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CONTENTS

(Gopal K.N. Chowdhary)
Editor

Dr. Anandswarup Gupta Memorial Lecture

Freedom of Expression and Hate Speech: Role of Police and Civil Society

Dr. Justice B.S. Chauhan*

It is a privilege and honour for me to have been invited to deliver the Annual Dr. Anandswarup Gupta Memorial Lecture in the Bureau of Police Research & Development. Dr. Gupta, the first Director of the Bureau was a distinguished, outstanding & thinking Police officer & I pay my respectful homage to him. I also pay my respectful compliments to his family members present here.

I chose this topic i.e. Freedom of Expression and Hate Speech: Role of Police and Civil Society as I find today this topic has assumed great importance and media today is full of issues pertaining to Hate speeches. No doubt for a memorial lecture this topic sounds to be little off-beat. But considering the relevance today I think on my part to speak on the issue in a more analytic way. This lecture contains my personal views.

VOLTAIRE had famously remarked- *"I disapprove of what you say, but I will defend to the death your right to say it."* Freedom of speech and expression is the hallmark of a democracy. Freedom to air one's views is the lifeline of any democratic institution and any attempt to suffocate or gag this right would sound a death knell to democracy and would help usher in autocracy or dictatorship[1]. However, with grant of any freedom comes responsibilities and duties and within this realm I believe the concept of hate speech lies.

The concept of such freedom is to be able to speak and express ones thoughts and opinion freely without censorship. Speech is considered to be one of the most basic faculties of the human nature

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1   Mark Cooray, Freedom of Speech and Expression (1997), Chapter 6

Author Intro:

*   Chairman, Kaveri Water Tribunal and Ex-Judge of the Supreme Court of India.

as it comes naturally to every person. It is also seen as one of the most fundamental rights essential for a human living. Every person has the right to freedom of expression & speech and this is usually guaranteed by the concerned national Constitutions. This right includes the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.[2]

The importance of free speech as a basic and valuable characteristic of society cannot be underestimated. Freedom of speech serves a number of functions. One of its most important functions is that decision-making at all levels is preceded by discussion and consideration of a representative range of views. This is very helpful. The freedom of speech and expression which flows as a natural right has been accorded protection under a number of international and regional instruments:

- **Article 19 of the Universal Declaration of Human Rights** expressly provides that everyone has the right to freedom of opinion and expression.

- Another significant protection at the international level is enshrined in the **International Covenant on Civil and Political Rights (ICCPR). Article 19 of the ICCPR** elaborates on the freedom, as protected under the UDHR. It provides in express terms, how the States can restrict the freedom of expression, in accordance with law and in situations where it is necessary.

- **The European Union (EU) Convention for the Protection of Human Rights and Fundamental Freedom,** 1950, protects the individual's freedom of expression in Article 10. This Article specifically provides for a restriction; that the right does not prevent states from requiring licences for broadcasting, television or cinema enterprises. Further, Article 10 itself sets out a fairly comprehensive list of allowed restrictions on freedom of expression by states.

- **The American Convention on Human Rights** is another regional instrument which incorporates the freedom of thought and expression in Article 13 which also deals with restrictions that

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2   Toby Mendel, Restricting Freedom of Expression: Standards and Principles Background Paper for Meetings Hosted by UN Special Rapporteur on Freedom of Opinion and Expression, available at http://www.law-democracy.org/wp-content/uploads/2010/07/10. 03. Paper-on-Restrictions-on-FOE. pdf.

may be imposed. The right of expression may not be restricted by indirect methods or means, government or private controls over newsprint, radio broadcasting frequencies, of equipment used in dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions.

● Mention with regard to protection of freedom of speech and expression has also been made in another regional document- **The African Charter on Human and Peoples' Rights'**. Article 9 of the African Charter discusses about the right of every person to receive information, as well as express and disseminate his opinions within the law.[3]

Position in India: Almost all Constitutions of democratic nations including India have given prime place to the right to free speech. About two decades ago while addressing the Newspaper Society, famous Indian jurist Nani Palkhivala observed: "Freedom is to the Press what oxygen is to the human being; it is the essential condition of its survival. To talk of a democracy without a free press is a contradiction in terms. A free press is not an optional extra in a democracy."[4]

"The freedom of speech and expression benefits more the hearer than the speaker. The hearer and the speaker suffer as violation of their spiritual liberty if they are denied access to the ideas of each other." This freedom is essential for the pursuit of truth.[5] The freedom of speech and expression is regarded as the first condition of liberty.[6]

The Preamble of the Constitution of India itself secures, to the people, the liberty of thought, expression, belief, faith and worship. Free speech is one of the most coveted fundamental rights in the world. In India, the freedom of speech and expression is protected under **Article 19(1)(a) of the Constitution of India.** This is part of the basic fundamental rights. Though the Indian Constitution does not use the expression "freedom of press" in Article 19, but it has been included in one of the guarantees in Article 19(1)(a). This has been done by the wide interpretation given to this right by the able judiciary of the

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3   Mark Cooray, Freedom of Speech and Expression (1977), Chapter 6.

4   Nani. A. Phalkhivala, We the Nation-the Lost Decade (1994) p.29I. From the speech he delivered at The Golden Jubilee Valedictory Function of the Indian Newspaper Society, Delhi, September 29, 1989.

5   See Franklyn S. Haiman, Speech and Law in a Free Society, University of Chicago Press, (1981). The book contains a separate chapter, "What is Speech."

6   Ramlila Maidan Incident, re, (2012) 5 SCC I.

country. Freedom of press has always been regarded as an essential pre-requisite of a democratic form of government. This freedom of press is not superior to that of an individual though. In fact, this freedom is fundamental to the life of an individual.[7]

In *Publisher, Sportstar Magazine, Chennai v. Girish Sharma*[8] it was discussed that the expression 'freedom of press' means a freedom from interference from authority which would have the effect of interference with the content and circulation of newspapers.

In *Indian Express Newspapers (Bombay) Pvt. Ltd. v. Union of India*[9] the Court discussed that democratic constitutions all over the world have made provisions guaranteeing the freedom of speech and expression laying down the limits of interference with it, with a view of checking malpractices which interfere with free flow of information.

(B) Judicial Approach to free Speech & expression

(1) In many cases the Supreme Court of India has reiterated the need to protect the fundamental right of freedom of speech and expression. Since *Romesh Thapar*[10] there have been many cases[11] involving the right to free speech. In *R. Rajagopal v. Tamil Nadu*[12] Justice Jeevan Reddy reiterated the indispensability of freedom of press. In his lucid analysis he points out the jurisprudential desideratum thus:

But what is called for today-in the present times-is a proper balancing of the freedom of press and said laws consistent with the democratic way of life ordained by the Constitution. Over the last few decades, press and electronic media have emerged as major factors in our nation's life. They are still expanding and in the process becoming more inquisitive. Our system of government demands-as do the systems of government of the United States of America and United Kingdom-constant vigilance over exercise of governmental power by the press and the media among others. It is essential for a good Government.

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7 Justice Palok Basu, Law Relating to Protection of Human Rights under the Indian Constitution and Allied Laws, 2nd Edition, Modem Law Publications, (2011), 589.

8 200 I Cri LJ 1863 at pp. 1865, 1866

9 AIR 1986 SC 515 at p. 527

10 Romesh Thapper v. State of Madras, AIR 1950 SC 124, 128.

11 Brij Bhushan v. State AIR 1950 SC 129, Express Newspapers (P) Ltd. v. Union of India AIR 1958 SC 578, Sakal Papers (P) Ltd. v. Union of India AIR 1962 SC 305

12 AIR 1995 SC 264

(2) With the advent of new technologies, electronic media has become both popular and hyperactive. Cyber world opens up to electronic journals and the digital press has become a popular channel for 'expression' in the electronic age. However the problem whether they truly represent the sentiments of people or whether they are only mouthpieces of some interest groups, remains tantalizing. 'Sting operation' by using electronic bugs while interviewing a person may be good in their attempts to bring out truth; but if the same is used for blackmailing a person it is not only illegal, but also immoral. Democracy may then denigrate into *videocracy*. But it is heartening to note that there are many websites devoted to bring to light the incidents of human right violations.

(3) The jurisprudential rationale for restricting free speech are:

    (i) Obscenity[13]

    (ii) Offending speech 14[14]

    (iii) Hate speech[15]

    (iv) Workplace harassment[16]

    (v) National security[17] etc.

(4) Under Article 19(2) of the Constitution, incitement to offence is one of the grounds for legislative interference with the freedom of speech and expression. 'Expression' may incite readers or viewers to illegal action against the target selected by the speaker. In some other context a particular expression may excite others to break order and cause breach of peace, the speaker may become the target of attack. The content of such offending expression may be obscene, hateful or harassing by nature. Thus there is a close nexus among the concepts of obscenity, hate speech and harassment. Judiciary has an important role in deciding whether a particular speech is within a protected fundamental right or not when such a speech is alleged to be violative of accepted norms.

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13 K.A. Abbas v. Union of India (1970) 2 see 780

14 Chaplinsky v. New Hampshire 315 US 568, 572 and K.C. Chandy v. R. Balakrishna Pillai AIR 1986 Ker.ll 15R.A V v. City of St. Paul 505 us 377 (1992)

15 R.A.V v. City of St. Paul 505 US 377 (1992)

16 Vishaka v. Rajasthan (1997) 6 see 241

17 The National Security Act, 1980

(5)   In accepting constitutional provisions and related laws judiciary comes forward with certain principles so that it could decide whether a particular speech is violative of any legal code or norms. One such principle is the **'fighting words' doctrine.** Fighting words, which may constitutionally be prohibited, are words directed to any person·and have a tendency to cause acts of violence by the person to whom, individually, the remark is addressed. A precise assessment of fighting words cannot be made. For instance, the press has the duty not to misrepresent or distort or over emphasize certain portions out of the context and thereby creating a wrong impression in the minds of the readers who may think the speaker used an offending expression. If the editor does not discharge his duty faithfully, it means that he is committing two wrongs. First he creates wrong impression in the minds of the people about the speaker and thereby violates editorial ethics. Secondly, the editor makes the speaker violate the exception to free speech. Thus it is not the speaker as such but the editor becomes responsible for the fighting words.

(6)   The limits of protected speech are described by Kent Greenawalt as "the kinds of speech mainly engaged in by extreme dissenter and outsiders";[18] He includes mainly flag burning;[19] hate speech, workplace harassment and obscenity within the purview of fighting words.[20]

(7)   Laurence Tribe points out that the recent US Supreme Court decisions signify that the fighting words exception to free speech must be narrowly construed.[21]

(8)   The constitutional and statutory provisions in India have made it easier for courts to balance free speech and community interest because the courts can follow the guidelines from the

18 Kent Greenawalt, *Fighting words: Individuals, Communities and liberties of speech* (Princeton University Press 1995), p. 11. Fighting words have various modes like 'hate speech' or 'assault speech' See Clay Calvert, "Hate speech and its Harms: A communication Theory Perspective", 27 *Journal of Communication* 1 (1977).

19 See us. v. Eichman, 496 U.S. 310(1990)

20 *Kent Greenawal, ibid.* at 4. In *Thornhill* v. *Alabama,* 310 U.S. 88, 101 (1939) the Court declared the law prohibiting peaceful picketing unconstitutional. And see also Edward J. deary. *Beyond the Burning Cross: The First Amendment and the Landmark R.A.V.* (Random House 1994), p.26. It is stated thus: ...twentieth century history shows that there are a number of powerful nonverbal symbolic expressions that the majority find offensive.

21 See laurence Tribe, American Constitutional Law (Second ed. 1986), p. 850. 22 Article 19(2).

Constitution.[22] Moreover, there are statutory[23] norms that guide courts to decide whether a speech contains anything offensive.

(9)   When a court tries to assess the impact of words to decide whether it is harmful or not, it must take into consideration the following elements, viz. source (the communicator of hate speech), message (the hate words or symbols), channel (the avenue or vehicle through which the message is conveyed), and receiver (the audience or target of the message).[24]

(C) Hate Speech

Michel Rosenfeld defines 'hate speech' as 'speech designed to promote hatred on the basis of race, religion, ethnicity or national origin'. As he notes, the issue of hate speech 'poses vexing and complex problems for contemporary constitutional rights to freedom of expression'.[25]

Black's Law Dictionary, 9th Edn. defines the expression 'hate speech' as under: "Speech that carries no meaning other than the expression of hatred for some group, such as a particular race, especially in circumstances in which the communication is likely to provoke violence."

In recent judgement of the Supreme Court, *Pravasi Bhalai Sangathan Vs. Union of India & Ors*.[26] It was opined by me while directing election commission to take suo moto cognisance, that Hate speech is an effort to marginalise individuals based on their membership in a group. Using expression that exposes the group to hatred, hate speech seeks to delegitimise group members in the eyes of the majority, reducing their social standing and acceptance within society. Hate speech, therefore, rises beyond causing distress to individual group members. It can have a societal impact. Hate speech lays the groundwork for later, broad attacks on vulnerable that can range from discrimination, to ostracism, segregation, deportation, violence and, in the 'most extreme cases', to genocide. Hate speech also impacts a protected group's ability to respond to the substantive ideas under debate, thereby placing a serious barrier to their full participation in our democracy.

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22 Article 19(2).

23 Section 123 of The Representation of the People Act, 1951 relating to corrupt practices.

24 See J.W. Carey, Communication as Culture: Essays on Media and Society (New York: Routledge 19S9), p.42.

25 Michel Rosenfeld, Hate Speech in Constitutional Jurisprudence: A Comparative Analysis (2002-2003) 24 CARDOZO LAW REVIEW 1523, 1523.

26 Writ Petition (c) No. 157 of 20B-Decided on 12-3-2014.

As the "hate speeches" delivered by elected representatives, political and religious leaders mainly based on religion, caste, region or ethnicity militate against the Constitutional idea of fraternity and violates Articles 14, 15, 19, 21 read with Article 38 of the Constitution and further is in derogation of the Fundamental Duties under Article 51-A (a), (b), (c), (e), (f), (i), (j) of the Constitution and therefore warrant stringent pre-emptory action on the part of Central and State Governments.

(3) Provisions of International Instruments directly dealing with 'Hate Speech'

Article 20(2) of the ICCPR states and read as under:

- Any propaganda for war shall be prohibited by law.

- Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law. **The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) article 4 provides that** States Parties should condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention.

(4) Provisions Regulating the Hate Speech Crime in other Jurisdictions

- **Canada-Criminal Code 1985, Section 319(1):** "Everyone who, by communicating statements in any public place, incites hatred against any identifiable group where such incitement is likely to lead to a breach of the peace is guilty of ... an indictable offence and is liable to imprisonment for a term not exceeding two years."

- **Denmark-Penal Code, Article 266b:** "Whoever publicly, or with intention to disseminating in a larger circle, makes statements or other pronouncements, by which a group of persons is threatened, derided or degraded because of their race, colour of

skin, national or ethnic background, faith or sexual orientation, will be punished by fine or imprisonment for up to two years."

- **Germany-Penal Code, section 130(1):** "Whoever, in a manner that is capable of disturbing the public peace, incites hatred against segments of the population or calls for violent or arbitrary measures against them; or assaults the human dignity of others by insulting, maliciously maligning, or defaming segments of the population, shall be punished with imprisonment from three months to five years."

- **New Zealand-Human Rights Act 1993, section 61(1):** "It shall be unlawful for any person-

- To publish or distribute written matter which is threatening, abusive, or insulting, or to broadcast by means of radio or television words which are threatening, abusive, or insulting; or

- To use in any public place as defined in section 2(1) of the Summary Offences Act 1981, or within the hearing of persons in any such public place, or at any meeting to which the public are invited or have access, words which are threatening, abusive, or insulting; or

- To use in any place words which are threatening, abusive, or insulting if the person using the words knew or ought to have known that the words were reasonably likely to be published in a newspaper, magazine, or periodical or broadcast by means of radio or television, being matter or words likely to excite hostility against or bring into contempt any group of persons in or who may be coming to New Zealand on the ground of the colour, race, or ethnic or national origins of that group of persons."

(3) **United Kingdom-Public Order Act 1986 section 18(1):** "A person who uses threatening, abusive or insulting words or behaviour, or displays any, written material which is threatening, abusive or insulting, is guilty of an offence if-

  - he intends thereby to stir up racial hatred, or

  - having regard to all the circumstances racial hatred is likely to be stirred up thereby."

(4) **In the Indian context,** the contemporary meaning of the term 'hate speech' is inextricable from its origins (as a form of legal

action) in colonial attempts **'to assume the role of the rational and neutral arbiter of supposedly endemic and inevitable religious conflicts'.**[27] Given this historical context, hate speech has primarily been understood in India as referring to speech intended to promote hatred or violence between India's religious communities. Macaulay, in his commentary upon the Indian Penal Code, explicitly endorsed this interpretation of 'hate speech' under Indian law, observing that the principle underlying Chapter XV (prohibiting 'offences relating to religion and caste') is that 'every man should be suffered to profess his own religion, and... no man should be suffered to insult the religion of another.[28]

(5) The prohibition of 'certain (racist) forms' of speech inciting violence have been found invalid in the United States in R.A.V. v City of St Paut[29] (on the grounds that, by specifically targeting certain: forms of vilifying speech, the State unlawfully engaged in 'viewpoint discrimination'), equivalent restrictions upon racial and religious vilification have been upheld in India. Such measures have been adjudged necessary for the 'maintenance of communal harmony',[30] irrespective of the truth or untruth of such statements.[31]

(6) Nazi demonstrations, though constitutionally-protected in the United States[32] on the ground that speech causing offence cannot be restricted on that basis alone[33], may hence be prohibited in India on the grounds of 'public order'. India's departure from the US approach may reflect its Constitution's unique emphasis upon the preservation of the rights of minorities and the State's duty to ensure a social order for the promotion of the welfare of the people. The Supreme Court has concluded that 'the public

27 Asad 'Ali Ahmed, Specters of Macaulay: Blasphemy, the Indian Penal Code, and Pakistan's Postcolonial Predicament in Raminder Kaur and William Mazzarella (eds), CENSORSHIP IN SOUTH ASIA: CULTURAL REGULATION FROM SEDITION TO SEDUCTION, Indiana University Press, 2009, 173.

28 Thomas Macaulay, INDIAN PENAL CODE, 1838,2002 reprinting, 101.

29 505 US377 (1992)

30 Virendra v State of Punjab AIR 1957 SC 896.

31 31Rajagopal v. Province of Madras AIR 1948 Mad 326. There is, however, conflicting authority upon this point: see Lalai Singh Yadav v State of Uttar Pradesh (1971) Cri L J 1773; Shalibhadra Shah v Swami Krishna Bharati (1981) tri L J 113.

32 Collin v. Smith, 578 F .2d 1197 (7th C) (1978).

33 Street v.New York, 394 US 576, 592 (1969); Cohen v. California, 403 US 15,21 (1970).

interest' must be 'without a doubt have pre-eminence over any individual interest'.[34]

(7) The judicial attitudes on display in Joseph Bain D'Souza v Bal Thackeray (1995)[35] are illustrative in this respect. The Court, rather than serving as a neutral arbiter of the meaning and potential consequences of hate speech, align themselves with its perpetrators. The rhetoric of the Court frequently mirrors that of the respondent:

'The Pakistani infiltrators and the anti-national Muslims and Moulvis and Mullahs poured poison in Bhendi Bazar locality. It is pertinent to note that in the said article criticism is only against Pakistani infiltrators and anti-national Muslims and not Muslims as a whole ...'

(8) In this manner, the Court endorses the conspiracy theories of the respondent, abjuring judicial neutrality in order to criticise the 'anti-national or traitors section of Muslims and their selfish leaders who are creating rift between Hindus and Muslims'. The Court further endorsed the notion that '[t]he readers of the editorial are not likely to develop hatred, spite or ill-will against Muslims as a whole but may develop hatred towards those Muslims indulging in anti-national activities'.

(9) Often offending statements[36] made by leaders of political parties appear in the newspapers during elections. But the moot question here is as to whether the Election Commission can effectively handle such hate speeches & penalise the authors of such speeches.

(10) There are various provisions like Section 29A(5) & (7) of the R.P. Act empowering the Commission to examine the documents filed by a political party at the time of its registration and the application so filed must be accompanied by its constitution/rules which should contain a specific provision to the effect that the association/body would bear true faith and allegiance to the Constitution of India as established by law and to the principles of socialism, secularism and democracy and that they would

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34 Baragur Ramachandrappa v State of Karnataka and ors Appeal (cd) 1228 of 1998 (2 May 2007).

35 Joseph Bain D'Souza v Bal Thackeray 1995 (2) BomeR 317.

36 See *Manohar Joshi* v. *N.B. Patil,* A.I.R. 1996 S.C. 796, 807.

uphold the sovereignty, integrity and unity of India. However, the Election Commission does not have the power to deregister/derecognise a political party under the R.P. Act once it has been registered. A registered political party is entitled to recognition as a State or National party only upon fulfilling the conditions laid down in paragraph 6A or 6B of the Election Symbols (Reservation and Allotment) Order, 1968 (hereinafter referred to as "Symbols Order"). The Election Commission in exercise of its powers under Paragraph l6A of Symbols Order, can take appropriate action against a political party on its failure to observe model code of conduct or in case the party fails to observe or follow the lawful directions and instructions of the Election Commission. The model code of conduct provides certain guidelines *inter-alia* that no party or candidate shall indulge in any activity which may aggravate existing differences or create mutual hatred or cause tension between two different castes and communities, religious or linguistic and no political party shall make an appeal on the basis of caste or communal feelings for securing votes. It further provides that no religious place shall be used as forum for election propaganda. However, the Election Commission only has power **to control hate speeches** during the existence of the code of conduct and not otherwise.

(11) In **Ramesh v. Union of India**[37], while dealing with the subject, Supreme Court observed: "that the effect of the words must be judged from the standards of reasonable, strong-minded, firm and courageous men, and not those of weak and vacillating minds, nor of those who scent danger in every hostile point of view."

(12) There are **several statutory provisions** dealing with the subject such as–

- Indian Penal Code, 1860 Sections 124A, 153A, 153B, 295-A, 298, 505(1), 505(2)

- Code of Criminal Procedure, 1973 Sections 95,107,144, 151,160

- Unlawful Activities (Prevention) Act, 1967 Sections 2(f), 10,11,12

- The Representation of People Act, 1951 Sections 8, 123(3A), 125

37   AIR 1988 SC 775

- Protection of Civil Rights Act, 1955 Section 7

- Religious Institutions (Prevention of Misuse) Act, 1980 Sections 3 and 6

- Information Technology Act, 2000 & Information Technology (Intermediaries guidelines) Rules, 2011 Section 66A, 69, 69A Rule 3(2)(b), Rule 3(2)(i)

- The Cable Television Networks (Regulation) Act, 1995 and The Cable Television Network (Rules), 1994 Sections 5,6,11,12,16,17,19,20 & Rules 6&7

- The Cinematographers Act, 1952 Sections 4, 5B, 7.

