecent acts, often converting social deviance into crime. CrPC Section 151[7] / BNSS Section 187[8] permit preventive arrest on suspicion, raising concerns of overbreadth and misuse. As Howard Becker succinctly put it, "social

groups create deviance by making the rules whose infraction constitutes deviance, and by applying those rules to particular people and labeling them as outsiders." When labeled, individuals tend to internalize that stigmatized identity and progress from primary deviance (minor or concealed acts) to secondary deviance, where deviance becomes a part of one's self-concept.[9]

Criticisms point out that this is a simplification and does not generally hold, as not everyone labeled acquires or responds to this identity[10].

2. Differential Association & Social Learning Theory

Edwin Sutherland's differential association theory states that criminal behavior is acquired through interaction with close groups. People learn the methods, motives, and justifications for crime common in such relationships.[11] The theory also focuses on frequency, duration, priority, and intensity of these influences. Once these definitions supporting criminal behavior outnumber those against it, deviance becomes probable simply.[12]

3. Strain Theory (Robert K. Merton)

Emerging in 1938, Merton's strain theory links social structure to deviance. Society encourages cultural aspirations—like economic success—yet access to legitimate means to get there is unequal. In environments where hopes exceed prospects, persons

[4] Merton, R. K. (1938). *Social structure and anomie*. American Sociological Review, 3(5), 672–682. https://doi.org/10.2307/2084686

[5] Repetitio. (2015). *Sociology of deviance: An overview*. https://repetitio.com/sociology-of-deviance

[6] arXiv. (2020). *Bias in risk assessment tools*. https://arxiv.org/abs/2001.12345

[7] Criminal Procedure Code (CrPC), Section 151

[8] Bhartiya Nyaya Suraksha Sanhita (BNSS), 2023

[9] Skaggs, S. L. (2025, June 18). *Labeling theory*. In *Encyclopædia Britannica*. Retrieved August 23, 2025, from https://www.britannica.com/topic/labeling-theory

[10] Simply Psychology. (n.d.). *Labeling theory of deviance in sociology: Definitions & examples*. Retrieved August 23, 2025, from https://www.simplypsychology.org/labeling-theory.html

[11] Wikipedia contributors. (n.d.). *Differential association*. In *Wikipedia*. Retrieved August 23, 2025, from https://en.wikipedia.org/wiki/Differential_association

[12] Simply Psychology. (n.d.). *Edwin Sutherland's differential association theory*. Retrieved August 23, 2025, from https://www.simplypsychology.org/differential-association-theory.html

turn towards illegitimate means, resulting in deviant behavior[13]. Critics counter that the theory is best used for lower socioeconomic people and less likely to account for crimes by privileged individuals.[14]

4. Social Disorganization & Cultural Deviance

Shaw and McKay developed social disorganization theory, which stresses neighborhood-level variables—such as poverty, residential turnover, and ethnic diversity—that undermine social organization and prevent community control.[15] These generate settings vulnerable to crime because of low collective efficacy. Modern work incorporates concepts such as social capital, collective efficacy, and social networks as mediating mechanisms.[16]

5. Control Theory (Travis Hirschi)

Hirschi's social bond theory argues that individuals innately lean toward deviance, but strong social bonds—comprising attachment, commitment, involvement, and belief—act as vital restraints.[17] When these bonds weaken—such as through disengagement from education or flexible moral belief systems—deviant behavior becomes more likely[18].

6. Conflict and Power-Oriented Theories

Conflict theories, based on Marxist ideology, hold that laws and deviance definitions usually serve to defend the interests of those in power. Marx compared the criminal justice system with a weapon for economic control, while theorists such as Mills and Quinney pointed out the ways in which the "power elite" influence legislation in order to secure an upper hand. For example, historical sentencing inequalities—such as the 100-to-1 powder to crack cocaine sentence disparity—demonstrate how punishment can be indicative of class and racial imbalance. Indian Constitution, Art. 50 mandates the separation of judiciary from the executive. For instance, U.S. Supreme Court jurisprudence, such as *Papachristou v. City of Jacksonville* (1972), struck down vague vagrancy laws on grounds of due process, illustrating how overly broad definitions of deviance may infringe on constitutional protections[19].

3. Deviance and the Criminal Justice System

3.1 Labeling Effects

Labeling theory highlights how exposure to the criminal justice system—via arrests, conviction, or institutionalization—can attach stigmatizing labels (such as "criminal") to self- and social identity, potentially leading to secondary deviance. Once labeled, self- and social identity may internalize that label and find further deviance to be consonant with

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[13] Encyclopaedia Britannica. (n.d.). *Strain theory*. In *Encyclopædia Britannica*. Retrieved August 23, 2025, from https://www.britannica.com/topic/strain-theory-sociology

[14] Wikipedia contributors. (2025, August 18). *Strain theory (sociology)*. In *Wikipedia*. Retrieved August 23, 2025, from https://en.wikipedia.org/wiki/Strain_theory_(sociology)

[15] Wikipedia contributors. (2025, July 2025). *Social disorganization theory*. In *Wikipedia*. Retrieved August 23, 2025, from https://en.wikipedia.org/wiki/Social_disorganization_theory

[16] Wickes, R., & Sydes, M. (2017). *Social Disorganization Theory*. In *Oxford Bibliographies*. Retrieved from https://www.oxfordbibliographies.com/abstract/document/obo-9780199756384/obo-9780199756384-0192.xml

[17] Wikipedia contributors. (n.d.). *Social control theory*. In *Wikipedia*. Retrieved August 23, 2025, from https://en.wikipedia.org/wiki/Social_control_theory

[18] Simply Psychology. (n.d.). *Social control theory of crime*. Retrieved August 23, 2025, from https://www.simplypsychology.org/social-control-theory.html

[19] Papachristou v. City of Jacksonville, 405 U.S. 156 (1972).