(13) In addition thereto, the Central Government has always provided support to the State Governments and Union Territory administrations in several ways to **maintain communal harmony** in the country and in case of need the Central Government also sends advisories in this regard from time to time.

(14) The Central Government has also issued **revised guidelines** to promote communal harmony to the States and Union Territories in 2008 which provides *inter-alia* that strict action should be taken against anyone inflaming passions and stroking communal tension by intemperate and inflammatory speeches and utterances. The "Guidelines on Communal Harmony, 2008" issued by the Ministry of Home Affairs, Government of India seek to prevent and avoid communal disturbances/ riots and in the event of such disturbances occurring, action to control the same and measures to provide assistance and relief to the affected persons are provided therein, including rehabilitation.

(15) So far as the statutory provisions, are concerned, Section 124A of Indian Penal Code, 1860 makes sedition an offence punishable, i.e., when any person attempts to bring into hatred or contempt or attempts to excite disaffection towards the Government established by law. (Vide: **Kedar Nath Singh v. State of Bihar,** AIR 1962 SC 955)

(16) Sections 153A and 153B IPC makes any act which promotes enmity between the groups on grounds of religions and race etc. or which are prejudicial to national integration punishable.

(17) Section 295A IPC deals with offences related to religion and provides for a punishment upto 3 years for speech, writings or signs which are made with deliberate and malicious intention to insult the religion or the religious beliefs of any class of citizens. The Supreme Court in **Ramji Lal Modi v. State of U.P.,** AIR 1957 SC 620, has upheld the Constitutional validity of the section.

(18) Likewise Section 298 IPC provides that any act with deliberate and malicious intention of hurting the religious feelings of any person is punishable. However, Section 295A IPC deals with far more serious offences. Furthermore, Section 505(2) IPC provides that making statements that create or promote enmity, hatred or ill-will between different classes of society is a punishable offence involving imprisonment upto three years or fine or both.

(19) The Protection of Civil Rights Act 1955, which was enacted to supplement the constitutional mandate of abolishing 'untouchability' in India, contains provisions penalizing hate speech against the historically marginalised 'dalit' communities. Section 7(1)(c) of the Act prohibits the incitement or encouragement of the practice of 'untouchability' in any form (by words, either spoken or written, or' by 'signs or by visible representations or otherwise) by any person or class of persons or the public generally. Similarly, intentional public humiliation of members of the 'Scheduled Castes' and 'Scheduled Tribes' is penalized under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

(20) Section 123(3) of the R.P. Act, provides inter-alia that no party or candidate shall appeal for vote on the ground of religion, race, caste, community, language etc. Section 125 of the R.P. Act further restrains any political party or the candidate to create feelings of enmity or hatred between different classes' of citizens of India by making such an act a punishable offence.

(21) Article 20(2) of the International Covenant on Civil & Political Rights, 1966 (ICCPR) restrains advocacy of national, racial or religious hatred that may result in incitement for discrimination, hostility or violence classifying it as prohibited by law.

Similarly Articles 4 and 6 of the International Convention on the Elimination of All Forms of Racial Discrimination, 1965 (ICERD) prohibits the elements of hate speech and mandates the member

states to make a law prohibiting any kind of hate speech through a suitable framework of law.

(22) Thus, it is evident that the Legislature has already provided sufficient and effective remedy for prosecution of the author, who indulges in such activities.

(23) The statutory, provisions and particularly the penal law provide sufficient remedy to curb the menace of "hate speeches". Thus, person aggrieved must resort to the remedy provided under a particular statute.

The root of the problem is not the absence of laws but rather a lack of their effective execution.

Role of Police

The executive as well as civil society has to perform its role in enforcing the already existing legal regime. Effective regulation of "hate speeches" at all levels is required as the authors of such speeches can be booked under the existing penal law and all the law enforcing agencies/ Police must ensure that the existing law is not rendered a dead letter.

Enforcement of the legal provisions is required being in consonance with the proposition *"salusreipublicaesupremalex"* (safety of the state is the supreme law). Police need to resort to proper investigation and collection of evidence without bias, being fair & get the offenders prosecuted. In ''the era of technology, video recordings, audio recordings, computer downloads will come handy for Police. However, our police force is not sensitized and often they are partisan & partial. It would be desirable if BPR&D studies the issues on Hate speech and sensitizes the Indian Police.

Civil Society

In a democracy, law embodies a substantive social policy to secure justice to all sections of society. The concept of Social Justice and human rights is complete only when there is acknowledgement of subsistence right along with traditional liberties. Judiciary in India have been in the forefront for the protection of rights of people, more particularly and effectively after the adoption of new form of litigation called public interest litigation (PIL).

It is surprising to see the lack of vigilance on the part of state actors in the protection of human rights. This resulted in the increased prominence on the part of non-state actors in protection of the human rights. The expression non-state actors include NGOs, multi-nationals, armed groups, educational institutions, religious organisations, CBOs, private individuals, the media, and multilateral financial institutions like IMF and the World Bank.

Government institutions are responsible for protecting and promoting human rights. But they are not the only one involved in human rights and sustainable human development. There are other organizations i.e., civil organizations, such as human rights NGO's and other law related NGO's, Socio-economic NGOs, community organizations, schools / educational institutions, indigenous people's organizations, groups- young/youth/women's advocacy groups and the media which are greatly responsible for the protection of human rights.

It is appropriate to discuss the crucial role that ought to be played or being played by these non-state organizations (NGOs) as human rights defenders. NGOs are integral and indispensable to the implementation of human rights. The declaration of human rights i.e., UDHR recognizes their role in promoting human rights and fundamental freedom and in safeguarding and strengthening democracy and democratic institutions and processes, through investigating and bringing to light human rights abuses. In present days, the role of non-governmental organizations engaging in promotion and protection of human rights at all the local, national, and regional level become more evident. In the era of globalization there is growing recognition at the international level of the importance of human rights defenders. This is evident from the first major acknowledgement given by the United Nations through its 1998 *Declaration on Rights and Responsibilities of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedom.* This declaration on human rights is laying down a set of principles and rules designed to ensure the freedom for human rights activists.

It is necessary for civil society organisations like NGOs, CBOs and the youth as group to be given new strength and resolve in their actions. It is the need of hour to promote the twin pillars of equality and non-discrimination.

The efforts of such non-state actors in protecting freedom of speech & expression are commendable. Their openness in criticising the unnecessary restrictions on this right has been rewarding. In the past they have gone against hate speeches raising the issues in various fora, including Judiciary.

Role of Media in the Society

The role of media in the society is indispensable. Currently, the kind of influence that the media has on our lives is tremendous. Never before was the media sector so evolved or so influential, than it has come to be in this age. It impacts all sectors of our lives, in ways which were never thought possible.

There are two basic theories that are proposed to understand how the media comes into contact with the society and what role it plays. The first theory is the **social responsibility theory,** which is an **offshoot of libertarian theory.** This theory tries to reconcile the independence of the media with the obligations that it owes to the society. Some of the principles of the social responsibility theory are:

• the obligations are mainly to be met by setting high or professional standards of information, truth, accuracy, objectivity and balance;

• in accepting and applying these obligations, media should be self-regulating within the framework of law and established institutions;

• the media should avoid whatever might lead to crime, violence or civil disorders or give offence to minority groups;

• the media as a whole should be pluralist and reflect the diversities of the society. It should aim at giving access to various points of views and granting all the right to reply.

Agenda setting theory, on the other hand, says that the media are not always successful at telling us what to think, but they are quite successful at telling us what to think about. So, it is basically like giving a broad agenda to the public wherein the media delivers the news to the public.

The press has repeatedly played the role of a 'social scientist', a critic, evaluator of plans and schemes by providing thoughts and ideas, helped the poor and weaker sections of the society to have access to justice, dispensation of social justice by various means and correcting arbitrary power of the executive. Moreover, the press has also helped in the maintenance of Rule of Law.

There are legal provisions in various enactments which can be taken advantage of by the Police and the Civil Society to handle hate speeches in accordance with law. For faster disposal of such cases I may suggest "summary trial procedures". As far as police is concerned they should resort to truthful, fair, scientific investigation and appropriate prosecution. BPR&D can institute a study-cum-research on this important issue and frame guidelines relating to investigation at the earliest.

I thank DG, BPR&D and his staff for the kind gesture in inviting me to deliver this prestigious lecture.

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Corrigendum

We regret the mistake in Author's Intro of a paper, Criminal Investigation by Shri Tushar Gupta, G.G.S.I.P. University, where he has been wrongly introduced as Student of Delhi School of Law, Delhi University, in the October-December, 2013 of the Journal.

USI National Security Lecture - 2013

On Civil Military Relations Opportunities and Challenges☐

N.N. Vohra*

I *am very happy to have been asked to deliver the USI National Security Lecture 2013 and to speak on "Civil Military Relations: Opportunities and Challenges".*

2.   Before I proceed to reflect on the theme of today's Lecture, I think it would be useful to have reasonable clarity about what exactly do we have in mind when we use the term "civil military relations". I say this because earlier this year, at a seminar held in a Defence think tank at Delhi, a statement was made that "unsatisfactory civil military relations are having an adverse impact on the functioning of the military in India". While all those who may be involved in studying military matters would understand that this statement refers to the functioning of the Defence apparatus I feel that a, free use of the term "civil and military relations" should be best avoided as it has the potential of causing altogether unfounded doubt and suspicions in the minds of millions of people in India.

3.   Our Armed Forces, comprising the Army, Navy and Air Force, have a strength of about 14 lakh personnel and we have over 27 lakh ex-Servicemen. If the families of our serving and retired officers and men are also taken into account, we have more than 2. Crore people who enjoy the trust and affection of all the people of our country. I would, therefore, stress the importance of ensuring against there being any doubt whatsoever that over a billion people of our country have a very warm relationship with all our men in uniform. To ensure against any unfounded misgivings being created about this important relationship

Author Intro:

*   Governor, J&K.

☐   **Delivered on Friday 6th December, 2013 by N.N. Vohra, Governor, J&K. Formerly: Defence Production Secretary; Defence Secretary; Home Secretary and Principal Secretary to the Prime Minister.**

I feel that our strategic analysts and commentators may, instead of using the term "civil military relations", comment directly on the functioning of the Defence management apparatus and say whatever they wish to say.

4. I shall now speak briefly about yet another facet of civil-military interface which relates to the duty which the Army has been discharging, ever since 1947, of providing aid to the civil authority and supporting the affected States in combating insurgency and terrorism. Experience in the past over six decades has shown that whenever any State Government faces difficulty in dealing with an existing or emerging serious law and order situation, it approaches the Union Home Ministry for seeking the deployment of Central Police Forces (CPFs) to assist the State Police in restoring normalcy in the disturbed area. Experience has also shown that, in many cases, when it is found that even the Police and the Central Police Forces together would not be able to handle a given disorder, the Army has been invariably called upon to provide the required support.

5. A consequence of the situation which I have just described is that the Army has continued to be deployed in several parts of the country in considerable strength, and for prolonged periods, to carry out anti-insurgency and anti-terrorism operations. On many occasions, the operations carried out by the Army, in conjunction with the State Police and the Central Police Forces, have led to complaints and allegations from the local population about the violation of their rights. In this context, it would be recalled that for the past several years there has been a continuing debate on whether or not the Armed Forces Special Powers Act (AFSPA) should continue to apply to the disturbed areas where the Army has been carrying out sustained operations for combating insurgency and terrorism.

6. While every uniformed force, in whichever area it is called upon to operate, is duty bound to ensure that the people's civil rights are protected, it is equally necessary for the Centre and the affected States to collectively evolve an acceptable approach which ensures that the personnel of the military formations which are involved in carrying out counter insurgency or anti-terrorism operations are provided the requisite legal protection.

7. As law and order situations shall continue to arise in the future, in one or the other part of the country, it would be useful, in the longer term perspective, if well planned and time bound steps are implemented for enlarging the strength and the logistical resources of the State Police organisations and upgrading their professional capabilities for meeting future challenges. The development of the Police into a more effective force should, hopefully, lead to a progressive reduction in the recurring need for seeking the Army's support. I would also add that the requisite training and professional upgradation of the Police, as also of the Central Police Forces, can be most usefully assisted by the Army, which has well equipped and competent training centres all over the country. I would also add that Internal Security management would become far more effective if the Army were to develop operational interoperability with the Police and identified Central Police Forces.

8. I now come to the species of civil-military relations on which the USI has asked me to speak this morning. The theme on which I am required to comment actually relates to the civil-military balance and, therefore, essentially concerns the functioning of the Defence apparatus and the varied issues which may arise from the professional interface between the Defence Ministry and the military leadership of the three Armed Forces. The various elements which comprise this theme fall within the arena of Higher Defence Management. I shall try to speak on some of the more important aspects of this theme.

9. In the past two decades and more a growing number of former senior officers of the Armed Forces have been writing on issues relating to Higher Defence Management. These commentators broadly fall into two main groups: one which largely focuses on the failings of the Defence Ministry and the other which also speaks about the deficiencies in the internal functioning of the Armed Forces. I shall rapidly go over the more significant dissatisfactions voiced by both these groups.

10. A criticism which has been recurringly raised alleges that impediments arise in the functioning of the Defence Ministry because the civilian officers posted in the Ministry exercise authority which far exceeds their mandate. I shall examine the

basis of this misperception and try to explain the true position in simple terms.

11. First and foremost, in any discussion on Defence management it is extremely important to bear in mind that in our democratic parliamentary framework the power lies with the elected representatives of the people, from among whom Cabinet Ministers are appointed. The Ministers have the responsibility of managing the affairs of the departments under their charge and decide all important matters except those which are required to be submitted to the Cabinet, Cabinet Committee on Security, Prime Minister, President or other· specified authorities. The civil servants working in the various departments of the Government of India are the tools or the instrumentalities for assisting the Ministers in finalising policies and then ensuring that the same are effectively executed.

12. The Constitution of India lays down the framework within which the Union, i.e. the Government of India, and the States are required to carry out their respective responsibilities. List 1 of the 7th Schedule of the Constitution of India enumerates the subjects which are to be dealt with by the Government of India. In this List, the Government of India has been, *inter-alia,* assigned responsibility for ensuring the "Defence of India and every part thereof". The Supreme Command of the Armed Forces rests in the President. The responsibility for national defence vests with the Cabinet. This responsibility is discharged through the Ministry of Defence, which provides the policy framework and wherewithal to the Armed Forces to discharge their responsibilities in the context of the defence of the country. The Raksha Mantri is the head of the Ministry of Defence. The principal task of the Defence Ministry is to obtain policy directions of the Government on all defence and security related matters and see that these are implemented by the Services Headquarters, Inter-Service Organisations, Production Establishments and Research and Development Organisations.

13. As provided by the Constitution, the various subjects in List 1 are distributed among the different departments in accordance with the Government of India (Allocation of Business) Rules 1961. Under these Rules the various matters relating to the Defence of India have been allocated to the Ministry of Defence which

comprises the Department of Defence, Department of Defence Production, Department of Defence Research and Development and the Department of Ex-Servicemen Welfare.

14. Further, under the Government of India (Transaction of Business) Rules 1961, it is laid down that "all business allotted to a department specified under the Government of India (Allocation of Business) Rules 1961, shall be disposed off by, or under the general or special directions of, the Minister-in-charge" of the Department (Rule 3), subject to the provision of these Rules.

15. The Transaction of Business Rules further provide that "In each department, the Secretary (which term includes the Special Secretary or Additional Secretary or Joint Secretary in independent charge) shall be the administrative head thereof, and shall be responsible for the proper transaction of business and the careful observance of these rules in that department" (Rule 11).

16. Thus, as per the constitutional framework, the overall responsibility for the functioning of the Ministry of Defence rests entirely on the Raksha Mantri and the responsibility for ensuring that the business of the Department of Defence is transacted strictly in conformity with the Government of India (Transaction of Business) Rules 1961 is vested in the Defence Secretary.

17. From my own experience of working in the Defence Ministry for many years I can state, without an iota of doubt, that officers working in the Defence Ministry discharge their duties with great care and all important matters relating to the four departments of the Defence Ministry are decided by the Raksha Mantri, except those cases which are required to be submitted to the other designated authorities.

18. In the context of what I have just explained, the Defence Ministry is clearly responsible to the Government of India for dealing with all matters relating to the Defence of India and the Armed Forces of the Union and, further, as provided under the Defence Services Regulations, the Chiefs of the Services are responsible to the President, through the Defence Ministry, for the command, discipline, recruitment, training, organisation, administration and preparation of war of their respective Services.

19. The civilian face of the Defence Ministry is represented by the Raksha Mantri, his junior ministerial colleagues, Defence Secretary and the other three Administrative Secretaries in the Ministry and, say, another about 15-20 officers of Joint Secretary level and above in all the four Departments of the Ministry. During my days in the Defence Ministry a dozen Joint Secretary level officers in the four Departments of the Ministry were dealing with all the matters which were received from the Army, Navy and Air Headquarters, commonly referred to as the Service Headquarters (SHQ), and from several inter-Service organisations.

20. The arrangements which obtained in my time have undergone very significant changes after the amendment of the Government of India (Transaction of Business Rules) and the establishment of the Integrated Army, Navy, Air and Defence Staff Headquarters of the Ministry of Defence. The Integrated Headquarters (IHQ) are involved with policy formulation in regard to the Defence of India and the Armed Forces of the Union, and are responsible for providing the executive directions required in the implementation of policies laid down by the Ministry of Defence.

21. Another frequently voiced dissatisfaction is that the civilians who are posted in the Defence Ministry do not have adequate past experience of working in this arena and also do not have long enough tenures to gain specialisation for effectively dealing with military matters. This perception is largely true. Perhaps only a few among those who get posted in the Ministry of Defence, particularly officers at the Joint Secretary and equivalent level, may have done previous stints in the Defence or Home Ministries. As regards tenures: while the Central Secretariat Services officers may serve for long periods, the deputationist officers appointed to Director and Joint Secretary level posts enjoy average tenures of 5 years. I strongly believe that it is necessary to remedy this situation and had made a definitive recommendation in this regard over a decade ago, about which I shall speak a little later.

22. Some commentators have alleged that the role of the political leaders has been hijacked by IAS officers and what obtains in the Defence Ministry today is "bureaucratic control and not civilian political control of the military". It has been further argued that the civil services have succeeded in having their own way essentially

because: the political leadership has little to no past experience or expertise in handling defence matters, have little to no interest, and lack the will to support reforms in the defence management apparatus. This line of thinking is carried forward to conclude that as the Defence Ministry does not have the confidence and capability to adjudicate on the competing claims and demands made by the individual Services, each Service largely follows its own course and enlarges its role as per the whims and fancies of successive Chiefs.

23. I have already explained at some length the constitutional framework within which the Defence Ministry and its officers are required to function. However, to eradicate any misperceptions it would be most useful if the curricula of the various military training institutions also contains a suitably designed course for enabling the officer cadres to gain adequate awareness of the working of the Constitution of India and, side by side, to enhance their political awareness. Doing this would also provide a useful opportunity for appointing well qualified civilian teachers in the various military training academies with whom the trainee officers could have informal discussions on varied other matters in which they may be interested.

24. As regards the assertion that the individual Services largely follow their own volitions on account of the Defence Ministry's failure to enforce effective control, there cannot be any debate about the crucial need for the Integrated Defence Staff to work overtime for securing a level of jointness which will enable critical inter-se prioritisation of the varied demands projected by the individual Services and, based thereon, to evolve a closely integrated Defence Plan which has a 10-15 year perspective.

25. I now come to the views expressed by several former senior officers who are unhappy with the internal health, morale and discipline of the Services. Some of them are of the view that issues about civilian control have arisen essentially because successive Raksha Mantris have chosen not to exercise the requisite influence and control and have been particularly amiss in never questioning the Chiefs about the logic and assumptions relating to the execution of military plans, as this vital responsibility has been left entirely to the Service Headquarters. Operation Blue Star, Exercise Brass

Tacks, Exercise Checker Board, IPKF Operations in Sri Lanka and several other events are cited as examples of serious avoidable failures which happened because of the lack of clarity about the goals to be achieved and, besides, on account of major gaps in the operational plans. It is asked why such failures have never been subjected to any questioning or audit, as should have been done in a well-run system.

26. In the context of some of the cited failures, it is regrettable that the records relating to past operations, even of the wars fought by our Armed Forces, have continued to remain clothed in secrecy. This has had the adverse consequence of successive generations of military officers being denied the opportunity of learning from past mistakes. This important issue was taken note of by the Group of Ministers on National Security (2001) and a Committee to Review the Publication of Military Histories was set up by the Raksha Mantri in 2002. This Committee, which I was called upon to chair, gave a clear recommendation that the histories of the 1962, 1965 and 1971 Wars should be published without any further delay. This was in 2003. I gather that the History of the 1965 War has since been published.

27. Some commentators have gone to the extent of taking the position that difficulties arise in the functioning of the Defence Ministry because Raksha Mantris do not have past exposure to military matters. This is not a well founded notion. USA and various European countries faced two prolonged world wars and two to three generations of their youth were compelled to undergo conscriptions. Consequently, for many years in the post World War periods, a number of Ministers in these countries were persons who had earlier served in the armed forces and had been directly exposed to military functioning. Today, however, even in these countries there may now be no elected persons who would have earlier exposure to serving in the military. In India, we have never had any conscription. Recruitments to all our forces are done on voluntary basis. It would, therefore, not be logical to suggest that our Raksha Mantris should necessarily have been exposed to military matters.

28. It is disturbing to hear angry statements that the Defence Ministry has not been devoting timely attention to dealing with its tasks.

During my days in the Defence Ministry I worked with eight Raksha Mantris, of whom five were the Prime Ministers of the country, and can say, without any hesitation whatsoever, that even the Prime Ministers who held charge of Defence Ministry remained most seriously concerned about national security management issues while being overburdened with a horde of crisis situations on varied fronts. However, a factor which invariably came in the way of arriving at adequately prompt and satisfactory solutions, such as may have been possible in those troubled times, was our failure to present to the Raksha Mantri clear cut options based on the advice received from the Chiefs of Staff Committee. In this context it is relevant to recall the virtually established practice that the Chiefs would raise no significant matter in the Raksha Mantri's Monday Morning Meetings but seek to discuss substantive issues only in one-on-one meetings with him and, if possible, also with Prime Minister. I also recall that whenever the Chiefs met the Raksha Mantri together and presented him with even a broadly agreed approach, there was no delay in the required decisions being promptly arrived at and speedily promulgated. While, after the establishment of the Integrated Defence Staff, the decision making processes would, hopefully, have improved very significantly, I would re-iterate the importance of ensuring that the Defence Ministry functions on the basis of dynamic coordination between the civilian and military elements. I would also stress that integrated approaches shall materialise if decision making is based on processes which are rooted in jointness.

29. My memory goes back to the late 1980s when the Defence Ministry's functioning was, among other factors, most adversely affected by a severe financial crisis in the country. Reckoning the understandable worries and tensions within the Defence Ministry, Prime Minister V.P. Singh, who was also our Raksha Mantri at that time, set up a Committee on Defence Expenditure (CDE), which was charged to review the existing Defence set-up and recommend practical solutions to rationalise military expenditures. I was the Defence Secretary at that time. Arun Singh, who was Chairman of this Committee, consulted me informally about the recommendations evolved by his group and I gave him my personal opinion that while the proposal to create the proposed

Joint Chiefs of Staff (JCS) set-up for advising Raksha Mantri on all military matters would necessarily have to be processed for consideration. At the political level there appeared no difficulty whatsoever in implementing all the other recommendations for enforcing economies, closing redundant Ordinance factories, rationalising the Finance wing functioning and enlarging the existing administrative and financial delegations. The Chiefs of Staff Committee (COSC), after examining the CDE Report, communicated that none of the Committee's recommendations would be accepted if the Government did not accept the recommended restructuring of the Chiefs of Staff Committee. To secure better resource management, the Defence Ministry went ahead and ordered financial delegations upto the Army Command and equivalent levels, placed an Internal Financial Adviser (IFA) in each Service Headquarters and directed several other useful changes.

30. The defence reforms process did not move much further till May 1998 when the successful underground nuclear tests at Pokhran catapulted India into the exclusive league of nuclear power states. Needless to say, this sudden development cast very high responsibility on the Government of India, particularly on the Defence Ministry. This led to the establishment of various arrangements and structures for handling strategic issues and decisions. Thus, the National Security Council was set up in November 1998 and a National Security Advisor (NSA) was appointed at about the same time. Then, in summer 1999, came the Kargil War, which took the country entirely by surprise and generated grave misgivings about the failure of the defence apparatus and serious concerns about the Army's preparedness. The Kargil Review Committee (KRC) was set up to undertake a thorough review of the events leading upto the Pakistani aggression in the Kargil district and to recommend measures for safeguarding national security against such armed intrusions. The KRC Report (1999) was speedily examined by a Group of Ministers (GoM) which was chaired by Home Minister L.K. Advani. For undertaking national security reforms the Group of Ministers set up four Task Forces, one of which was on Higher Defence Management. Among the foremost recommendations made by this Task Force was the creation of the Chief of Defence

Staff (CDS) who, supported by the Vice CDS, would head the Integrated Defence Staff to improve the planning process, promote Ujointness" among the Armed Forces and provide single point military advice to the Government.

31. While the Group of Ministers endorsed almost all the major recommendations of the Task Force on Higher Defence Management, the proposal regarding the creation of a Chief of Defence Staff got involved in the lack of collective support by the three Services and failed to secure approval for want of political consensus.

32. I shall now briefly speak about certain issues which continue to affect the efficient functioning of the Defence apparatus:

- there must be no further delay in finalising the National Security Doctrine, on the basis of which integrated threat assessments could be made;

- while some improvements have been achieved in the past years, the Defence Ministry must enforce strict measures to ensure that the Ordinance Factories, Defence PSUs, DRDO establishments and other concerned agencies function efficiently to deliver supplies and services as per the envisaged time and cost schedules; prolonged delays cause serious difficulties for the Armed Forces and large economic losses as the lack of certainty about supplies from indigenous sources compels expensive imports whenever any emergency arises;

- while there have been notable advances in the rationalisation of the procurement policies and procedures, there is still need to ensure against prolonged acquisition proceedings as such delays altogether nullify the "make or buy" approaches;

- the individual Services enjoy the autonomy of taking decisions to make their own selections of weapons, equipments and systems; the Integrated Services Headquarters must take effective steps to establish a tri-Service approach in regard to such decisions as doing so will engender very significant financial savings;

- the Defence Planning Process has still to get established; the X and XI Defence Plans were implemented without receiving

formal approvals and while the Long Term Integrated Perspective Plan (LTIPP) has since been finalised it is still viewed as a totalling up of the wish lists of the individual Services; the Integrated Defence Staff must devote urgent attention towards finalising a fully Integrated Defence Plan with at least a 10-15 year perspective;

- the Services enjoy the authority of virtually settling their own manpower policies; the pro-rata percentage representation of Arms and Services in the Army needs to be modified forthwith as it is virtually a "quota system" which breeds group loyalties and cuts at the very roots of jointness within the Service.

33. Over the years, continuing efforts have been made by the Defence Ministry to promote jointness through integration of the planning, training and other systems so that, progressively, a tri-Service approach could get fully established. Thus, in the 1980s two very important steps were taken: the establishment of the Army Training Command (ARTRAC) and the Directorate General of Defence Planning Staff (DG, DPS). It would be profitable, even at this stage, if the Chiefs of Staff Committee were to set up an expert group to review the functioning so far of these two institutions and identify the reasons why both these crucial organisations could not achieve their objectives which were, *inter-alia,* envisaged to promote the establishment of jointness and a tri-Service approach.

34. While the functioning of the Defence apparatus has been getting steadily refined, I feel that the continuing lack of consensus among the three Services is thwarting the achievement of the vital objective of "jointness". A number of joint service institutions have come into existence in the post-Kargil War period. Among the new institutions, frequent references are made to the Integrated Defence Staff (IDS), Defence Intelligence Agency (DIA), Andaman & Nicobar Command and the Strategic Forces Command. While it may be far too early to rejoice over these recently established inter-agency institutions, it is disconcerting to learn that the individual Services are not doing all that is required to see that these new organisations get fully established without facing delays and difficulties. A former Army Chief is quoted to

say that the Integrated Defence Staff is "a redundancy in military bureaucracy"; the founder Director of Defence Intelligence Agency is quoted to bring out that "the Defence Intelligence Agency cannot deliver as the Intelligence Agencies of the three Services feel threatened by it" and about the Integrated Defence Staff it is stated that "the Services will never allow this body to function as they feel threatened that it will start examining the basis of their budgetary proposals, acquisition plans and force structures".

35. The time has come for the individual Services to close their ranks and get collectively concerned about the major threats and formidable challenges which we face in our close neighbourhood and beyond. The global security environment is continuing to become growingly complex and huge uncertainties loom large on various fronts.

36. Our military has to be also concerned about the arising consequences of the economic meltdown and the strong likelihood of the allocations for Defence facing a significant decline in the coming time. In this scenario, to prepare for successfully meeting future challenges, it is of the highest importance that the individual Services shed all reservations and establish meaningful jointness. The pursuit of a truly tri-Service approach will not only reduce functional overlaps but also contribute towards reducing wasteful duplications and redundancies. I learn that the Integrated Defence Staff have already promulgated a Joint Doctrine on the Indian Armed Forces which is presently undergoing revision because of the differing views of the Service Headquarters on several important issues. In this context, I would re-iterate the crucial importance of ensuring the urgent finalisation of the Joint Doctrine which covers all aspects of Integrated Operations. Any delay in this regard would come in the way of the Armed Forces preparing themselves fully for delivering an effective response when any emergency arises in the future.

37. In view of the serious economic problems being faced the world over, many countries are exploring various approaches for containing and restricting the large expenditures being incurred on maintaining their armed forces. In this context, our Defence Ministry must realise the need to keep a very close watch on the

rising cost of maintaining the military apparatus and ensuring that the high cost of the longer term acquisitions can be met from within the future availability of resources. Side by side, urgent attention needs being paid to reducing dependency on continuing imports of weapons and systems. This would require a very vigorous revving up of the ongoing indigenisation programmes and DRDO (Defence Research & Development Organisation) and Defence Production units joining hands with the private sector to yield speedier results. In the past years, only the Navy initiated systematic steps to foster indigenisation of their major platforms and systems and deserve all praise for the wonderful outcomes which they have already been able to achieve.

38. It also needs being noted that India is not the only country which is engaged in dealing with problems which relate to the functioning of the defence management apparatus. Many democracies have been facing such problems and, benefitting from their own past experiences, several important countries have established strong parliamentary oversight bodies to monitor all the important issues relating to the functioning of their armed forces. Some countries have even inducted external experts to monitor their ongoing defence reform processes.

39. India cannot and must not be left behind in doing all that needs to be done for strengthening and enhancing our national security interests. I have long been of the view that we need to develop our own model of defence management which vigorously promotes and sustains military professionalism while being fully in tune with our constitutional framework and in harmony with our glorious traditions of soldiering. The model to be evolved should also not be excessively encumbered with varied hierarchical fixations which are rooted in our colonial past.

40. Considering the threats and challenges which loom on our horizon it is extremely important that our Higher Defence Management structures are founded in the need to maintain a sensitive balance between the civil and military components and, side by side, ensuring that the entire military apparatus functions strictly within the parameters of "jointness".

41. On the basis of my own past experience, I would say that it would be an ideal situation if the Service Chiefs were to collaborate

closely and for the Chiefs of Staff Committee to itself take the various required decisions to pave the way for the future and establish jointness, brick upon brick. In the past over two decades many useful opportunities were lost because of the lack of convergence in the views of the Service Headquarters.

42. If jointness and a tri-Service approach cannot be achieved soon enough then, perhaps, the only option left may be to proceed towards replacing the existing single Service Acts by an Armed Forces Act which would lay a statutory basis for achieving jointness and delineating the roles, duties and missions of the Armed Forces, as also the procedures and modalities relating to the functioning of the Defence apparatus. In this context, it may not be out of place to recall that the USA achieved its objectives by promulgating the Goldwater Nichols Act in 1986, after nearly four decades of experimentation under the aegis of its National Security Act. And more recently, because of the serious budgetary problems faced by the country, UK has been devoting high level attention to introducing reforms in its defence management apparatus. In this context, the Levene Report has sought to clarify the respective roles and responsibilities of ministers, civilian officers and the military at the policy, strategic and operational levels.

43. In so far as the tenures of civilians working in Ministry of Defence are concerned, I have been urging, for many years now, the establishment of a dedicated security administration cadre by drawing in the best available talent from the Civil Services, Defence Services, DRDO, S& T, Information and Communication Technology, Broadcasting and Media, et al. I had proposed that officers of this dedicated cadre should enjoy open ended tenures and those found fit should be enabled to develop specialisation in dealing with security related matters and be deployed in the Home Ministry, Intelligence Bureau, National Security Council Secretariat, Defence Ministry, R&AW and other security management related areas for their entire careers. This recommendation is contained in the Report of the Task Force on Internal Security (2000), which I had chaired. It was accepted by the Group of Ministers (reference para 4.105, page 56, GoM Report). After hearing me the Group of Ministers had gone further and added that as "the assignments in these ministries/agencies

are perceived as exacting and unattractive, the members of such a pool should, therefore, be appropriately compensated by provision of non-monetary incentives". It is time to resurrect and speedily implement this decision of the Group of Ministers.

44. Another factor which was noted by the Group of Ministers related to the marked difference in the perception of roles between the civil and military officers. I was asked to chair a Task Force to work out the curricula for organising a continuing Joint Civil and Military Training Programme on National Security which would be undergone by Brigadier and Maj General and equivalent rank officers from the three Defence Services, I.A.S., I.P.S., I.F.S, Central Police Forces and, as the training settled down, participants would also be drawn from the Media, Industry and other arenas. On the basis of my recommendations, the first 2-week Joint Civil and Military Training Programme on National Security commenced at the IAS Training Academy at Mussoorie, in February 2003. This programme has been successfully continuing for over a decade now and the 20th Course commenced at Mussoorie in November, 2013. It would be beneficial if the Defence Ministry were to review this programme and suitably recast its contents to meet the existing and emerging scenarios.

45. Recurring media reports in the last two years about controversial interviews relating to personnel issues, the Raksha Mantri's decision being challenged in the apex court, and several other unseemly scandals have marred the Army's glorious image and dragged the Services into the cesspool of partisan and parochial politics. This has caused divisiveness and serious damage to the very fabric of our military. It is indeed most unfortunate that any questioning of the deviations from the well established norms is viewed as questioning the very loyalty of the entire Indian Army. Such incidents, which have a grave adverse affect on the morale of the Armed Forces, must not be allowed to recur under any circumstances. Time has perhaps come to review the entire existing basis of promotions and appointments to the higher echelons in the three Services.

46. The patriotism and professionalism of the men and women of our Armed Forces is second to none among the militaries the world over. Our fearless military personnel who maintain an eternal

vigil on our land, sea and air frontiers, have successfully thwarted successive aggressions and safeguarded the territorial integrity and sovereignty of our motherland in the past over six decades, laying down their lives for the country.

47. I have a very long association of working with the military. For the past over five years I have been serving in Jammu & Kashmir where I have had the opportunity of observing from very close quarters the extremely difficult circumstances in which the men and women of our Army operate round the year, in severe weathers and harsh terrains. I take this opportunity of paying my humble tribute to our valiant soldiers and re-iterate that there should be no doubt ever, of any kind, about the devotion and loyalty of our military. Let nothing be ever said or done which generates any kind of debate or controversy which mars the glorious image or affects the morale of the 14 lakh officers and men of our Armed Forces.

48. Our national security concerns demand that all interests and all institutions of national power are brought to work most closely together to further the country's interest and build a militarily and economically strong India which enjoys the trust and respect of all our neighbours.

49. In conclusion I would say to all my friends in uniform and to all my civilian colleagues: the country must come first, always and ever, and never forget "who lives if India dies".

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"Is There Need for A Comprehensive Legislation to Deal with Matters of Internal Security?"

M.L. Sharma*

"By maintaining order, the King can preserve what he already has, acquire new possessions, augment his wealth and power, and share the benefits of improvement with those worthy of such gifts.

The progress of this world depends on the maintenance of order and the proper functioning of the Government."

– Kautilya

Keywords

Internal Security, External Security, Surplus Military Power, Union, Indestructible Union, TADA, Federation.

Abstract

The problem of internal security in India is very complex. The Indian society is conflict ridden and India has hostile neighbours. Hence, there is militancy, insurgency, terrorism, communalism and left-wings extremism, each posing a threat to internal security. Noble Laureate V.S. Naipaul has described India as a land of 'Million Mutinies'. This was about two decades ago. This description is as true today, if not more, as it was when he wrote his celebrated book under this title.

NATIONAL security is interpreted widely in the present age. It is not confined to the security of national borders only but also comprises of economic security, food security, energy, including nuclear security, cyber security, clean environment, equality before law and good governance. However, internal security is at the heart of the national security. No nation can feel secure unless there is peace and tranquility within its borders. There is yet another reason for the efficient management of internal security. Excessive engagement of

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the instrumentalities of the State with internal security tends to deplete **'surplus military power'** which, needless to say, adversely affects external security, both from defensive and offensive postures. Hence, the need for maintenance and preservation of internal security can hardly be over-emphasised.

2.   It will be my endeavour to inquire into the issues of internal security in the constitutional and legal framework in this paper.

Constitutional Scheme

3.   Article-l describes India as a Union of States. A special aspect of the Union is that the Union is indestructible but not the States. Their identity can be altered or even obliterated. The word **'Federation'** has not been used anywhere in the Constitution. Scholars have variously described India as a Union or a Federation or even a quasi Federation. In fact, in **Kesavanand Bharti case**[1] the Supreme Court has held that the basic structure of the Constitution cannot be altered through the amendatory process under article 368. One of the striking features of the basic structure is the **Federal character of the Constitution.** Justice A.M. Ahmadi, former Chief Justice, has observed that the Indian Constitution has in it not only features of 'pragmatic federalism' but is also over-laid by strong unitary features[2]. To quote :

"It would, thus, seem that the Indian Constitution has, in it, not only features of a pragmatic federalism which, while distributing legislative powers and indicating the spheres of governmental powers of State and Central Governments, is overlaid by strongly 'unitary' features, particularly exhibited by lodging in Parliament the residuary legislative powers, and in the Central Government the executive power of appointing certain constitutional functionaries including High Court and Supreme Court Judges State Legislatures and the Governments in emergency situations, vide Articles 352 to 360 of the Constitution."

4.   A review of the provisions of the constitution shows unmistakably that while creating the Union, the founding fathers wished to establish a strong centre. In the light of the past history of this sub-continent, this was probably a natural and necessary decision. The basic feature of a federal constitution is distribution of legislative powers between the Union and the States. As per Article 246(1), Parliament has exclusive powers to make laws with respect to any of the matters enumerated in List-I (Union List). List-I contains 97 Entries. Entry-I and Entry-2-A are

of special significance for our purposes. Entry I relates to Defence of India, Entry 2-A relates to deployment of Armed Forces of the Union in any State in aid of civil power. Entry 97 confers residual powers on the Central Government.

5.   Parliament is also empowered to make laws with respect to any of the matters enumerated in List-III (Concurrent List) (Art.246(2). Significantly, Entry I of List III comprises of Criminal Law and Entry 2, the Criminal Procedure. In other words, both the Central Government and the State Governments can make laws on criminal law and criminal procedure.

6.   As per Art. 246(3), the legislature of a State has exclusive power to make laws for the State with respect to any of the matters enumerated in List-II (State List). Entry I and Entry 2 of this list are of critical importance and have a significant bearing on the Central-State relations. Entry I deals with 'Public Order. Entry 2 deals with the Police, subject to the provisions of Art. 2A of List. I.

7.   As per Art. 248, Parliament has exclusive power to make any law with respect to any matter not enumerated in List II or List III in terms of Entry 97 of List I. Art. 254 provides that in case of inconsistency between laws made by the Parliament and laws made by the legislature of a state, the law made by Parliament shall prevail and the law made by the legislature of the State shall, to the extent of repugnancy, be void. **This gives supremacy to the Parliament in the legislative field.** Not only this, Art. 253 empowers the Parliament to make any law for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body.

Emergency provisions

8.   The framers of the Constitution were conscious that in a country of sub-continental dimensions, immense diversities, socio-economic disparities and multitudinous people with possibly divided loyalties, security of the nation and stability of its polity could not be taken for granted. The framers, therefore, recognized that in a grave emergency, the Union must have adequate powers to deal quickly and effectively with a threat to the very existence of the nation, on account of external aggression, or internal disruption and conferred over-riding powers on the Union to control the situation[3]. Article 352 empowers the

President of India to declare emergency if a grave emergency exists whereby the security of India or any part thereof is threatened either by **war or external aggression or armed rebellion.** While a proclamation of emergency is in operation, the executive power of the Union shall extend to give directions to any State as to the manner in which it is to exercise its executive powers (Art. 353). Besides, this article also empowers Parliament to make laws in respect to any matter included in List-II and List-III. Under Art. 356, the President, being satisfied on receipt of report from the Governor of the State, that a situation has arisen in which Government of the State cannot be carried on in accordance with the provisions of the Constitution, may, by a proclamation, assume to himself all or any of the functions of the Government of the State; and declare that the powers of the Legislature of the State shall be exercisable by the Parliament. The effect of the proclamation of emergency is that the enforcement of fundamental rights (except for Art. 21 & 22), stands suspended (Art. 359). It is significant to mention that as per Art. 355, it is the duty of the Union to protect any State **from external aggression and internal disturbances.** It would, thus, be seen that Parliament has supremacy in the legislative field in the normal times which gets enhanced during the emergency. Thus, Parliament has ample legislative authority to make laws for the internal security of the country in our constitutional scheme.

9.   A brief mention may also be made of Articles 256 and 257 at this juncture as they govern administrative relations between the Centre and the States. Article 256 obligates a State to exercise its executive power in such a manner so as to comply with laws made by Parliament. The Government of India can also issue suitable directions to a State under this Article. Importantly, Art. 257 obligates a State to exercise its executive power in such a manner so as not to impede or prejudice the executive power of the Union. The Central Government can also command the State Governments to construct and maintain means of communication of national or military importance and for protection of railways within the State. This gives supremacy to the Central Govt. in the administrative field.

10.   The United States of America is said to be a classic Federation. The American Constitution enumerates the powers of the National Government and reserves residuary powers, except those prevented by the Constitution, for the States. It has no concurrent List. Most of the powers delegated to the national Government are specified

in Article 1, Section 8. All the powers granted to the Congress are not exclusive. Over the years, as a result of judicial interpretation, a concurrent field has emerged. Those powers which do not belong to the Congress exclusively and are not forbidden to the States, are Concurrent in the sense that so long as the Congress does not formally pre-empt or occupy the subject matter of these powers, the State Legislatures may also exercise them. The result is that over the years, the Federal role has become bigger, broader and deeper within the Federal system.

11. It may be apt to mention that as a result of interpretation of Article 1, Section 8, by the courts, the amplitude of Federal crimes has become huge. As of now, a huge number of crimes have been classified as Federal crimes which are exclusively investigable by the Federal Bureau of Investigation. These crimes are triable by the Federal Courts constituted by the Federal Government and not by the State courts. The PATRIOT Act of 2001 has further expanded the scope of Federal crimes. The federal supremacy in USA Constitution is reflected in section 2 of Art. VI[4].

Internal Security Problems & Legal Frame Work

12. The problem of internal security in India is very complex. The Indian society is conflict ridden and India has hostile neighbours. Hence, there is militancy, insurgency, terrorism, communalism and left-wings extremism, each posing a threat to the internal security. Noble Laureate V.S. Naipaul has described India as a land of 'Million Mutinies'. This was about two decades ago. This description is as true today, if not more, as it was when he wrote his celebrated book under this title.

13. It is not easy to precisely define internal security. Task Force 05 set up on 'Criminal Justice, National Security and Centre-State Cooperation' defined internal **security as 'security against threats faced by a country within its national borders, either caused by inner political turmoil or provoked, prompted or proxied by enemy country, perpetrated even by such groups that use a failed, failing or weak State, causing insurgency, terrorism or any other subversive acts that target innocent citizens, cause animosity amongst groups of citizens and communities intended to cause or causing violence, destroy or attempt to destroy public or private establishment"**

In addition, socio-economic factors also play their role in causing internal security problems such as left wing extremism or naxalism.