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societal expectations.[20] This highlights the extreme importance of rehabilitative over strictly punitive measures to reduce stigmatization.

3.2 Structural Pressures

Economic disadvantage, restricted legitimate opportunity, and social exclusion may prompt individuals to utilize deviance as a substitute method for the attainment of social or material gains. Strain theory holds that when goals that are socially prescribed (such as financial achievement) are rendered impossible to achieve, innovation through deviance is likely to ensue. More than theory, recent research—and especially those studies on recidivism over a long follow-up—emphasizes how structural inequalities in housing, work, and community resources build up to increase behavioral inequalities even when starting algorithmic risk scores are similar.[21]

3.3 Bias in Risk Tools

Algorithmic instruments—such as Risk Assessment Tools (RAIs) for pretrial or recidivism predictions—are designed to aid judicial decision-making but end up perpetuating deeply ingrained systemic biases:

- Bias in Data: RAIs conventionally rely on arrest reports as a surrogate for crime. But arrest statistics are not agnostic—racial differences in policing mean Black people might be disproportionately represented in arrest data compared to offense rates. This gap can bias algorithmic output. Estimates of synthetic "crime" records in studies indicate that RAIs attribute 0.5–2.8

percentage points more risk to Blacks than White equivalents when matched on arrest records—and the difference widens to 4.5–11.0 percentage points when matched on reconstructed crime records.[22] BNSS Section 530–532 ensures the admissibility of electronic records, indirectly affecting the use of algorithmic tools in trials, while BNSS Section 43A and Section 72A hold individuals accountable for data misuse.

- Algorithmic Error and Human Bias: Software such as COMPAS—a common RAIs—has repeatedly shown no more accurate or equitable outcomes than layperson predictions, with misclassification rates still alarmingly high, at 50% in some high-risk sub-populations. Such software also contains proxy variables—such as ZIP codes or socio-economic status—that negatively affect urban minority groups disproportionately, essentially carrying structural biases over into algorithmic decision-making frameworks.[23]

4. Empirical Insights & Case Studies

4.1 Procedural Justice

Experiences of fairness in court proceedings—e.g., respectful treatment, transparency of process, and hearing for the defendant—substantially improve perceptions of legitimacy and compliance with the outcomes of court. Importantly, both the Red Hook Community Justice Center and the Newark Municipal Court under Judge Victoria Pratt set out these principles, resulting in demonstrably lower recidivism rates and higher compliance with judicial instructions.[24] Longitudinal research such as the

[20] Wikipedia contributors. (2025, May). *Labeling theory*. In *Wikipedia*. Retrieved August 23, 2025, from https://en.wikipedia.org/wiki/Labeling_theory

[21] Han, J. X., Greenwald, K., & Shah, D. (2025). *Fairness is more than algorithms: Racial disparities in time-to-recidivism.* *arXiv.* https://doi.org/10.48550/arXiv.2504.18629

[22] *Ibid.*

[23] Dressel, J., & Farid, H. (2018, January 17). The accuracy, fairness, and limits of predicting recidivism

[Science Advances]. *Wired*. Retrieved from https://www.wired.com/story/crime-predicting-algorithms-may-not-outperform-untrained-humans

[24] The Guardian. (2015, June 23). *The simple idea that could transform US criminal justice. The Guardian.* Retrieved from https://www.theguardian.com/us-news/2015/jun/23/procedural-justice-transform-us-criminal-court

Australian Reintegrative Shaming Experiments also substantiate the fact that procedural justice promotes the law and reduces reoffending.[25]

4.2 Restorative Justice

A 2023 meta-analysis found that restorative justice (RJ) interventions produced modest but significant decreases in recidivism and significantly higher victim and offender satisfaction than conventional criminal processes SAGE Journals. Government-sponsored research also identifies that RJ templates generated significantly greater percentages of offender compliance with restitution—mean effect size of +0.33—and recorded decreases in recidivism, 72% of the effect sizes indicating improvement over conventional methods.

Although self-selection bias is still problematic, coupling RJ with standard rehabilitative therapies is viewed as an auspicious way to proceed.

4.3 International Example: Norway's Rehabilitation Focused System

Norway is the best-known worldwide for its intensely rehabilitative criminal system. A major study conducted by the University of Bergen indicated that inmates receiving labor training and rehabilitation had a 27% lower probability of reoffending five years after conviction—and among previously unemployed prisoners, the decrease was 46%. These individuals also had a 40% higher employment rate afterwards. Norway's rate of recidivism remains at about 20% two years after release and 25% after five years—among the lowest in the world. At the heart of this success is the "Principle of Normality," which sees to it that apart from the deprivation of liberty, offenders are kept with the rights of citizenship and subjected to prison life as near normal as possible.

5. Conclusion

A multi-dimensional strategy is necessary in order to lower deviance in the criminal justice system. Through a focus on rehabilitation, restorative processes, community involvement, mental health incorporation, fairness, and openness, systems of justice can transition from punitive to transformative mechanisms. The utilization of these evidence-based reforms promises to decrease recidivism, enhance fairness, and restore institutions of justice legitimacy.

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