14. It is to be noted that India's internal security problems have been aggravated by the involvement of hostile neighbours, including the non-State actors. Thus, the mix of internal security and external security problems is a lethal combination which defies easy solutions. K. Subrahmanyam in his introduction to Shri Yashwant Singh's book 'Defending India' has described the internal security scenario as follows :

"The above perspective does not take into account the nature of new threats to security in an increasingly globalizing world subjected to continuing communication and transportation revolutions. A nation attempting to hurt an adversary today does not launch an overt military attack using organized forces. It initiates a covert war using terrorists, infiltrating arms and explosives into the target country and exploiting all possible fissures in its social fabric. This country has been subjected to such covert war since 1983. Thousands of trained infiltrators have been sent into our country and they have carried out thousands of acts of terrorism inflicting many times the number of casualties India has suffered in all inter-State wars it has fought in the last 50 years. Our cities have been subjected to simultaneous multiple blasts to undermine the confidence of investors or to intimidate voters. Our coastline has been violated and tons of explosives have been landed. It is not beyond the scope of such adversary organizations to land a nuclear device and set it off. Our airspace has been penetrated with impunity and arms dropped on our soil, thousand miles deep into our territory, Fake currency has been sought to be introduced. Narcotics are flowing in and external agencies have established contacts with organized crime in India Insurgencies within the country are supported with arms and money by such agencies. This is a low cost option for our adversaries which exacts a higher price from us in terms of casualties, development process and expenditure. In 1965 when Pakistan sent in its infiltrators into Kashmir in Operation Gibraltar, India reacted by sending its Army across the Line of Control. Now with the nuclear factory operating, that option is not considered an optimal one. Consequently, India has suffered enormous casualties and disruption in Kashmir while being deterred from acting in the way it did in 1965."

15. It is not within the scope of this paper to analyse the internal security problems with an academic rigour or to attempt to quantify them in statistical terms. The focus of this paper is on the consolidation of laws relating to the internal security. Hence, it will suffice if the internal security problems are identified in broad terms, with focus on the legal aspects thereof.

Broadly speaking, India's internal security problems can be crystalised as follows:

o   Public order;

o   Crime, including Organised Crime;

o   Terrorism/Insurgency/Militancy/Left Wing Extremism;

o   Communalism;

o   Caste-related Violence

o   Illegal Migrations;

o   Counter- feiting of Indian Currency; &

o   Gun Running from Across the Borders

o   Corruption in Public Life.

Public order & Control of Crime

16. Public order and control of crime are State subjects as per Entries 1 & 2 of List II. No society can be crime free. Ordinary public order situations are manageable by the State law enforcement agencies. They do not pose a serious threat to the internal security. Nor does the ordinary crime. The State Governments have the constitutional mandate to maintain public order and control crime as per the process established by Law. The Armed Forces of the Union may be requisitioned by the State Governments in terms of section 130 Cr.PC. The Central Government is empowered to deploy its Armed Forces subject to its control in trouble ridden States in terms of Entry 2-A of List-I. This arrangement has worked reasonably well in the past with minor hiccups now and then.

Organised crime

17. Organised crime, however, stands on a different footing as it poses a serious threat to internal security. It has become one of the greatest

challenges to the Indian society and polity. In the recent years, it has become a serious challenge to the economy as well. Its characteristics have changed over time and several new organised criminal activities have also emerged in the last few years. Organised crime traditionally had its origin in urban centres but later made inroads into semi urban areas also. Of late, the organised criminal activities have also spread to the rural hinterland, as manifested in contract killings, kidnappings for ransom, cornering of contracts by mafia groups, etc. While the influx of modem science and technology has given new tools to the criminal elements to perpetrate crimes with speed, efficiency and sophistication, the legislation and law enforcement has not been able to keep pace with the challenges posed by such syndicates. This has emboldened the criminal elements to pursue their nefarious activities with hardly any resistance. Mumbai city, financial capital of India, has been in the grip of organised crime for a long time. In fact, there would be no gain-saying that organised crime in its modem, sophisticated form originated in Mumbai. The fact that the organised crime syndicates made a common cause with the terrorists in the serial bomb blasts in Mumbai in 1993 has added a new dimension to the problem.

18. The traditional sphere of organised criminal activities involving extortion, contract killing, running brothels, illicit liquor dens or gambling dens, smuggling, etc. have been replaced subsequently by activities such as drug trafficking, trafficking in human beings for commercial sexual exploitation, forced labour, human organ transplant, illicit arms trading, money laundering, banking sector scams and frauds, smuggling of migrants, currency counterfeiting, forging stamp papers, wild life poaching and land mafia activities, etc. Besides, organised criminal activities are no longer localized within an area or a single State but have inter-State ramifications. Organised crime has become a trans-national problem particularly in the fields of drug trafficking, money laundering, terrorism, gun running, trafficking in women and children and illegal migration rackets.

19. Since 'Police' and 'Public Order' are State subjects, there have been mostly localized and piece-meal efforts in combating organised crime by the State Police. Organised crime, therefore, needs to be urgently countered in a focused, concerted and well-coordinated manner.

20.   There are a plethora of laws[5] to combat organised crime but they have not proved effective. Bombay blasts of 1993 and certain other terrorists attacks have clearly demonstrated that organised criminal gangs joined hands with the terrorists to commit acts of terrorism. Hence, effective control of organised crime is of paramount importance. But there is no national law to combat this menace. Maharashtra State is the leader in enacting the law for suppression and control of organised crime viz. Maharashtra Control of Organised Crime (MCOCA), 1999. The National Capital Region of Delhi has adopted MCOCA. Some other States tried to enact the law on the pattern of MCOCA but did not succeed due to legal wranglings. Organised crime is a national problem. In fact, it is a transnational problem. The UN Convention on Trans-national Organised Crime mandates the member States to enact enabling legislation at the national level. India is a signatory to the said Convention and is, thus, mandated to enact the law. There is absolutely no constitutional or legal impediment in the enactment of this law by Parliament in the light of the **ratio of the Supreme Court judgment in Kartar Singh case.** Parliament can enact anti-organised crime law under Article 248 read with Entry 97 of List 1. Another enabling provision could be article 253. Non-enactment of anti organised crime legislation by Parliament has hampered efforts to combat organised crime.

Terrorism

21.   The most serious threat to India's internal security is terrorism. The problem of militancy, insurgency and left wing extremism may have distinct sociological or political under-pinnings but for legal purposes, they are one and the same phenomenon. A terrorist act is a penal offence as defined in the statute, regardless of whether it has been perpetrated by a militant or a terrorist or insurgent or left-wing extremist. For the purposes of this paper, all these terms are subsumed under the rubric terrorism.

22.   Shri KPS Gill, one of the most distinguished police officers of our country, has described South Asia as a **"bad neighborhood",** possibly one of the worst in the world today where violence and political instability are endemic and where there is a crisis both of 'ideologies' and of 'leadership' throughout the region. According to him, the bad neighbors are indulging in operations '**Other Than The War'** or **'non-standard'**, 'irregular' and **'low intensity'** wars that play on domestic

discontent. In his introduction to the book edited by him under the title "Terror and Containment Perspectives of India's Internal Security", he has lamented India's casual and slipshod response to terrorism. According to him, **India today has neither law nor a 'coherent policy frame work' to address this challenge[6].**

23.   A former Prime Minister and a former Chief Minister have been victims of terrorism. We have also witnessed the ugly spectacle of three Indian Airlines Aircrafts being hijacked by the terrorists - two in 1984 and one in 1999. The city of Mumbai witnessed murder and mayhem in 1993. A decade and a half later, Mumbai was visited by one of the most ruthless attacks on its famed hotels and other public places on 26.11.2008 in which hundreds of innocent lives were lost. The serial blasts of 13.7.2011, again, have claimed a large number of lives and destruction of huge property. There have been many other terrorist attacks across the country[7].

24.   India is governed by rule of law. Hence, the perpetrators of these crimes are required to be brought to justice through the process of law. In view of this, the need for a strong anti-terrorist law can hardly be over-emphasised. The Government enacted TADA, 1985, which was refined in 1987 but this law was allowed to lapse in 1995. There was a legislative vaccum for a couple of years where after POTA, 2002, was enacted. This Act was, again, allowed to lapse in 2003. If the problem of terrorism had abated in these years, then the Government's policy would have made sense but the problem of terrorism continued unabated and, yet, the anti terrorist law was allowed to lapse for reasons best known to the Government of the day[8]. When the things appeared to be going out of hand, the Government amended the Unlawful Activities (Prevention) Act, 1967, wherein some of the provisions of TADA/POTA were incorporated by the amendments of 2004 and 2008.

25.   It needs to be underlined that the object of UAPA was different. It was certainly not meant to deal with terrorism. Lapse of POTA is being construed as Central Government's lack of will to effectively deal with terrorism. UAPA, at best, is old wine in a new bottle, with its flavour missing as some of the salient features of POTA have not been incorporated in it.

26.   It may be pertinent to mention that the constitutional validity of TADA, 1987, was questioned before the Supreme Court of India in

Kartar Singh case and the Supreme Court in order dated 11.03.1994 upheld its constitutional validity. The reasoning given by the court was that the acts of terrorism **were inter-State and trans-national in character and were not confined to the boundaries of a particular State and, therefore, could not be said to be 'public order' problems.** To quote:

> "Having regard to the limitation placed by Article 245(1) on the legislative power of the legislature of the State in the matter of enactment of laws having application within the territorial limits of the state only, the ambit of the field of legislation with respect to "public order" under Entry-I in the State List has to be confined to disorders of lesser gravity having an impact within the boundaries of the State. Activities of a more serious nature which **threaten the security and integrity of the country as a whole would not be within the legislative field assigned to the States under Entry 1 of the State List but would fall within the ambit of Entry 1 of the Union List relating to Defence of India and, in any event, under the residuary power conferred on Parliament under Article 248 read with Entry 97 of the Union List.** The petitioners can succeed in their challenge to the validity of the Act with regard to the legislative competence of Parliament, only if it can be said that the Act deals with activities relating to 'public order' which are confined to the territories of a particular State.

The terrorism, the Act (TADA) contemplates, cannot be classified as mere disturbance of 'Public Order' disturbing the "even tempo of the life community of any specified locality" - in the words of Hidayatullah, CJ in **Arun Ghosh -Vs- State of West Bengal 1970 (3) SCR 288** but it is much more rather a grave emergent situation created either by external forces particularly at the frontiers of this country or by anti-nationals throwing a challenge to the very existence and sovereignty of the country and its democratic polity."

In our view, the impugned legislation does not fall **under Entry 1 of List II, namely, 'Public Order'. No other Entry of List II has been invoked.** The impugned Act, therefore, falls within the legislative **competence of parliament in view of Article 248 read with Entry 97 of List I and** it is not necessary to consider whether it falls **under any of the Entries in List lor List III. We are, however, of** the opinion that the impugned Act could fall within the amabit of Entry 1 of List I, namely, "Defence of India".

27. The Supreme Court also upheld the constitutional validity of section 15 of TADA, 1987, which provided for recording of confessional statement of an accused person by an officer of the rank of the Superintendent of Police subject to certain safeguards.

28. It may also be added that the constitutional validity of POTA, 2002, was challenged before the Supreme Court and the Court vide judgment dated 16.12.2003 in **Peoples Union for Civil Liberties & Anr.** held that the challenge advanced by the petitioners of want of legislative competence of Parliament to enact POTA was not tenable on the basis of reasoning given by the said court in Kartar Singh case.

29. It is, thus, clear that there is no constitutional impediment for Parliament to make an anti-terrorist law. For the seasons stated in the judgment extracted above, India needs a strong national Anti Terrorist law, inter alia, with the following features:

- clear definition of a terrorism and terrorist acts;

- admissibility of confessions recorded by a senior designated police officer;

- incerption of communications by the investigating agency and its admissibility in the court;

- raising of presumptions against the terrorists.

- legalizing under-cover operations; and

- providing for extra territorial operation of Indian law in respect of offences against the Indian citizens and Indian property.

Communalism and Caste related violence

30. The communal and caste related violence results in deaths, injuries and destruction of property. The offences committed during the communal and caste conflicts are punishable under the Indian Penal Code and other statutes. In the wake of Gujrat riots, the Central Government has been toying with the idea of enacting a special law to handle this situation under the title **Prevention of Communal and Targetted Violence (Access to Justice and Reparations) Bill, 2011.** The avowed objective of this Bill is to impose duties on the Central Government and the State Governments, to exercise their powers in an impartial and non-discriminatory manner to prevent and control

targeted violence, including mass violence, against Scheduled Castes, Scheduled Tribes, religious minorities and linguistic minorities in any State.

31 The most vital definition of the Bill is of the expression 'group'. A 'group' means a religious or linguistic minority and in a given State may include the Scheduled Castes and Scheduled Tribes. The bill creates a whole set of new offences in Chapter II. Clause 6 clarifies that the offences under this Bill are in addition to the offences under the SC & ST (Prevention of Atrocities) Act, 1989. Can a person be punished twice for the same offence? Clause 7 prescribes that a person is said to commit sexual assault if he or she commits any of the sexual acts against a person belonging to a 'group' by virtue of that person's membership of a group. Clause 8 prescribes that a 'hate propaganda' is an offence when a person by words, oral or written or a visible representation, causes hate against a 'group' or a person belonging to a 'group'. Clause 9 creates an offence for communal and targeted violence. Any person who singly or jointly or acting under the influence of an association engages in unlawful activity directed against a 'group' is guilty of organised communal and targeted violence. Clause 10 provides for punishment of a person who expends or supplies money in the furtherance or support of an offence against a 'group'. The offence of torture is made out under clause 12 where a public servant inflicts pain or a suffering, mental or physical, on a person belonging to a 'group'. Clause 13 punishes a public servant for dereliction of duty in relation to offences mentioned in this Bill. Clause 14 punishes a public servant who controls the Armed Forces or security forces and fails to exercise control over people in his command in order to discharge their duty effectively. Clause 15 expands the principle of vicarious liability. An offence is deemed to be committed by a senior person or office bearer of an association if he fails to exercise control over subordinates under his control or supervision. He is vicariously liable for an offence which is committed by some other person. Clause 16 renders orders of superiors as no defence- for an alleged offence committed under this section.

32. It has been commented in responsible political circles that any communal trouble is a 'law and order' problem. Dealing with a law and order is squarely within the domain of the State Governments. In the division of powers between the Centre and the States, the Central Government has no direct authority to deal with the law and

order issues. Nor is it directly empowered to deal with them. Nor it can legislate on the subject. The Central Government's jurisdiction restricts itself to issue advisories, directions and eventually forming an opinion under Article 356 that the governance of the State can be carried on in accordance with the Constitution or not. It is argued that if the proposed Bill becomes a law, then effectively it is the Central Government which would have usurped the jurisdiction of the States and legislated on a subject squarely within the domain of the States.

33. Besides, this Bill has certain other deficiencies. No member of the majority community can ever be a victim. This draft law, thus, proceeds on an assumption which defines the offences in a highly discriminatory manner. No member of minority community can ever be punished under this Act for having committed the offence against the majority community. An offence is an offence, irrespective of the origin of the offender. Besides, questions have also been raised regarding the composition of National Authority for Communal Harmony, Justice and Reparation.

34. In view of the aforesaid, the Bill needs a relook from the constitutional and jurisprudential angle.

Illegal migrations

35. India is both a destination of and a source for illicit human trafficking. It is an attractive destination for unskilled migrants from the neighbouring countries, namely, Bangladesh and Nepal. There are estimated to be about 20 million migrants in India, including 15 million Bangladeshis; 0.16 million Tibetans; 0.05 million Nepalese from Bhutan; 0.03 million Sri Lankan Tamils; 0.03 million Mynamaris and 0.02 million Afghans. Migrations from Bangladesh are estimated to be about 5 million in Assam and 8.1 million in West Bengal. A former Governor of Assam, in his report to the President of India has expressed apprehensions about the rise of third Islamic Republic in the North East of India. The influx of Bangladeshis has reduced Tripura's tribal population to a minority. In Nagaland, the population of Muslims, mostly migrants from Bangladesh, has more than trebled in the last decade. Earlier, the Bangladeshi migrants used to settle in the bordering States but now they are moving on to the hinterland in search of job opportunities. Clashes between illegal migrants and the locals are a recurring phenomenon. Recent Kokrajhar clashes illustrate the point.

36. The Foreigners Act, 1946, provides a legal framework for identification, detection and deportation of illegal migrants/foreigners residing in the country. In 1983, the Govt. of Assam enacted Illegal Migrants [Determination by Tribunals] Act which **placed the onus of proving the nationality of the illegal migrant on the person who made the complaint and not on the migrant, thus, encouraging illegal migrants from other States to move to Assam.** This Act was, however, declared ultra vires by the Supreme Court of India. Consequently, the Foreigners Act, 1946, was revived in the State of Assam. The Foreigner's Act has proved to be ineffective to address this huge problem. Hence, there is need to enact a more effective law or suitably amend the existing one. Besides, illegal trafficking also calls for effective border management and multi-lateral and bilateral arrangements with other countries to check influx of foreigners into India.

Counterfeiting of Indian currency

37. Intelligence inputs indicate that counterfeiting of Indian currency is an enterprise being exclusively run by the Pakistan ISI. Its objectives are two fold - one, to fund the terrorists and terrorist organizations in India and its neighbourhood, and, second, to ruin the Indian economy. The estimates of Fake Indian Currency Note (FICN) vastly vary. The most quoted figure is that of Rs. 1,69,000 crores purported to be an estimate of CBI made in 2005. This has been denied both by the CBI and by RBI. The RBI estimate of 0.0004 - 0.0012% of Bank notes in circulation being FICN appears to be an inadequate expression of FICN volume estimation. The knowledgeable sources have put this figure at Rs. 8,000 crores per year. The annual recoveries of FICN effected by Indian authorities are only the tip of iceburg and do not reflect the volume of FICN being pumped into the Indian economy by Pak ISI through its intricate networks and modules. Needless to say, it is one of the most serious threats to internal security as it is ruining our economy and is a potent source of terrorist funding.

38. The crimes relating to the counterfeiting of Indian currency are being registered under sections 489 A to 489 D of the Indian Penal Code. As a sizable proportion of FICN being pumped into India is being channelised for terrorist funding, it would be expedient to criminalize counterfeiting of India currency as a terrorist act. Such a provision is required to be made in the anti-terrorist law proposed to be made by the Parliament.

Trafficking in Arms and Explosives

39.   Light arms proliferation is a global phenomenon and has extracted a heavy toll in terms of human lives and socio economic development of entire regions, costs of which can never be adequately computed, as the damage to society at large has been both extensive and multi-faceted. In Afghanistan, the death toll has crossed 100,000 and is still rising. Pakistan has also fallen into this deep trap in recent years. The' Arab Spring' has claimed thousands of lives. India has also immensely suffered due to trafficking in illicit arms. The twin phenomenon of rising crime as well as armed conflicts and terrorism are indissolubly linked to a global proliferation and movement of weapons. Ultra left wing extremism, cross border terrorism, insurgency in the North East and gang activities in the hinterland of north and central India have received tremendous boost in the recent years due to unhindered trafficking of arms and explosives. Gun running has been a favourite activity of the organised criminal gangs for the lucrative profits it generates and also due to ease of channelising these proceeds for other nefarious activities. Purulia Arms Drop of 1996 is classical example of its transnational dimensions.

40.   The Arms Act, 1959 is a Regulatory Law which provides for domestic manufacture and licensing of fire arms, etc. The trafficking of fire arms within the country and from across the borders has not been criminalized in this Act. India has porous borders and there is strong evidence of influx of small arms from Afghanistan, Pakistan, Bangladesh, Nepal and Mynamar etc. These arms are being used by terrorists and insurgents. Besides, they are also being used in organised crime. Hence, it is expedient that trafficking in fire arms is criminalized and visited with stringent punishment.

41.   The same holds good for the Explosives Substantive Act and the Explosives Act.

Corruption in Public Life

42.   It may sound rather odd that I have chosen to cite corruption in public life as an internal security issue. Corruption is the mother of all evils. It is use of public office for private gain. It is endemic, with both horizontal and vertical spread. Corruption is not confined to lower bureaucracy; even the higher echelons of bureaucracy are in its vice like grip. Corruption is also rampant amongst the politicians who

occupy powerful positions as Ministers, MPs. and MLAs. A former Chief Vigilance Commissioner has commented that corruption is **anti-national, anti-economic development and anti-poor.** Suffice to say that corruption distorts investment priorities and leads to exploitation of nation's natural resources to the detriment of the poor. Corruption in delivery mechanisms is said to be one of the root causes of militancy. Corruption corrodes the efficacy of the Government and puts a question mark on its existence. Rise of left wing extremism in several States is said to be the outcome of mis-governance primarily attributable to corruption among public servants - both bureaucrats and politicians.

43. The Prevention of Corruption Act, 1988 and its enforcement has not proved to be effective in curbing corruption. Nor have the investigating agencies, both at the Centre and in the States, acquainted themselves well in terms of their professional skills, diligence and impartiality. Frustration with the prevailing state of affairs has given rise to the Anna Movement for creating the institution of Lok Pal, an idea which lay in embryonic stage during last five decades. This movement has been **defeated by the 'political class', cutting across the party lines.** Anna's call for probity in public life is unexceptionable, even though one may have difference of opinion with his strategy. Shri Bhanu Pratap Mehta has commented that the political class has used the **'weaknesses of his movement to avoid clean up'.** Some people feel that instead of proposing to bring the entire Central Government bureaucracy of about 65 lacs under the domain of Lok Pal, it would, perhaps, be more expedient to bring only the 'higher bureaucracy' and the Ministers(including the Prime Minister), MPs and MLAs under its fold, as a starting point. By 'higher bureaucracy' is meant the decision making levels in the Central Government, say, Joint Secretary and above and his equivalents in various Departments/Organisations and PSUs. This class would comprise of about 60-70 thousand persons. This privileged group runs the affairs of the State for all practical purposes. A deterrence to their propensity to corruption through Lok Pal would certainly have trickle down effect on the lower echelons of the bureaucracy.

44. Besides, placing an independent investigating machinery at the disposal of Lok Pal is at the heart of the matter. The two Bills drafted by the Central Government do not provide for it. As per these Bills, the investigations would be continued to be conducted by the existing machinery. This defeats the very idea ofLok Pal.

45. Apart from placing an independent investigative machinery at the disposal of Lok Pal, there is also need for incorporating stringent provisions in the Prevention of Corruption Act for confiscation of proceeds of crime **on the Bihar model.** There is also need to bring this Act in line with the provisions of U.N. Convention on Combating Corruption, 2000, to which India is a signatory. Reduction in corruption and greater transparency in the Government functioning would definitely improve governance and mitigate internal turmoil to some extent.

Criminal Justice System

46. Internal security is in many ways related to the state of criminal justice administration in the country. Efficient policing and successful investigation and prosecution of crimes helps generate fear of law in the minds of criminally inclined persons and generally tends to keep them within the bounds of law. On the other hand, slip-shod investigations and dispirited prosecutions result in acquittals shaking the faith of the people in the governance, inducing them to take law in their own hands to settle personal scores. Thus, the aim of a good criminal justice system should be to entail zero tolerance to crime and deterrent and prompt punishment to those who are found to be on to be the wrong side of law. The citizens expect criminal justice system to be honest, non- partisan, efficient and prompt.

Investigating Agency

47. I have suggested enactment of certain new laws and amendments of certain existing laws for effectively handling the problem of internal security. The question is : who will investigate these crimes - the State Police or a Central Investigating Agency? The number of crimes registered under various laws relating to internal security is going to be very large. The State Police forces have the jurisdiction and the legal mandate to register and investigate these crimes. However, some of these crimes may have inter-State and trans-national dimensions which may require investigation by a Central Investigating Agency. Under section 06 of the Delhi Special Police Establishment Act, 1946, consent of the State Government is required for entrustment of a case to the CBI. **However, under the National Investigating Agency Act, 2008, there is no such requirement.** Section 6(1) provides that Officer-in-Charge of Police Station shall register a crime relating to a

Scheduled Offence under section 154 of Cr.PC and forward a report to the State Government. As per sub-section(2), the State Government shall forward the report to the Central Government. Sub section (3) provides that on receipt of such report from the State Government, the Central Government shall determine whether the offence is a Scheduled Offence or not and whether, having regard to the gravity of the offence and other relevant factors, it is a fit case to be investigated by the National Investigating Agency. Sub section (5) provides that if the **Central Government is of the opinion that the Scheduled Offence is required to be investigated by the NIA, it may suo motu direct the NIA** to investigate the said offence. Section 7 provides that keeping in view the facts and circumstances of a particular Designated Offence, the NIA may request the State Government - (a) **to associate itself with the investigation being conducted by it, and,** (b) may transfer a particular case presently under investigation with it to the State Government for further investigation, with the prior approval of the Central Government.

48. The scheduled offences are listed below:

   "1. The Atomic Energy Act, 1962 (33 of 1962);

   2. The Unlawful Activities (Prevention) Act, 1967 (37 of 1967);

   3. The Anti-Hijacking Act, 1982 (65 of 1982);

   4. The Suppression Unlawful Acts Against Safety of Civil Aviation Act, 1982 (66 of 1982);

   5. The SAARC Convention (Suppression of Terrorism) Act, 1993 (36 of 1993);

   6. The Suppression of Unlawful Acts against Safety of Maritime Navigation and Fixed Platforms on Continental Shelf Act, 2002 (69 of 2002);

   7. The Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 (21 of 2005);

   8. Offences under -

      (a) Chapter VI of the Indian Penal Code {sections 121 to 130 (both inclusive)};

   (b) Sections 489A to 489E (both inclusive) of the Indian Penal Code.

49. This Act is four year old now. Fortunately, no challenge has been made to its constitutionality, despite its sharp departure from the DSPE Act. It is noteworthy that the Sarkaria Commission in one of its recommendations had postulated that the relations between the Central Government and the State Governments have to be worked on the **principle of cooperative federalism[9].** Section 7 of the NIA Act is a classic example of **cooperative federalism** propounded by the Sarkaria Commission. In view of the above, I suggest that the proposed Anti Organised Crime law, Anti-terrorism law, laws relating to Illegal Migrations and Human Trafficking and other laws proposed to be enacted or amended by the Central Government in the preceding paras may be incorporated in this Schedule. Most of these crimes will be investigated by the State Police machinery but the more serious ones, having national and trans-national dimensions, may be taken up by National Investigating Agency. This arrangement would go a long way in subserving the larger security interests of the nation.

Investigation of crimes

50. The manner in which police investigation is conducted is of critical importance to the functioning of the criminal justice system. A serious miscarriage of justice would result if the collection of evidence is vitiated by error or malpractice. Successful prosecution of the guilty will largely depend on thorough and careful search for the truth and collection of evidence which is both admissible and probative. Protection of society being the paramount consideration, the laws, procedures and police practices must be such so as to ensure that the guilty is apprehended and punished with utmost dispatch and in the process, the innocents are not harassed.

51. To make the investigative process more effective and proficient, some urgent steps need to be taken. The first and foremost is **Separation of Investigation Wing from the Law & Order Wing** so as to enable the Investigating Wing to devote full time and energy to investigation, without being distracted by the law & order problems.

52. Secondly, investigation needs to be conducted **by a Team of Officers** rather than by a single Investigating Officer (IO). Application of single mind is not enough to respond to the modem needs of the art and science of investigation - whether it is inspection of site of crime, picking of the clues and developing them and handling other multi-

dimensional matters. The size of team will depend on the dimension of the crime, with the senior most officer working as leader of the team. The team will **also comprise of Forensic Experts, Information Technology Experts, Telephone Analysts etc.**

53. Thirdly, the **level of Investigating Officer is also important.** It would be expedient if the minimum rank of **Inspector is prescribed as a Team Leader.** If the case is handled by NIA, the minimum rank of the officer should be Deputy Superintendent of Police. Needless to say, investigation by a senior officer would be more objective, impartial and competent and would invoke greater public confidence.

54. Fourthly, **insularity of the Investigating Officers and the supervisory ranks from** the political climate is a pre-requisite for fair and impartial investigations.

55. Lastly, and most importantly, **comprehensive use of forensic science right from the threshold of investigation** is pre-requisite for which purpose heavy back up of Forensic Science Laboratories needs to be created. It is hoped that if some of above steps are taken, the quality of investigation would improve, resulting in higher conviction rate.

Trial Process

56. According to Kautilya, the administration of justice - punishing the wicked and rewarding the virtuous-is one of the primary duties of the King. A King prevails only with the help of the 'Danda'. The 'Danda' is the real ruler and the King merely an instrument. The speed with which justice is administered is very important. In fact, speedy justice is sine qua non of criminal jurisprudence. It suits both the accused and the prosecution that trial runs through its course expeditiously. The right to speedy trial is implicit in Article 21 of the Constitution[10]. This principle was reiterated by the Supreme Court in Abdul Rehman Antulay case. The best of laws and investigations would come to a naught if the trials are not concluded expeditiously. There is a blame game between the judiciary and the executive on this issue and both the sides have a point. The trial of Chandigarh Hijacking case of 1984 took 12 years to complete. Sadar Beant Singh assassination trial took an equally long time. The same is true of Bombay Blast cases of 1993.

57.   The trials can be **expedited by setting up more courts and also by bringing about improvements in the trial process.** The first part is in the executive domain and the second in the judicial domain. We have to face the fact that number of judges in India per million of population is $1/10^{th}$ of what obtains in advanced countries. Hence, there is a **need to generously enhance the number of trial judges.** The crimes relating to internal security are mostly triable by Sessions Courts. In my estimation, no Sessions/Additional Sessions court can try more than 20-25 cases in an year. The number of judges will have to be determined accordingly.

58.   There is yet another important issue regarding the trial process. The most heinous crimes such as murder, rape, dacoity with murder, waging war against the State, hijacking of aircraft, bombing of trains, etc. are tried by Single Judges (Sessions Judges or Additional Sessions Judges). Certain decisions rendered by the Single Judges in sensational cases in the last couple of years have been rather unsound, if not whimsical. For example, Priyadarshi Mattu case was tried by a Delhi Court which returned the verdict of **acquittal.** This verdict was reversed by Delhi High Court which awarded **death penalty to the accused.** The Supreme Court upheld the conviction but reduced death sentence to life imprisonment. Similarly, in Jessica Lal murder case, the trial court **acquitted** the accused. This decision was reversed by the High Court and awarded various terms of imprisonment to the accused. The High Court's decision was upheld by the Supreme Court. One can multiply these examples. The real question is whether the present system of trial by a Single Judge has stood the test of time or it needs some change.

59.   It may be apt to mention that in most European countries and in USA, there is a system of jury trial. The jury trial necessitates involvement of the local community in the trial process. The Jury system was discontinued in India in 1957 in the wake of Nanawati case. It may not be desirable to revive jury trial in India in the prevailing socio-political mileu for obvious reasons. What needs to be seriously considered is whether crimes involving imprisonment for life or death penalty and crimes relating to terrorism, organised crime etc. should be made **triable by a Bench of two Judges.** Two heads are better than one. Justice V.R. Krishna Aiyer has observed that **'A single Judge's single opinion may be opinionated verdict prone to be erroneous'.**

Trial court is the court of first instance to assess the evidence and hold an accused guilty or innocent. Trial by a Bench of two Judges may reduce element of arbitrariness in decision making process and may be conducive to more objective and diligent assessment of evidence, thereby easing up the work of appellate courts i.e. the High courts and even the Supreme Court. This proposition needs serious consideration.

60. If this happens, then the jurisdiction of the High Courts can be ousted for expediting the litigation process. Such a provision was made in TADA, 1987, and its constitutional validity was upheld by the Supreme Court.

61. Yet another measure to expedite trial process is resorting to plea-bargaining. Chapter XXI-A has been incorporated in the Cr. PC by Criminal Law (Amendment) Act, 2005, comprising of sections 265-A to 265-L. This chapter, however, is not applicable to offences involving punishment of death or imprisonment for life or imprisonment for a term exceeding seven years. There is no culture of plea-bargaining in our country. The Defence lawyers do not advise it. The Prosecutors and Judges are circumspect as the Government has not issued any guidelines for implementation of these provisions. These provisions have virtually become a dead letter. Needless to say, plea-bargaining is the most expedient way of disposal of a criminal trials. Despite non-utilization of these provisions hither-to-fore, it is suggested that the law should be amended to include all offences under the ambit of plea-bargaining except for offences punishable with death or imprisonment for life. The Public Prosecutors and the Judges need to be encouraged to liberally resort to these provisions.

Consolidation of Laws relating to Internal Security

62. Now, we come to the critical question of whether there is need for comprehensive legislation to deal with the matters of internal security. In the wake of 7/11, the United States of America enacted a law under title "Uniting and Strengthening America by Providing Tools Required to Intercept and Obstruct Terrorism Act of 2011 popularly known as "PATRIOT Act"[11]. This Act has eight titles and numerous sections and incorporates certain new Acts as also amendments in certain existing Acts. The purpose behind this Act appears to be to enhance domestic security against terrorism by way of

enhanced surveillance procedures; abatement of international money laundering; removing obstacles to investigating terrorism; providing for victims of terrorism, public safety officers and their families and increased information sharing for critical infra-structure protection. Importantly, title 8 of the Act also amply expands the scope of federal crimes.

63. It may also be mentioned that PATRIOT Act is not an exclusive piece of legislation. It has made sweeping changes in the American law. The other legislations that have undergone amendment by virtue of this law are:-

  o   Electronic Communications Privacy Act (ECPA)

  o   Computer Fraud and Abuse Act.

  o   Wiretap Statute (Title III).

  o   Foreign Intelligence Surveillance Act (FISA).

  o   Pen Register and Trap and Trace Statute.

  o   Family Education Rights and Privacy Act.

  o   Money Laundering Act.

  o   Immigration and Nationality Act.

  o   Bank Secrecy Act.

  o   Right to Financial Privacy Act.

  o   Fair Credit Reporting Act.

64. Yet another American law which has attracted international attention is the Homeland Security Act of 2002[12]. It has 14 Titles and numerous sections. The central theme of this Act is to establish the Department of Homeland Security headed by a Secretary (Minister) to be appointed by the President of America with a view to preventing terrorist attacks within United States; reduce vulnerability of United States to terrorism; minimize damage in terrorists attacks and monitor inter-linkages between illegal drug traffickers, terrorists and other criminal elements. This Act essentially empowers the Secretary of the Department of Homeland Security to co-ordinate the functioning of various other Departments and offices concerned with America's internal security. By enacting the above comprehensive laws, the American nation has demonstrated its resolve to combat terrorism.

65.   In the Indian context two questions need consideration:

  (i)   whether Parliament has legislative competence to enact laws relating to internal security; and,

  (ii) whether the legislation(s) should be piecemeal or there should be a comprehensive legislation on the pattern of PATRIOT Act.

As regards the first question, as discussed here-in-above, terrorism, organised crime, illegal migrations, counterfeiting of currency and gun running from across the borders are not mere public order problems. They have inter-state and trans-national dimensions. The ratio of the Supreme Court judgment in Kartar Singh case applies to all these crimes. Hence, there is no doubt that Parliament has the competence to make these laws relating to these crimes under Article 248 read with Entry 97 of List I. Article 253 and Entry I of List I could also be pressed into service, if need be.

66.   It may be pertinent to mention Punchhi Commission on Centre-State Relations in its Fifth Report(2010) has mentioned that "Union Government's obligation under Article 355 **clearly supersedes the argument that 'this duty' rests with the State Governments since 'police' and 'public order' are subjects falling in the domain of States by virtue of their placement in List II (State List) of the Seventh Schedule to the Constitution".** The Commission goes on to say that any criminal act which is aimed at, or which clearly has the potential of, causing detriment to the country's security, integrity, stability or sovereignty, or destablising its economy, is to be deemed as a threat to national security and defence of India and that such perilous activities can not obviously be left to be routinely dealt with by the State Police force as an ordinary crime and law and order problem.

67.   Coming to the second question, it is common place that Parliament can enact legislation in piecemeal manner i.e. on Act to Act basis. On the other hand, it can enact a comprehensive legislation relating to all issues of internal security. A comprehensive legislation is likely to have more psychological impact as it would demonstrate the nation's resolve to combat the crimes in a concerted and coordinated manner.

68.   However, I would like to add a word of caution here. The American system is different from the Indian system in many ways. The federal jurisdiction in United States is more extensive and deeper than what

obtains in India. Section 3 of Article II of the American Constitution confers on the President the duty and power, interalia, "to take care that the laws be faithfully executed". Further, section 8(18) of Article I empowers the Congress to make all laws which shall be necessary and proper for carrying into execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States". By virtue of the above provisions, the Congress enacted the Enforcement Act, 1795, delegating this power to the President. This was supplemented by the statutes of 1807 and 1871 conferring additional powers on the President. Thus, the constitutional provisions, Supreme Court judgments and Federal statutes have combined to invest the Federal Government, that is, the President with the duty and power to secure enforcement of Federal action through the use of force, if necessary.

69.   **Paradoxically, even though the USA is a classical Federation, yet the national Govt. has emerged all powerful over the years. On the other land, even though India is a Union of States, overlaid with/ strong unitary features, yet the Central Govt is seemingly beset with legal constraints in 'public order' and 'internal security' related matters.** Besides, in a fractured polity, where the Central Government belongs to one party and various State Governments to various other parties, mostly regional, the State Governments have become very sensitive and they are vehemently resisting perceived usurpation of their jurisdiction by the Central Government. Opposition to the enforcement of the Armed Forces (Special Powers) Act, 1957, which has already withstood judicial scrutiny, by certain Governments and by certain opposition groups and NGOs, illustrates this point. Similarly, resistance to the conferment of powers of search, seizure and arrest on the officers of the Intelligence Bureau under the umbrella of proposed **National Counter-Terrorism Centre** by several Chief Ministers belonging to non-Congress parties clearly demonstrates that the Centre-State legislative relations are required to be handled with care, caution and circumspection. It is not that the State Governments are not likely to co-operate with the Central Government in the matters of national security but a burden is cast on the Central Government to take the State Governments, particularly opposition-ruled State Governments, on board before enacting the legislation(s) as suggested here-in-above. In other words, the spirit of' co-operative federalism' is required to be put into practice in Centre-State relations.

Conclusion

70. In his famous treatise, Kautilaya wrote that a nation could be at risk from four types of threats - Internal, External, Externally-aided Internal and Internally aided External. He advised that of these four types, internal threats should be taken care of immediately which are far more serious than the external threats. The most dangerous enemy is within. India's internal security problems are both internal as well as externally-aided Internal. As mentioned herein above, there are a large number of criminal offences which have a direct link to terrorist activities and organised crime and which have inter-State and trans-national dimensions and ramifications. The list of such crimes includes terrorism, organised crime, production and distribution of FICN, espionage, smuggling of arms, ammunitions and explosives, money laundering, drug trafficking, hijacking of aircrafts and assassination or attempt of assassination on the lives of iconic figures/political leadership, cyber crimes, crimes related to acquisition of radio active and poisonous substances, bio- terrorism, narco-terrorism, etc. Where no law exists at present to deal with a specific crime type, such law, having national applicability, needs to be enacted. Where existing law has been found to be ineffective, it needs to be amended and strengthened. Parliament is competent to enact and amend laws on all the above subjects.

Instead of enacting/amending the laws in a piecemeal fashion, it would be desirable to make a comprehensive legislation to deal with all matters of internal security. Such a response would demonstrate nation's resolve to take the problem head on, legally and lawfully. Further, it would be expedient to incorporate such comprehensive legislation in the Schedule annexed to the National Investigating Agency Act, 2008. This will enable the NIA to take up investigation of serious crimes on selective basis, either independently or with the help of the State Police forces concerned, depending on the exigencies of the situation. Going by past experience, it is, however, my apprehension that such a move by the Central Government is likely to be looked at with suspicion by some State Governments, notwithstanding its constitutional and legal validity. It is, therefore, incumbent on the Central Government to demonstrate statesmanship in bringing all the State Governments on board in the interest of the country and in the true spirit of 'co-operative federalism'.

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End Notes

1. Kesavanand Bharati – vs. State of Kerala (AIR 1973 SC 1461)

2. S.R. Bommai – vs. – Union of India (AIR 1973 SC 1461)

3. The prevailing constitutional position has been encapsulated by the Sarkaria Commission (Page 07, Part-I) in the following words:-

   *"1.2.21 The primary lesson of India's history is that, in this vast country, only that polity or system can endure and protect its unity, integrity and sovereignty against external aggression and internal disruption, which **ensures a strong Centre with paramount powers,** accommodating, at the **same time, its traditional diversities.** This lesson of history did not go un-noticed by the framers of the Constitution. Being aware that, notwithstanding the common cultural heritage, without political cohesion, the Country would disintegrate under the pressure of fissiparous forces, they accorded the highest priority to the ensurance of the unity and integrity of the country. As aptly observed by an eminent jurist, "The founding fathers were painfully conscious that the feeling of Indian/nationhood was still in the making and required to be carefully nurtured. They therefore built a constitutional structure with a powerful Central Government envisaging the emergence of an indivisible and integrated India."*

4. Section 2, Article VI:

   "This constitution and the laws of the United States which shall be made in pursuance thereof and all Treaties made or which shall be made under the authority of United States shall be the supreme law of the land and the judges in every State shall be bound thereby, anything in the constitution or law of any State to the contrary, not withstanding."

5. [1] Narcotic Drugs & Psychotropic Substances Act, 1985 [as amended by the NDPS [Amendment] Act, 2001] ;

   [2] The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act [PITNDPS Act], 1988 ;

   [3] The Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 [COFEPOSA] ;

   [4] The Smugglers & Foreign Exchange Manipulators [Forfeiture of Property] Act, 1975 ;

[5]   Unlawful Activities [Prevention] Act, 1967 ;

[6]   Benami Transactions [Prohibition] Act, 1988 ;

[7]   Antiquities and Art Treasures Act, 1972 ;

[8]   Wild Life [Protection] Act, 1972 ;

[9]   Prevention of Money Laundering Act, 2002 ;

[10]   Information Technology Act, 2000 ;

[11]   Copy Right Act, 1957 ;

[12]   Transplantation of Human Organs Act, 1994 ; [13] Immoral Traffic [Prevention] Act, 1956 ;

[14]   Foreign Exchange Management Act;

[15]   Indian Arms Act, 1959; &

[16]   Explosive Substances Act, 1908.

6.   "With the State in India, however, acting too late is virtually an art form. The maze of delays, of deliberate deferments and constraints, the elaborate farce of inconclusive decision making, the evasion of responsibility, the diffusion of accountability and the sheer bloody-mindedness of the bureaucracy has kept the nation in a state of paralysis even on the life and death issues of terrorism. Thus, **India today has neither law nor a coherent policy frame work to address a challenge that has been with it, to a lesser or greater extent, for all of five decades and that has been a compelling threat to the interests and integrity of the nation for at least the last two decades.** And for all the prolixity and proactivity, India's strategic and tactical responses have invariably followed and not presaged or pre-empted terrorist actions. Tragically, it is not the decision-makers on whom life visits its cruel retribution for these failings but on the people and the nation at large".

7.   Major Terrorist Attacks in India

o   Rajiv Gandhi Assassination (1991)

o   Mumbai Serial Blasta (1993)

o   Sardar Beant Singh Assissination (1995)

o   Hijacking of the Flight IC-814 (1999)

o   Chattisgarhpura Massacre, J&K (2000)

o   Red Fort Attack (2000)

o   Attack on the J&K Legislative Assembly, Srinagar (2001)

o   Attack on the Parliament, New Delhi (2001)

o   Attack on the American Centre, Kolkata (2002)

o   Akshardham Temple Attack Gandhi Nagar, Gujarat (2002)

o   Attack at the Ram Janmbhoomi Complex (2005)

o   Mumbai Train Bombings (2006)

o   Malegaon Bomb Blast, Maharashtra (2006)

o   Bomb Blast in the Samjhauta Express, Panipat, Haryana (2007)

o   Ahmedabad Bombings (2008)

o   26/11 Mumbai Terrorist Attacks (2008)

o   13/7 Mumbai Serial Blasts (2011)

8.   Shri Arun Jetley, Leader of Opposition in Rajya Sabha in a note of 4th August, 2011, commented as follows :-

"The Late Shri Rajiv Gandhi introduced TADA when terror was at its peak in Punjab and emerging in Jammu & Kashmir. There were reported cases of its misuse against farmers in Gujarat but TADA continued. TADA was not repealed. TADA was collectively used against those who blasted Mumbai in 1993 and a campaign for its repeal began, it was eventually repealed. The terror-friendly thought prevailed. Vote bank politics won a battle - its first against national security. When POT A was introduced, it was described as an anti-minority law. Obviously, the present UP A Government felt compelled to repeal it. But for TADA, nobody could have been convicted in the case of assassination of late Shri Rajiv Gandhi. But for POTA, the accused in the Parliament attack case and the Akshardham case would have gone scot free. Today, the entire rationale of the campaign against the Armed Forces (Special Powers) Act is to remove the provision for prior sanction against personnel of armed forces so that the separatists can file numerous cases against them."

9. Sarkaria Commission Report – pages 109-110.

"Para 3.8.01

"The diffused pattern of distribution of governmental function between the Union and the States, and the manner in which the administration and enforcement of most union laws is secured through the machinery of the State postulates that the inter-Governmental relations under the constitution have to be worked on the principles of **cooperative federalism.** Several other features of the constitution reinforce this conclusion. For ensuring inter-Governmental **coordination and cooperation,** the constitution envisages several institutions or bodies. The most important of them is the Forum of Inter-State Council contemplated in Art. 263."

"Para 3.9.02

"Federalism is more a functional arrangement for cooperative action than a static institutional concept. Art. 258 provides a tool by the liberal use of which cooperative federalism can be substantially realized in the working of the system".

10. Hussainara Khatoon – vs. – State of Bihar (AIR 1979 SC 1360)

11. Uniting & Strengthening America By Providing Appropriate Tools Required To Intercept & Obstruct Terrorism Act of 2011 (PATRIOT Act)

1.   Title I:

o   Section 106: Enhancing Domestic Security against Terrorism enhances Presidential authority under the International Emergency Power Act, by way of enabling the U.S. Authorities to confiscate any property of the foreign nationals, foreign organisation or foreign Country, if found engaged in a hostile act against the U.S.A.

2.   Title II: Enhanced Surveillance Procedures.

o   Sec 201: Provides authority to intercept wire, oral and electronic communications relating to terrorism.

o   Sec 207: Amends Foreign Intelligence Surveillance Act to provide for enhanced surveillance of non-United States persons who are agents of foreign powers.

- o Sec 212: Provides for voluntary disclosure of customer communication or records to Govt. entity if there is immediate danger of death or physical injury to any person.

3. **Title III: International Money Laundering Abatement and Anti Terrorist Financing Act of 2001.**

- o Sec 351: Provides for reporting of suspicious transactions voluntarily.

- o Sec 374: Amendment in law relating to **counterfeiting** of domestic currency and **counterfeiting** of foreign country.

4. **Title IV: Protecting the Northern Border.**

- o Sec 411: Amendment of Immigration and Nationality Act.

- o Sec 412: Mandatory detention of suspected terrorists by Attorney General

- o Sec 416: Foreign Student Monitoring Program.

5. **Title V: Removing obstacles to investigating terrorism.**

- o Sec 501: Payment of Rewards.

- o Sec 503: DNA Identification of Terrorists and other Violent offenders.

- o Sec 506:

  - ▪ Untitled States Secret Service will have authority to investigate terrorist offences along with other agencies.

  - ▪ FBI shall have the authority to investigate offences of espionage, foreign counter-intelligence, information protected against unauthorized disclosure for reasons of national defence or foreign relations or Restricted Data defined in section 11(y) of the Atomic Energy Act, 1954.

- o Sec 507: Disclosure of Educational Records.

6. **Title VI: Providing for Victims of Terrorism, Public Safety Officers and their families.**

7. **Title VII: Increased Information Sharing for Critical Infrastructure Protection.**

   o Sec 701: Provides expansion of Regional Information sharing system to facilitate Federal, State, local law, enforcement response related to terrorist attacks.

(H) Title VIII:

   o Sec 801: Terrorist attacks and other acts of violence against mass transportation systems.

   o Sec 802: Definition of domestic terrorism is modified by adding the words "by mass destruction, assassination or kidnapping"

   o Sec 808: Definition of Federal Crime of Terrorism has been expanded by inserting the following in-sub section (2) there of:

   o "(2) in subsection (g)(5)(B), by striking clauses (i) through (iii) and inserting the following:

"(i) section 32 (relating to destruction of aircraft or aircraft facilities), 37 (relating to violence at international airports), 81 (relating to arson within special maritime and territorial jurisdiction), 175 or 175b (relating to biological weapons), 229 (relating to chemical weapons), subsection (a), (b), (c), or (d) of section 351 (relating to Congressional, Cabinet, and Supreme Court assassination and kidnapping), 831 (relating to nuclear materials), 842(m) or (n) (relating to plastic explosives), 844(t)(2) or (3) (relating to arson and bombing of Government property risking or causing death), 844(i) (relating to arson and bombing of property used in interstate commerce), 930(c) (relating to killing or attempted killing during an attack on a Federal facility with a dangerous weapon), 956(a)(l) (relating to conspiracy to murder, kidnap, or maim persons abroad), 1030(a)(l) (relating to protection of computers), 1030(a)(5)(A)(i) resulting in damage as defined in 1030(a)(5)(B)(ii) through (v) (relating to protection of computers), 1114 (relating to killing or attempted killing of officers and employees of the United States), 1116 (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1362 (relating to destruction of communication lines, stations,

or systems), 1363 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States), 1366(a) (relating to destruction of an energy facility), 1751(a), (b), (c), or (d) (relating to Presidential and Presidential staff assassination and kidnapping), 1992 (relating to wrecking trains), 1993 (relating to terrorist attacks and other acts of violence against mass transportation systems), 2155 (relating to destruction of national defense materials, premises, or utilities), 2280 (relating to violence against maritime navigation), 2281 (relating to violence against maritime fixed platforms), 2332 (relating to certain homicides and other violence against United States nationals occurring outside of the United States), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries), 2339 (relating to harboring terrorists), 2339A (relating to providing material support to terrorists), 2339B (relating to providing material support to terrorist organizations), or 2340A (relating to torture) of this title; "(ii) section 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954 (42 U.S.C. 2284); or "(iii) section 46502 (relating to aircraft piracy), the second sentence of section 46504 (relating to assault on a flight crew with a dangerous weapon), section 46505(b) (3) or (c) (relating to explosive or incendiary devices, or endangerment of human life by means of weapons, on aircraft), section 46506 if homicide or attempted homicide is involved (relating to application of certain criminal laws to acts on aircraft), or section 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49."

12. The Homeland Security Act, 2002

Title I: Department of Homeland Security

Sec. 101: There is established Department of Homeland Security to-

    (a)   prevent terrorist attacks within U.S.;

    (b)   reduce vulnerability of U.S. to terrorism;

    (c)   minimize the damage in terrorist attacks;

    (d)   monitor connections between illegal drug trafficking and terrorism and coordinate efforts to sever such connections and otherwise to interdict illegal drug trafficking.

Sec 102: Appointment of Secretary

    o   Coordination with State and local Government personnel, agencies, and authorities and the private sector to ensure adequate planning, equipment, training.

Title II: Information Analysis and Infrastructure Protection

Sec 201: Creation of Directorate for Information Analysis and Infrastructure Protection.

Sec 202: The Secretary shall have access to all information, including reports, assessments, analyses, and unevaluated intelligence relating to threats of terrorism against the United States.

Sec 211: Critical Infrastructure Information Act of 2002.

Sec 225: Cyber Security Enhancement Act of 2002.

Sec 232: To set up office of Science and Technology to serve as focal point for work on law enforcement technology.

Title II: Science & Technology in Support of Homeland Security.

Sec 201: To develop counter measures to chemical, biological, radiological, nuclear and other emerging terrorist threats.

    (1)   Preventing the entry of terrorists and the instruments of terrorism into the United States.

    (2)   Securing the borders, territorial waters, ports, terminals, waterways and air, land, and sea transportation systems of the United States.

    (3)   Carrying out the immigration enforcement functions.

Sec 441: United States Customs Service is placed under the Secretary, Homeland Security.

Sec 428: Consular functions vested with Secretary.

Sec 441: Immigration enforcement functions transferred to Secretary.

Title V: Emergency Preparedness and Response.

Sec 501: There shall be a Directorate of Emergency Preparedness and Response.

Title VII:

Sec 801: Creation of office for Coordination with State & local Govts.

Sec 821: United States Secret Service transferred to Homeland Security.

Sec 861: Support Anti-terrorism by Fostering Effective Technologies Act of 2002.

Sec 891: Provides for sharing of information among the agencies as provided in Homeland Security Information Sharing Act.

Sec 896: Deals with sharing of electronic, wire and oral interception information.

Title IX:

Sec 201: Constitution of National Homeland Security Council headed by the President and comprising of Vice President, Secretary Homeland Security, Attorney General and Secretary of Defence, etc.

(H) Title XIV

Sec 1401: Enactment of "Arming Pilots Against Terrorism Act".

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Whistleblower Bill

Pankaj Kumar Singh*, IPS

"When the ruler himself is right, the people naturally follow him in his right course. If governance is by men who are derelict, the governed will suffer."
– Aleksander Solzhenitsyn

Keywords

Abstract

Whistleblower Bill was brought in with grand plans to encourage the right minded and socially conscious citizens to come forward and expose acts of corruption, misuse of power and criminal acts of public servants. The thought behind was that if the honest officials were protected from victimization and their identity kept a secret, the amount of information about such corrupt activities would increase.

However the original bill, which was contemplated over a decade back, has undergone many changes and is today a much watered down version of the original one. The Law Commission (2001) had recommended two very vital issues, namely defining victimization and putting the burden of proof on the public servant- both of which have been overlooked in the current bill. Similarly, the Administrative Reforms Commission has advocated confidentiality and anonymity of complainants and also the fact that frauds in Corporate sector, must also be brought under the ambit of this bill. Both these aspects have also been lost sight of in the current bill which is now

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awaiting assent of the President of India. Yet, the proposed Public Interest Disclosure and Protection to Persons making the Disclosure Bill, 2010, is a step in the right direction. It does provide scope for disclosures against public servants, enquiries can be conducted and there is penalty for lodging false complaints.

With corruption so endemic in our society, only time will tell whether the proposed Bill does encourage the honest, law abiding and socially conscious persons to come forward and disclose acts of corruption and misuse of power or does this bill too, like many earlier ones, become another paper tiger.

IT was in 2001 that the Law Commission of India came up with the idea to protect persons who make disclosure in public interest relating to acts of corruption, misuse of powers or acts of criminal offence by public servants. The basic premise was that honest public servants are normally unwilling to share information about corrupt officials and their wrongdoings for fear of adverse reaction, retaliation or fear of bodily harm. It was felt that a direct correlation exists between the willingness shown by public servants to disclose the activities of corrupt persons and the protection that could be given to him if his identity was concealed. It was felt that if a legislation existed to provide legal protection to such persons, then the amount of information about the corrupt activities of government officials would exponentially increase.

Historical perspective

The *179th Report of Law Commission of India*[1] on *'Public Interest Disclosure and Protection of Informers'* published in December, 2001 recommended that a law was required to protect whistleblowers. This report went into a lot of details and discussed similar Acts in other countries. The Law Commission of India also put up a *draft bill* in this report to the Government of India.

In 2004, the Supreme Court of India in response to a PIL, after the sensational murder of IIT Kanpur graduate Satyendra Dubey, directed the government to put in place a mechanism to act on the complaints made by whistleblowers and to protect their identity. The government notified a resolution in 2004 which made the Central Vigilance Commission the nodal authority to receive complaints regarding public interest disclosures. CVC could enquire into complaints falling within the ambit of this resolution. This resolution however lacked teeth as

its role was limited to making recommendations only and CVC did not have any power to impose penalties. This, therefore, discouraged people and restricted the number of persons who made complaints to CVC. This idea, however, found further support in the report of the **Second Administrative Reforms Commission (2007)**[2]. The *4th report* of this Commission on *"Ethics in Governance"* supported the 179th report of the Law Commission of India and stated that a legislation was indeed required on the lines proposed by the Law Commission to protect the whistleblowers. This report emphasised the need to ensure confidentiality and anonymity of all whistleblowers. It also stated that they should be protected from victimisation or harassment of any kind. One interesting aspect of this report was that it wanted the inclusion of the Corporate Sector also in this legislation to unearth cases of wrongdoings and frauds in public interest.

India is a signatory to the **UN Convention against Corruption**[3] since 2005 which exhorts countries to take measures to facilitate reporting of corruption by public officials and to provide protection against any retaliation, for all such people coming forward with such disclosure.

As a consequence of all the above, the Government of India introduced the **Public Interest Disclosure and Protection to Persons Making Disclosures Bill**[3] in the Lok Sabha on 26th August, 2010. The Lok Sabha after prolonged deliberations referred this bill to a **Standing Committee on Personnel, Public Grievances, Law & Justice.** This Committee made a number of recommendations and submitted its **46th report** on 9th June, 2011 which proposed a number of amendments to the original bill. The important ones implied including the personnel of Defence, Police and Intelligence against whom disclosures would be pefmitted, prescribing a time limit for enquiries and also that authorities must take a final decision within a period of three months. The Standing Committee also put down a time limit of 07 years beyond which a complaint would not be entertained. They also shifted the burden of proof for the allegations of victimisation on the public authority and also laid down penal provisions for knowingly giving incomplete and false information. This bill was passed by the Lok Sabha on 27th Dee, 2011. The bill was thereafter taken up for discussion in Rajya Sabha which after a prolonged period finally passed this bill on 21st Feb, 2014 - the last day of the Parliamentary session - without any discussion. Though the Parliamentary Standing Committee had made a number of very relevant recommendations, these were not considered and the Bill

was passed in a hurry, before the all important Parliamentary Elections of 2014.

Indian Context

In India there have been a number of celebrated cases wherein whistleblowers, who raised their voice against the wrongdoing and ill-gotten practices of corrupt persons in various spheres have been victimized, tortured or at times even done to death.

Satyendra Dubey, an IIT Kanpur graduate joined NHAI in 2002 as a Project Manager where he unearthed serious financial irregularities in sub-contracting of work and irregular mobilization advances to contractors. Though he raised these issues and even wrote directly to the then Prime Minister, yet nothing was done to check such malpractices and he was shot dead in the night of 27th Nov., 2003.

Shanmugam Manjunath, an MBA from IIM Lucknow, after passing out joined IOC wherein he came down heavily on petrol pumps which indulged in selling adulterated fuel. He conducted a number of surprise raids. However, people whose business interests were being hurt shot him dead on 19th Nov, 2005.

Shehla Masood, an RTI activist in MP was shot dead outside her house on 16th Aug, 2011 when she was going to attend a rally by Anna Hazare. Similarly, *Narendra Kumar,* an IPS officer of 2009 batch and alumni of Aligarh Muslim University, was killed by the mining mafia in March, 2012 when he was trying to clamp down illegal mining in his area. He was run over by a tractor when he was trying to stop the same. *Vijay Pandhare* - a Chief Engineer in the Water Resources Department of Maharashtra unearthea huge irregularities and cost inflation in irrigation projects in Maharashtra and alleged that over Rs. 10,000 crores spent on lift irrigation projects were a total waste. His activism led to the resignation of then Dy CM of Maharashtra Ajit Pawar. Similarly, *Ashok Khemka,* an IIT Kharagpur graduate and presently an IAS officer of Haryana Cadre, exposed irregularities in the procurement of seeds by Haryana government and also brought to their notice the suspicious land deals between Robert Vadra and DLF. He has been unduly victimised and posted more than 45 times in his 20 year career. *Rahul Sharma,* an IPS Officer of Gujarat Cadre and alumni of IIT Kanpur also blew the whistle on the accused persons involved in Naroda Patiya massacre case during Gujarat riots by exposing their call data records. He was shunted out and suspended from service.

The **Comptroller and Auditor General** in India has also, of late, acted like a whistleblower in the recent scams that have been brought to the knowledge of public - the 2G scam, the Commonwealth games scam, the Coal scam etc. All these clearly bring out how public money has been repeatedly squandered away to benefit some **'select players'** in government and private sector. These examples reinforce the concept that there is an essential need to bring some of the private sectors also under the ambit of the RTI and the Whistleblower law. While all government departments and its functionaries are regulated by the strict provisions of the RTI and the proposed Whistleblower act, it is surprising to see that the private sector has been completely left out and none of these laws are applicable to it. The recent scams unearthed by the CAG clearly show that the private sector has often acted in connivance with the government functionaries and siphoned off the public exchequer.

Whistleblower Cases - Abroad

Dinesh Thakur, an employee of **Ranbaxy** Laboratories in US exposed his employers endangering the lives of people by producing drugs in India in unhygienic conditions. Ranbaxy was penalized to an extent of about $ 500 million by US government. Similarly **Enron** Corporation of the US was brought within the ambit of this law way back in 2002 when it was learnt that the Company's auditors had cooked up book of accounts to give a rosy picture about the company and had misled the investors. It is, therefore, essential that the whistleblowers must be permitted to expose the misdeeds of the private sector before the common man.

Julian Paul Assange[6], founder of Wiki Leaks made the world sit up and take notice by publishing secret US military and diplomatic documents which were unknown to the world. He released over 2.5 lakh US diplomatic cables, more than 50% of which were confidential, which clearly showed how criminal laws had been breached, international agreements were thrown to the wind, extra judicial killings carried out and how human rights violations were carried out blatantly in different locations. A number of lawyers, academics and journalists expressed solidarity with Assange and hailed his act as that of an exceptional whistle blower of remarkable courage who advocated a transparent and righteous approach to journalism. The US government however wants to charge him for leak of diplomatic cables and wants

him extradited. The Swedish Police has also issued an arrest warrant against him for sexual assault and he is presently hiding in the Embassy of Ecuador in London.

Bradley Manning of US Army has been charged by his government for leaking over 2.5 lakh US diplomatic cables and 5 lakh Army reports to Wiki Leaks. These relate to sensitive information pertaining to US strikes in Iraq, Afghanistan etc. He has now been sentenced to 35 years imprisonment and discharged from the US Army. Manning stated that he released all these secret information *'out of moral concern and how humanity was being victimized'*, yet the sentence meted out to him shows how vulnerable whistleblowers are and how such an action can have a deterrent and an chilling effect on all prospective whistleblowers.

Edward Snowden, a Systems Administrator, working for a contractor with NSA, disclosed how US was intercepting large amounts of telephone and internet data, which violated rights to privacy and other international agreements. Though US insisted that such interception was being carried out to prevent acts of terrorism, yet interception of mobile phone of German Chancellor and others showed that what was being done was absolutely undemocratic and illegal. Snowden stated that he wanted to **'inform the public as to that which is done in their name and that which is done against them'.** His act of disclosing information in public interest has been lauded by all concerned and he has been named as one of the 100 most influential persons of the world for the year 2014 by the Time Magazine.[11]

Laws in different countries[7]

United States

US has **Whistle Blowers Protection Act 1989** (amended in 1994). This Act was brought forth because the earlier Civil Requirements Act of 1978 had not been able to provide relief from official reprisals such as transfers to *'bureaucratic Siberia',* elimination of duty, reprimand etc. An important provision of this Act is that *'if the disclosure is reasonable and pertinent to public policy, then the time, manner, place, motives etc. will all become irrelevant'.* The burden of proof here lies on the employer or the agency. The identity of the informant is always kept secret. This Act also enables the whistleblower to claim damages and medical expenses etc. in order to restore him to his original state.

UK

The **Public Interest Disclosure Act of 1998** was the outcome of the Nolan Committee Report of 1995, a white paper on 'Freedom of Information' or 'Right to Know'. This Act came in the background of collapse of banks wherein it was felt that the employees knew all about the mismanagement in Banks. It was felt that there must be a culture of openness within the organisation and that prevention is always better than cure. The UK Act aims to protect the whistleblowers from victimisation at work places and even enables them to seek compensation from their employers. This Act covers all the employees in the public, private and non-governmental sectors but goes on to exclude Army and Police.

Australia

The **Public Interest Disclosure Act of 1994** came out of the Fitz Gerald Report of 1993 which necessitated that a legislation was required which could prohibit a person from penalising any other person for making public disclosures about misconduct, inefficiency or any other wrongdoing within the system. This Act states that penalty can be imposed for false or misleading information given knowingly.

Malaysia

The **Whistle Blower Protection Act of 2010** enables disclosure of an improper conduct to an Enforcement agency. The Act ensures the confidentiality of information provider and also provides him immunity from civil and criminal proceedings. The Enforcement agency to whom information is made available by the whistleblower can ask for damages or compensation or seek injunction from the Court regarding the wrongdoings of the company. There is also provision in this Act to give reward to the whistleblower for the information given.

Other Countries

Hungary has a law which protects people in the public and the private sector from any kind of detrimental action, but there is no specific agency earmarked which can receive complaints from whistleblowers. Amongst the Eastern Bloc nations, Hungary seems to be the only country which has some kind of legislation to promote the whistleblower and protect him from any kind of illegitimate action. **Romania, Luxemburg** and **Slovenia** also have laws that protect the action of whistleblowers

but their scope is limited. In case of Luxemburg and Slovenia, these laws and the related actions are included under the broader category of anti-corruption legislations. **France** does not have any specific whistleblower legislation but such related policies are governed by French Data Protection Authority. A change was brought about in 2005 when French companies affiliated with US companies were brought under the Sarbanes Oxley Act- a federal US law which contained provisions to protect the whistleblowers.

With the emergence of platforms as Wiki Leaks, a number of countries and especially the media have realised the importance of whistleblowers and the fact that these people can be valuable sources of information. The cases of Julian Assange, Bradley Manning and Edward Snowden are classic examples in recent times which have attracted attention of people worldwide. These people have responded to the call of their inner voice and have *'leaked out information which is of vital interest to the society'*. A number of countries *(147 countries)* have shown their commitment to the UN Convention against Corruption, which has a provision for protection of whistleblowers, by enacting legislations in their countries. The important role played by whistleblowers is now being recognised by all the nations, slowly and gradually but surely. The **Council of Europe** and the **OECD** have also been actively espousing the cause of whistleblowers and calling upon nations to come up with legislation to protect their rights.

In a number of European countries, time and again the political leadership has made strong public statements supporting the whistleblower laws but not much has happened on ground. An interesting observation made by M. Devine along these lines is *'whistle blower protection is a policy that all government leaders support in public but few in power will tolerate it in private'*.

Witness Protection[4]

An important related legislation that can give tremendous support to the Whistleblowers Bill is *'Protection of Witnesses Bill'* which is still pending before the Parliament since 2003 inspite of clear instructions by the High Court of Delhi in Neelam Katara vs. Union of India. The objective behind this legislation is to protect the identity of the right-minded conscience keepers and encourage them to come forward freely and fearlessly to depose against dreaded criminals and mafia elements before the Courts. The concealment of their identity would give prime

witnesses the necessary anonymity and immunity, and facilitate bringing the hardened criminals to the book more effectively.

Bill in its Present Form

The Whistleblower's bill in its current form differs on a number of issues from the proposed Bill as given in 179th report of Law Commission of India and also the 4th report of 11- Administrative Reforms Commission. The Law Commission had envisaged a vast scope for this Bill and included disclosures against Ministers and public servants whereas the current Bill talks about public servants only. The Law Commission has clearly defined *victimisation* and *placed the burden of proof*[8] on the public servant but the current Bill neither defines victimisation[9] nor is there any talk of burden of proof. Law Commission has also imposed a *time limit*[10] for completion of enquiry but the bill in its present form makes it a never ending process. The Administrative Reforms Commission has strongly advocated protection of whistleblowers by ensuring *confidentiality and anonymity*. The present bill does not have any provision for anonymous complaints, thereby contradicting the basic premise that if protection is given, people will come forward and give substantial information about corruption. The Administrative Reforms Commission has also suggested inclusion *of Corporate whistleblowers* to unearth corrupt practices in private sector but the present bill is totally silent on this vital issue. The bill also does not have any provision for financial or other *incentive for whistleblowing,* but makes it an onerous task by refusing to take anonymous complaints and making no efforts towards protecting his identity.

The bill, it seems, has lost its focus somewhere, by concentrating only on protecting the crusaders against corruption and not corruption per se. Even their protection does not seem to be foolproof. The Whistleblower bill, which initially had grand plans to encourage disclosure of corrupt practices and protect honest persons from victimisation, in the current fom has come as a dampener for activists by refusing to protect his identity, not defining victimisation and leaving him vulnerable once again to the criminal and mafia elements - he was supposed to expose.

Conclusion

In the current scenario when our country is saddled with a number of scams, governance has taken a toll and the confidence of the common man and the investor has been shaken; it is absolutely essential to

cleanse and re-energise systems that are vital for improving the governance and investment climate in the country. People who are conscience-keepers and have the interests of the country - first and foremost should be given due protection under the law to come forth and expose the wrongdoings, malafide and inappropriate practices in the public as well as private sector. This legislation will go a long way to encourage people to come forward and share information about corruption and misuse of powers by public servants so as to bring them to book.

The bill, though in the present form is a watered down version of the original one with lofty ideals, yet it is a step in the right direction. This on the one hand will act as an incentive to all the right minded people to come forward and expose acts of corruption and misuse of official powers/position, on the other hand this legislation will put the fear of law in minds of the wrong doers and show the society's resolve to act effectively against the corrupt officials.

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"Police Investigators" Stress Study

Varun Kapoor*, IPS & Dr. Yamini Karmarkar**

Abstract

Stress is inherent in uniform services. There have been several studies conducted on officers in different parts of the world and some in India, which reveal that the present working conditions and several other factors have lead to increased level of stress among officers.

Introduction

STRESS at the work place is quite common these days and it has become a fact of life inevitable in this age of intense competition. However, stress is inherent in uniform services. There have been several studies conducted on officers in different parts of the world and some in India, which reveal that the present working conditions and several other factors have lead to increased level of stress among officers. A study by Rakesh Kumar Singh (2007) conducted on Central Reserve Police Force (CRPF) found that the situation becomes worse because of environmental factors like poor living conditions, odd and prolonged duty hours, toxic leadership and negative image in society and media.

There are several reasons attributed to Stress among officers. For example, the finding of study at Waghodiya police station in Gujarat by Kalpesh Naik in 2012, suggests that there is a significant difference in the level of stress among police personnel and the sources of stress vary as per their nature of profile, shifts, designation, role and responsibilities. Another study conducted by Sibnath Deb and others (2005)

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on West Bengal police officers found that powerlessness, poor peer relations, intrinsic impoverishment, low status, strenuous working conditions, un-profitability and political pressures are main causes of stress.

In 2005, S.R. Mehta and others conducted a study for The Bureau of Police Research & Development (BPR&D), on Central Armed Police Forces (CAPF). They reported that the causes of dissatisfaction among officers are excessive workload, prolonged duty hours, denial of leave, bad treatment by superiors/peers, poor living conditions.

The above studies show that the there is substantial awareness of stress and its related problems affecting their personnel. But the fact remains that the in-house stress coping mechanisms in different CAPFs is either inadequate or failed to operate effectively at field level.

Police Radio Training School) (PRTS) Indore therefore took the initiative to devise effective strategy for Madhya Pradesh Police to cope with Stress. The research team from International Institute of Professional Studies, Devi Ahilya University, Indore conducted this research for PRTS. A survey was designed and conducted for studying "factors that cause stress" among officers (Sub- Inspectors, Inspectors, DSPs/CSPs), of Madhya Pradesh Police, working in the field as well as reserve force. The following sections of the study describe the Objectives, Methodology, Findings and recommendations of the study.

Objectives

As mentioned, this study was undertaken jointly by PRTS, Indore and from International Institute of Professional Studies, Devi Ahilya University, Indore. PRTS conducts training sessions for the officers of different ranks and profiles on several topics. Officers attending these training sessions are from all over Indore Range. Thus, it provided a good opportunity to interact with many officers on a common platform. Further, during such training sessions, the environment in general is calm and learning oriented, and it differs from the daily complex routine of officers. Thus, it seemed to be a suitable opportunity to study their perception about their job and assess their perception of the factors which cause stress. At the same time, the study intended to find out feasible solutions to reduce stress levels. The specific objectives of the study were as follows:-

- To study the perception of Police officers towards their duty.
- To study the stress level among police officers

- To study the major factors causing stress among police officers.
- To identify the effective stress relieving techniques for police officers.

Methodology

This study was descriptive in nature. The population for study comprised of all Police officers in Indore Range. The sample for the study was selected purposively. All the trainees that attended training programs at PRTS during the period May, 2012 to September, 2012 were considered for responses.

The Questionnaire

A specially designed questionnaire was used to seek response. The questionnaire includes some factors, which are likely to cause stress among police officers. These factors were identified on the basis of literature review, personal interviews with various officers and other published and unpublished sources of information. These factors broadly classified in two aspects: Individual stressors and System based stressors. The questionnaire was designed in four parts which are described as follows:

- The first part was to gather the basic demographic information of the respondents
- The second part included open-ended items for seeking the likes and dislikes of respondents towards Police Duty.
- The third part was focused on measuring the "Perception" of officers towards their duty. This was close ended and had more than 40 questions which reflected both positive and negative aspects of Police Duty. The response was sought on a 5-point Likert scale ranging from "Strongly Disagree" to "Strongly Agree".
- The fourth and the last part tried to identify the techniques adopted by officers to fight the stress that they experience.

Sample Size

In all 238 respondents participated in the study. The data thus collected was coded and computerized for further analysis.

Data Analysis

The data thus collected was analyzed using various statistical tools. The SPSS software was used for performing the analysis.

Findings and Discussions

The present study focused on measuring the stress level of police officers, studying their perception towards their duty, identifying the factors that affect their stress level. The study also tried to analyze these three things for different levels of officers.

Descriptive

The following charts show the distribution of respondents across various demographic variables.

The cross sections of respondents were created on the basis of

- Their Duty – Reserved Force or Field Force
- Age of the Officers
- Years of service in Police
- Number of Postings
- Gender

The following five charts show the distribution of respondents across these variables.

Reserve Force and Field Force
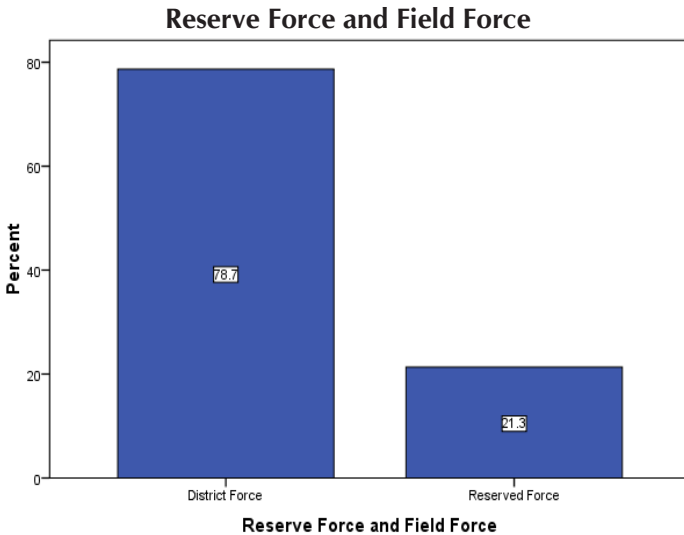
Age of officers
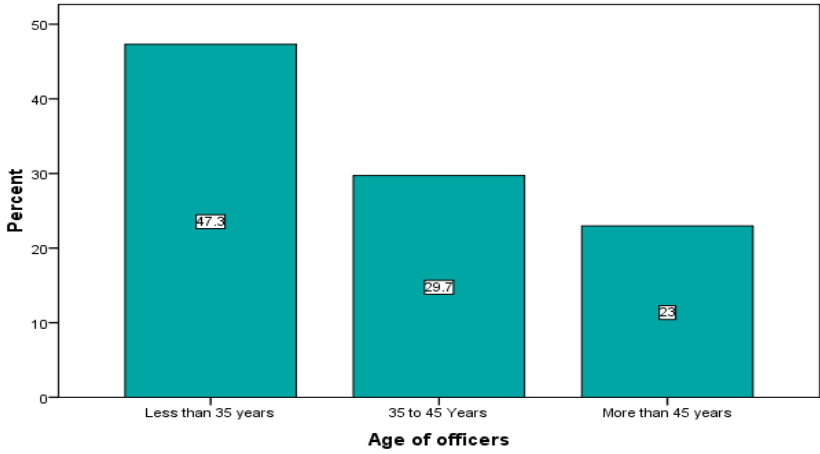
Years of Service in Police

Total Postings faced in service
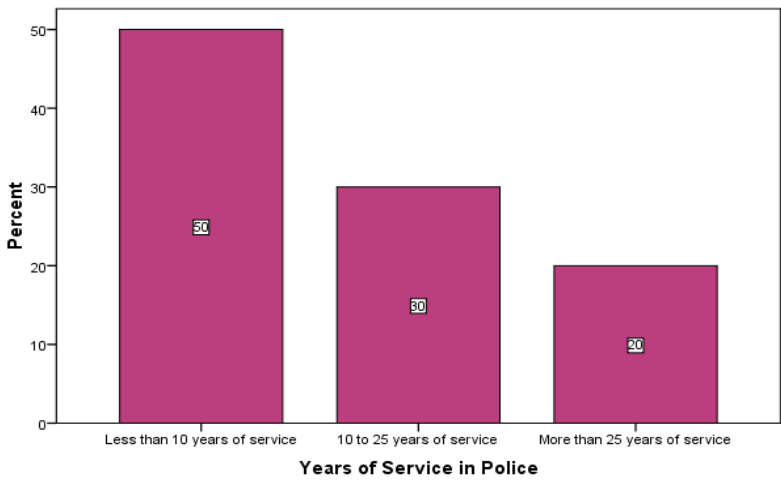
Total Postings faced in service
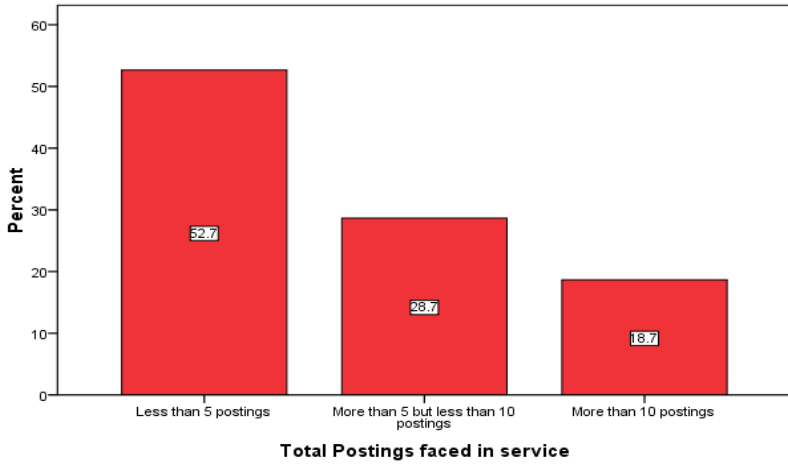
Gender

Gender
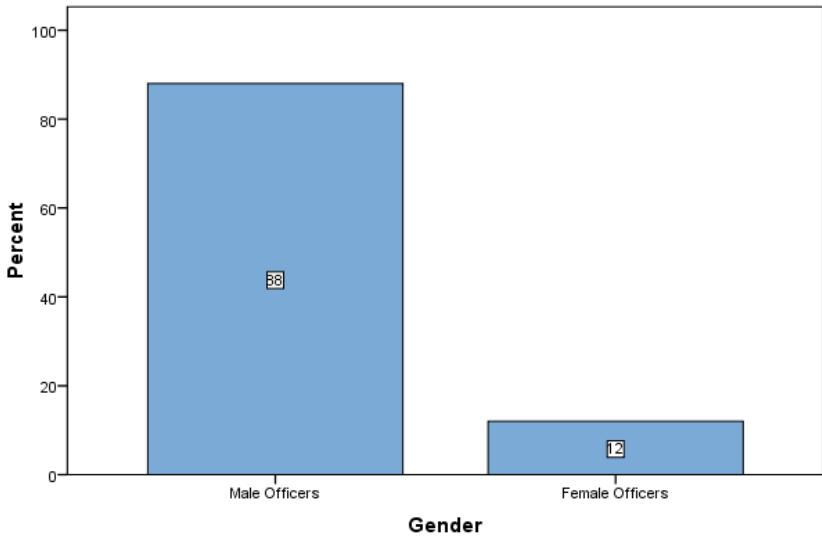
Measurement of Stress Levels

The Stress Level of respondents was measured using a 12 questions scale of "Perceived Stress". The scoring of the responses was done on the basis of stress experienced by respondents in the past one month. The analysis of stress levels of respondents revealed that more than 80% of the respondents have experienced "High Stress" in the past one month. This is a seriously alarming situation. Further, 26 % respondents faced "Very High Stress" while 6 % respondents faced "Extremely High Stress". The following figure shows the percentage of respondents in category of stress levels.

Stress level of Respondents
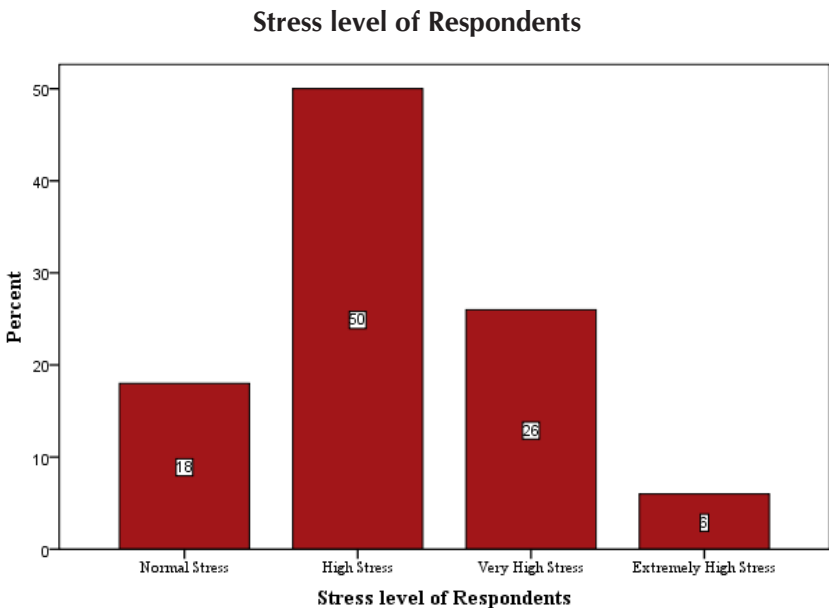
Factor Analysis for Perception of Police Officers towards Police Duty

The next step in the analysis was to find out the "Perception" of Police officers towards their duty. The questions that were asked to them included positive as well as negative statements. Their response was taken on a 5 point Likert scale. The data thus obtained was subjected to factor analysis.

The reliability of the scale used to measure perception was measured through "Chronbach's Alpha". A alpha value of 0.75 % indicated high reliability of the measure.

The factor analysis explained 46% of total variance and on the basis of eigen values total 6 factors were generated. Out of these two factors revealed positive perception while four factors revealed negative perception. These six factors were:-

Positive Perception
- Sensitivity & Concern shown by the Department
- Pride of being a Police Man

Negative Perception
- Challenges of the Job
- System Generated Challenges
- External Pressures Personal and Behavioral Challenges of the Job

The following two tables describe the factors and elements in each factor.

Factors which reveal Positive Perception towards Police Duty		
Factor and Items	**Percentage of variance Explained**	**Cumulative Percent**
Sensitivity & Concern shown by the Department		
Sensitivity and cooperativeness of superiors	**6.459**	**40.567**
Adequacy of arms and equipments provided by department		
Supportive work environment in the department		
Sufficiency of perks and other facilities provided by the department		
Image of Police in the eyes of common man		
Sufficiency of training provided by the department		
Pride of being a Police Man		
Pride and influence in being an officer.	**6.064**	**46.631**
Satisfaction of protecting and serving the society		
Power vested in the post		
High esteem associated with being an officer		
Special attention received as an officer in uniform		
Facilities given by police department		
Increase in efficiency of officers as a result of training imparted		

The above positive factors were further elaborated to explain each single variable in that factor. The first factor, which creates positive perception of Police, is Sensitivity & Concern shown by the Department. The following graphs elaborate these variables.

The superiors are sensitive and cooperative towards subordinates
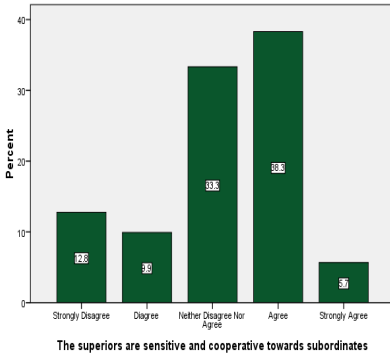
The department provides adequate arms and equipments for the safety and security of officers
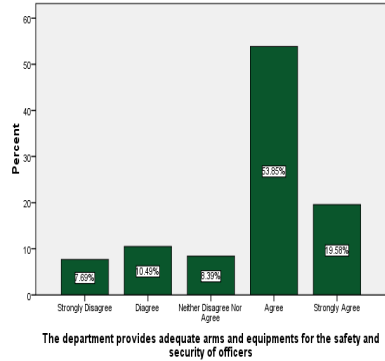
Highest positive perception of police is built among the subordinates if the superiors are sensitive and cooperative towards subordinates.

Sensitivity & Concern shown by the Department
Percentage of response to each of the elements

Perception	Strongly Disagree	Disagree	Neither Disagree Nor Agree	Agree	Strongly Agree
The superiors are sensitive and cooperative towards subordinates	12.0	9.3	31.3	36.0	5.3
The department provides adequate arms and equipments for the safety and security of officers	7.3	10.0	8.0	51.3	18.7
There is supportive work environment in the department	10.0	20.7	25.3	32.7	6.7
The perks and other facilities provided by the department are good	12.7	24.0	20.0	30.7	7.3
The image of Police in the eyes of common man is satisfactory	5.3	32.7	17.3	35.3	4.7
The training provided by the department is sufficient to meet all the needs of officers	8.7	32.0	14.0	33.3	6.7

There is supportive work environment in the department
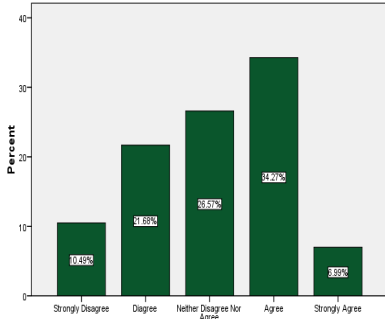
There is supportive work environment in the department

The perks and other facilities provided by the department are good
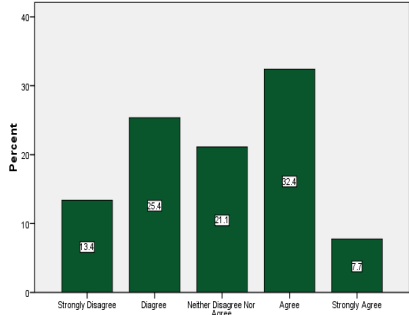
The perks and other facilities provided by the department are good

The image of Police in the eyes of common man is satisfactory
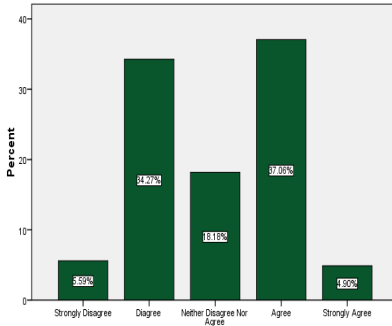
The image of Police in the eyes of common man is satisfactory

The training provided by the department is sufficient to meet all the needs of officers
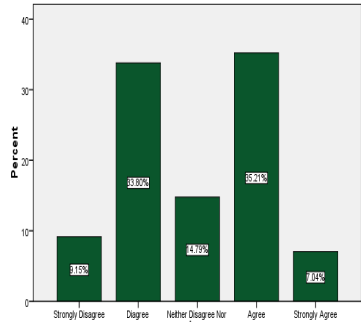
The training provided by the department is sufficient to meet all the needs of officers

There are facilities given by police department
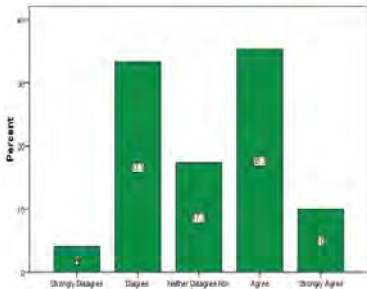
There are facilities given by police department

There is immense power vested in the post
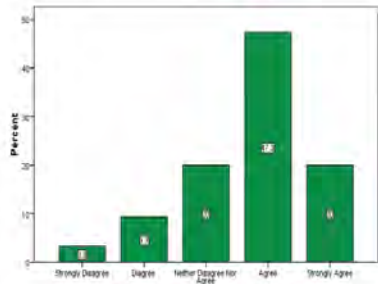
There is immense power vested in the post

There is immense satisfaction of protecting and serving the society
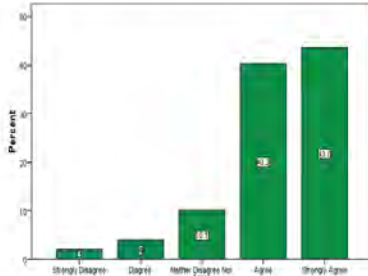
There is immense satisfaction of protecting and serving the society

There is enough pride and influence in being an officer.
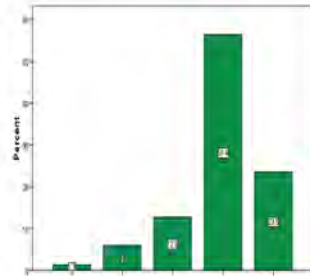
There is enough pride and influence in being an officer.

There is high esteem associated with being an officer
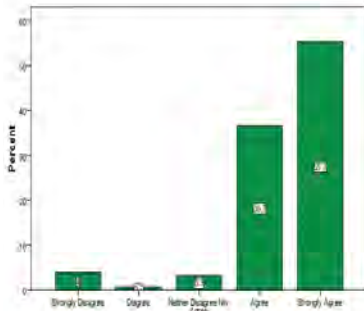
There is high esteem associated with being an officer

As an officer in uniform, I get special attention when I go for any work.
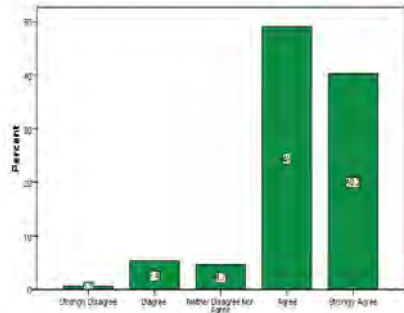
As an officer in uniform, I get special attention when I go for any work.

The efficiency of officers increases as a result of training imparted
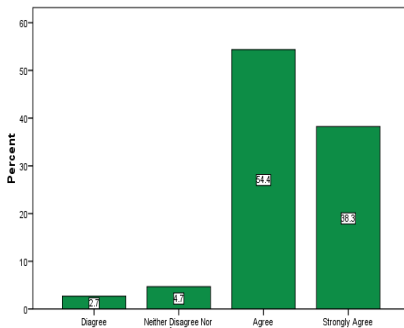
The efficiency of officers increases as a result of training imparted

Pride of being a Police Man
Percentage of response to each of the elements

Perception	Strongly Disagree	Disagree	Neither Disagree Nor Agree	Agree	Strongly Agree
There are facilities given by police department	4.0	33.3	17.3	35.3	10.0
There is high esteem associated with being an officer	4.0	0.7	3.3	36.7	55.3
There is immense satisfaction of protecting and serving the society	2.0	4.0	10.0	40.0	43.3
There is immense power vested in the post	3.3	9.3	20.0	47.3	20.0
As an officer in uniform, I get special attention when I go for any work	0.7	5.3	4.7	48.7	40.0
There is enough pride and influence in being an officer.	1.3	6.0	12.7	56.0	23.3
The efficiency of officers increases as a result of training imparted	0.0	2.7	4.7	54.0	38.0

Factors which reveal Positive Perception towards Police Duty		
Factor and Items	Percentage of variance Explained	Cumulative Percent
Challenges of the Job		
Bureaucratic hassles in day to day working		
Long and stretching VVIP duties		
Difficulty in maintaining social life in this duty		
Lack of time for family		
Excess negativity to be handled in terms of crimes and criminals		
Lack of consideration shown by courts to police officers.	9.208	9.208
Cross-examination of officers by court		
Working on festivals		
Difficulties in Interaction and coordination with other departments like Court,		
Goerettninsigc ,a leotcn g with the team and working together is a big challenge		

System Generated Challenges		
Lack of relevant and suitable training provided by department	**8.67**	**17.878**
Negative perception of common man for Police.		
Leniency of courts toward the criminals		
Insensitive pears in department		
Anger generated by overall working condition of department		
Problems in scheduling appearances in court		
External Pressures		
Challenges to learn new technology like ICT etc.	**8.473**	**26.351**
Political pressures affecting normal working in the department		
Pressure of being transferred to unfavorable location		
Pressure of possible delay in the promotions		
Excessive workload on most of the days		
Long work timings		
Salary insufficient to meet basic expenses		
Lack of proper infrastructure in the department		
Pear pressure to perform good / bad		
Personal and Behavioral Challenges of the Job		
Direct and indirect privileges for being an officer.	**7.757**	**34.108**
Physical problems affecting efficiency at duty		
Difficulty in coping with attitude of co-officers		
Family problems affecting concentration on work		
Inability to maintain a healthy and harmonic work environment		
Efforts to remain cooperative and sensitive towards subordinates		

The mean scores of each factor were further evaluated. Following table shows the scores. A high score indicates strong agreement towards that factor, whereas, a low score indicates "Disagreement" towards that factor. Thus, it can be seen that among positive factors, the "Pride of Being a Police Man" has highest agreement with 77.4%, while, the agreement for "Sensitivity and Concern shown by department" has lower agreement with 59.5%. Among the negative factors,

"External Pressures" and "Challenges of Job" were found to be highly affecting factors with scores above 70%. All the four negative factors had high scores above 60%.

Descriptive Statistics for entire sample		
	Mean Score	**Percent Score**
Positive Factors		
Pride of being a Police Man	19.35	77.40
Sensitivity & Concern shown by the Department	17.85	59.50
Negative Factors		
External Pressures	34.69	77.09
Challenges of the Job	36.23	72.46
Personal and Behavioral Challenges of the Job	19.1	63.67
System Generated Challenges	18.93	63.10
A high score indicates strong agreement to the factor		

Perception of Officers towards Police Duty
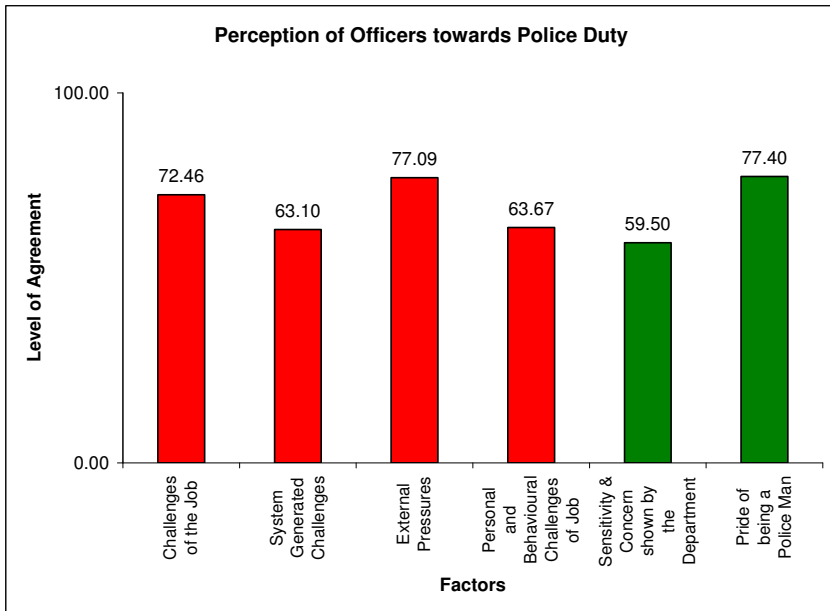
Relationship Between Stress Level And Perception Towards Police Duty

Regression results for "Perception Factors" and "Stress Level"		
	Beta	**Significance level**
Positive Factors		
Sensitivity & Concern shown by the Department	-0.455	0.000
Pride of being a Police Man	-0.273	0.009
Negative Factors		
Challenges of the Job	0.206	0.109
System Generated Challenges	-0.066	0.538
External Pressures	-0.056	0.623
Personal & Behavioral Challenges of the Job	0.374	0.001
Dependent Variable: Stress level of Respondents		

The next and the very important step in the analysis was to explore a relationship if any between the factors affecting "Perception" and the "Stress level" of the respondents. For this, a regression was run with the six "perception variables" as independent variable and "Stress Level" as dependent variable.

The above table shows the result for regression. A look at the beta value yields interesting results which are summarized as follows:-

• **Positive Factors:** "Sensitivity & Concern shown by the Department", "Pride of being a Police Man" have a **negative and significant beta value.** This means, that higher the "Sensitivity & Concern shown by the Department", lower will be the "Stress Level" and Higher the "Pride of being a Police Man", lower will be the "Stress Level"

• **Negative Factors:**

  o "Challenges of the Job" and "Personal & Behavioral Challenges of the Job" are **positively and significantly related** to "Stress Level". This means that higher challenges and higher personal and behavioral issues cause increased stress levels.

  o "System Generated Challenges" and "External Pressures" are negatively related to "Stress Level". But these two factors were not found to be significant in the result.

The third part of the study was to identify actual stress coping techniques adopted by police respondents. For this, the respondents were first asked to write the five biggest stressors. This was an open-ended question.

The open-ended responses given by the respondents for five biggest stressors were studied and a content analysis was done. Following is a summary of responses. The responses received for the biggest stress creating things were categorized in to 7 broad actions. These were:-

- Lack of time for family

- Lack of financial Resources

- Disturbance in family life due to frequent transfers

- Attitude of fellow policemen

- Behavior of Senior Officers

- Political interference in their work

- Delay in Promotions and other due rewards

The above categories were found to be reflecting the similar factors, which were identified in the "Perception" study in the previous section of the study. A look at these factors reveals that out of seven, two factors i.e., Attitude of fellow policemen and Behavior of senior police officers relate to the work culture prevailing in Police department. And this problem was found to be common among officers at all levels. This also indicates that if the Police organisation reworks upon its leadership model, the benefits can be percolated to the lowest

Strategies Adopted by Policemen to cope up with stress

And in the last but very important part of the questionnaire, they were asked to choose their strategy to cope up with stress. They were given 5 options for "stress management techniques" and were asked to choose any one.

The options given for "Stress management techniques were as follows:-

- I can't do much about it. Stress is an integral part of Police duty

- I try to forget "stress" creating things and I'm able to do it to some extent.

- I feel that with little guidance I can overcome stress.
- I adopt other ways to forget things and avoid stress
- I adopt a spiritual attitude to cope up with stress.

The above responses were analyzed on the basis of percentage analysis.

Strategies Adopted by Respondents for coping up with Stress
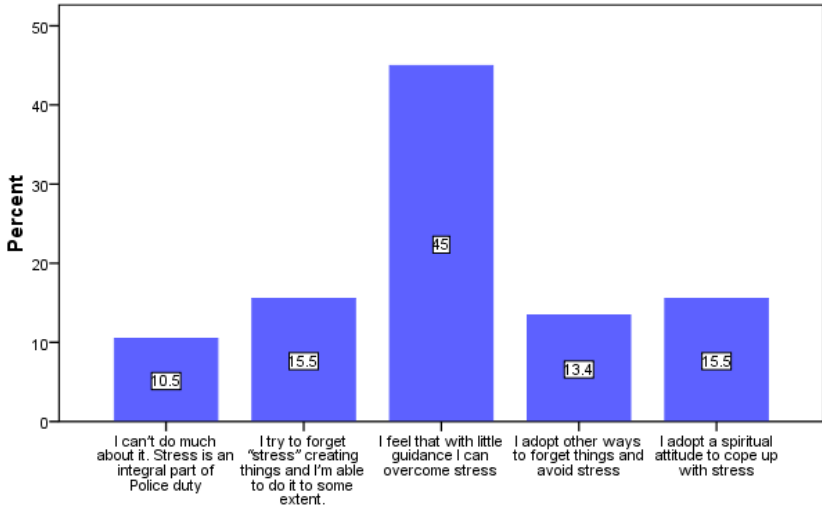
Strategies Adopted by Respondents for coping up with Stress

Revisiting "Leadership Model" for reducing 'Stress Level' among Police

The study revealed two very important aspects, which can go a long way in reducing stress level among police officials. The first point that needs to be noted is that 45% of the Police men felt that with a little guidance and support, it is possible for them to overcome stress. This indicates a ray of hope for the police department. There is need to explore ways and means to provide support to their men.

All the positive variables were further explored for a "cause and effect relationship" with "stress level". As mentioned in the previous section, there were 13 variables falling into two broad categories as follows:-

- **Sensitivity & Concern shown by the Department**
  o   Sensitivity and cooperativeness of superiors

o   Adequacy of arms and equipments provided by department

o   Supportive work environment in the department

o   Sufficiency of perks and other facilities provided by the department

o   Image of Police in the eyes of common man

o   Sufficiency of training provided by the department

● **Pride of being a Police Man**

o   Pride and influence in being an officer.

o   Satisfaction of protecting and serving the society

o   Power vested in the post

o   High esteem associated with being an officer

o   Special attention received as an officer in uniform

o   Facilities given by police department

o   Increase in efficiency of officers as a result of training imparted

A look at the above 13 variables which have a positive effect on reducing Stress Level of Police officers, shows that, there are 4 variables which connect to the Leadership and Work Culture in the Police Department. These are:-

o   Sensitivity and cooperativeness of superiors

o   Supportive work environment in the department

o   Sufficiency of training provided by the department

o   Increase in efficiency of officers as a result of training imparted

The remaining variables were also found to have some positive association but they pertain to Policy matters and external image of the Police.

These four variables are unique in terms of feasibility for immediate adoption by Senior Police Officers as they play leadership role in the department. These four variables were regressed with "Stress Level" of respondents to see if there is any cause and effect relationship between them. Out of these four variables, only one variable **"Sensitivity and**

cooperative attitude of Superiors towards subordinates", was found to be significantly, negatively related to "Stress Level". This indicates that, higher the sensitivity and cooperative attitude of Seniors towards their subordinates, lower will be the "stress levels".

Cause and Effect Relationship between Stress Level and Superiors Behavior and Work Environment in the department		
	Beta Coefficient	Sig.
(Constant)		
The superiors are sensitive and cooperative towards subordinates	-.262	.004

This is quite a significant finding. The police department follows an imperial, authoritative style of leadership to a very large extent. The superiors are seen to be autocratic in their work style. While this is felt to be justified owing to the high level of discipline expected from the police force, but, it reduces the basic human sensitivity expected towards fellow human beings. The study revealed that this autocratic behavior, many times, leads to insensitivity and non-cooperation by superiors causing high stress among the subordinates.

The study found that a positive behavior by superiors, in terms of exhibiting sensitivity and cooperation towards subordinates, can help in reducing the stress level of subordinates. This was found to be true at the all levels of the police hierarchy.

Conclusion

This study tried to explore the factors causing stress among police officers of Madhya Pradesh. The survey was conducted among 238 police officers that attended several training programs at PRTS. The findings of the study are being concluded as follows:-

• Majority of the police officers are under high stress. More than 80% of the officers were found to be under "High Stress". Some of them are even extremely stressed.

• The officers have certain perception about their job. They see some positive things and some negative things in their job.

• These Positive and negative factors are found to affect the stress levels of officers. While positive factors reduce their stress levels, the negative factors increase their stress levels.

- The Positive factors about their job, which can help reduce their stress levels, are related to concern shown by their seniors during day-to-day working and the satisfaction derived out of the fact that they are serving the society.

- The Negative factors about their job, which can help reduce their stress levels, are related to several challenges they face. The challenges are related to performance of duty, personal and behavioral issues.

- There is a need to revisit the autocratic leadership style largely existing in the police department. The sensitivity and co-operation shown by superiors can help in reducing the stress levels among police officers.

Recommendations and Policy Implications

This study offers the following recommendations to Madhya Pradesh Police for helping their officers to address the issue of high stress levels:-

- **Enhancing the "Positive Factors"**

  o The department, if inculcates a culture of sensitivity exhibiting concern towards officers will help improve lower the stress levels and subsequently increase their efficiency.

  o There is inherent pride in being an officer. The department should take steps to enhance this feeling and motivate the officers.

- **Controlling the "Negative Factors"**

  o The department may consider addressing the behavioral and attitudinal challenges of officers through training programs. Several skill building programs on issues like team work, positive attitude, stress management, co-operation, etc. may be planned and implemented for officers.

  o Other issues for which the department may evolve feasible solutions for, are :-

    ♦ Difficulty in maintaining social life, lack of time for family, excess negativity to be handled in terms of crimes and criminals, working on festivals

♦ Difficulties in Interaction and coordination with other departments like Court, forensic, etc, lack of consideration shown by courts to police officers, cross-examination of officers by court.

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Work and Family Life Balance Among Police Personnel: A Case Study of Punjab Police

Rajpreet Kaur* & Dr. Pardeep Jain**

Keywords

Abstract

Work and family life balance is an expectation of today's people. Life in the 21st century is increasingly complex as people are juggling with the multiple roles. They are unable to understand which role is most important and which is least. In the present scenario, due to complex and demanding situations from both work and life, people are unable to play their best suited roles under the given circumstances. It's very difficult to answer the question that what role do they play? The answer may belong to one or more of the following: an employee, boss, subordinate, spouse, parent, friend, sibling, member of the club and others, etc. Each of these roles imposes demand that require more time, much more energy and maximum commitment to fulfill. Conflict occurs when cumulative demands of these many professional (i.e., work) and personal (i.e., non-work) life roles are incompatible in some respect, so that participation in other roles are hampered (Sangi, 2011).

Keeping in mind the above facts relating to the various aspects of the family and work life balance of the working individuals, this study will analyze it for the police personnel, whose occupation is generally perceived as highly stressful, caught between the increasing threat of violence on our streets, high public demand and a mounting focus on police efficiency and probity.

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Work and Life Balance

WORK-FAMILY life balance is a wider concept that includes proper securitization between "work" (career and ambition of employees), on one side, and "life" (family, pleasure, leisure and spiritual development), on the other side. Related, though broader, terms include "lifestyle balance" and "life balance". Work-life balance doesn't necessarily mean fewer hours at work. Over the years, many conclusions have been drawn together. Recently, Singh and Khanna (2011) based on their survey data on the work-life balance reported that (i) less than 4% of the data population considered that the work-life balance is possible by restricting the work/business hours or having rostered days off. (ii) large number of the population (about 46%) valued the flexibility in the working hours (iii) 39% says working close to home or reducing commuting time may help to develop better work-life balance. Overall, the work satisfaction was closely related with the life satisfaction. It was about the empowerment over when and where they work. Therefore, many people will only stay with the job that offers flexibility. Work-Life Balance (WLB) is a term that refers to the desire on the part of both employees and employers to achieve a balance between workplace obligations and personal responsibilities.

Provisions for Work-Life Balance

Policies on work-life balance vary from organization to the organization; various combinations of options are offered to the employees which include:

- *Job sharing*: Job sharing is a voluntary arrangement of one full time position in such an arrangement that the individuals carry out all the duties of the job, simply picking up the work where other one left. In a divided responsibility arrangement, the duties of the position are divided between the two, each being able to provide cover for the other where necessary. The split of job hours may be morning/afternoon, weekly, midweek, a week on, a week off, etc.

- *Part time working*: Part time is a system whereby the employee is contracted to work fewer than the standard number of contractual hours per day.

- ***Staggered (or flexible) working hours:*** Staggered working hours allow for the start and finish times than the normal business hours. The numbers of hours remain the same but can be staggered during the day; one can come late and go late in the evening or can work for certain hours in a staggered manner.

- ***Annualized working hours:*** Annualized hours system whereby the employee's contractual working hours are expressed as the total numbers of hours to be worked over the year, allowing flexible work patterns to be worked throughout this period.

- ***Compressed hours:*** Compressed hours permit the employee to work their total number of contractual hours to complete the assignment. Contractual hours are compressed over fewer working days. Either five days week is compressed to four days or a fortnight into nine days or so.

- ***Term time working:*** In this system, employees work under the contract but can take unpaid leave of absence to fulfill personal commitment.

- ***Occasionally working at home:*** In this system, employee carries out a portion of their duties at home. It includes work that can be done effectively from a remote location, or is a specific task that requires high level of concentration or minimum interruption.

- ***Career breaks:*** Career breaks allow an employee an extended period of time away from paid work, where possible with a return to the same or similar job at the end of the time.

- ***Leaves:*** Certain leaves under the legislation like flexi time leave, adoption leave, time off for health appointments, special leave, etc., to help employee in addressing and fulfilling their personal commitments (Sangi, 2011).

Considering all the facts mentioned above, this study seeks to the investigate the work-life balance in police professional of the Punjab State of India.

Review of Literature

Over the years, the investigators have been exploring the work-life conflicts and balances in the various professions. In this work, the available literature on the police professionals is reviewed and discussed here in this section.

Studies of Stress on Work-Life in International Context

Jacobi (1975) studied about the stress-related disabilities in the Los Angeles Police Department, which revealed high incidences of high blood pressure, peptic ulcers, and hyperacidity. **Kroes (1976)** reported abnormally high rates of coronary mortalities among law enforcement officers. Depression, suicide, alcoholism and other forms of chemical dependency have also been reported in association with job stress of police officers (Herman, 1975; Schwartz and Schwartz, 1975).

Alexander, Walker, Innes, et al. (1993) studied 100 police officers from Grampian Police. They were surveyed in relation to police stress at work (response rate of 76%). The survey found that negative effects of stress fell into the following areas: increased sickness and absence from duty, poor work performance, job dissatisfaction, reduction in motivation, the impairment of ability to perform complex tasks, maladaptive coping mechanisms such as over indulgence in alcohol, and raised levels of aggression and irritability. Alexander et al. asserted that any one or all of the above could have an impact on police officers efficiency and effectiveness. When police officers respond to stress and trauma with raised levels of irritability and aggression while dealing with the public, they may become an immediate danger to the reputation of the organisation and, more importantly, provide a reduced service to the public which they serve, leading to members of the public being traumatized by their experiences.

McCraty et al. (1999) studied the impact of the HeartMath self-management skills program on physiological and psychological stress in police officers. They examined that the physiological, psychological and behavioral effects of stress in police can be severe, and include extremely high rates of suicide, alcohol use, cardiovascular diseases and other stress-related illnesses. They have emphasized that the chronic anxiety, depression, psychological burnout and disrupted family relationships are other common manifestations of prolonged unmanaged stress in police officers. They provided convincing evidence that the application of practical stress and emotional management techniques can reduce the damaging physiological and psychological responses to both acute and chronic stress in police, and positively impact a variety of major life areas in a relatively short period of time.

Collins and Gibbs (2003) discussed about the stress in police officers by examining the pattern of stressors associated with symptoms of mental ill health. He suggested from his findings that despite exposure to job

specific hazards, police officers do not differ from other occupational groups in their perception of the sources of work related stress. This study reported from their findings that despite this knowledge, the level of associated ill-health appears to have worsened rather than improved. He noted that the degree of symptomatology appears to be worsening, management action is required. Further research indicated a possible increased susceptibility in female officers. **Cooper (2003)** studied on stress prevention in the police. He highlighted the significant loss to the police service in terms of sickness absence, early medical retirement and reduced productivity. He emphasized on the large financial and manpower burden on the police professionals by pointing to the fact that 25% of the medical retirements are due to psychological ill-health or stress. He also analyzed the statistical data and figured out the total number of days lost to sick leave in the police service in 2001 was more than 1.5 million. The average number of days lost per officer was 12.2, compared with the 2001 average in the public sector of 10.2 days and in the private sector of 7.2 days. Although some of this sickness absence can be attributed to musculoskeletal injuries and other factors, a significant proportion is due to the effects of stress. Less work has been undertaken on the links between stress and productivity, but the impact of fewer police with heavier and extended demands must be adversely affecting performance; work needs to be done to see the extent of the productivity gap.

Maynard et al. (1980) studied the family life and the police profession. He also examined the coping strategies wives employ in the management of the hardships associated with this style of life and family environment. He also studied the coping patterns of developing self reliance; accepting the demands of the profession, building social support and maintaining family integration were associated with specific dimensions of family functioning-interpersonal relationships, personal growth and system maintenance. **Morris et al. (1999)** examined the relationship of contextual factors to organizational commitment among police officers in police commands in New York City's public housing projects. Individual-level measures were deviations from these sub-group means within commands as well as perceptions of support from family and social support and negative interactions within commands. Overall, path analysis by hierarchical linear modeling showed direct setting - level effects for management support and fairness, but not for sensitivity to diversity, on organizational commitment.

Both women and men from minority experienced more negative social interactions than white men; support from management, co-workers, and family were important predictors of commitment. Family support was particularly important for women.

Howard et al. (2003) examined that importance of discovering these inter-relationships between both work-family conflict and family-work conflict with facets of police job satisfaction based on the importance of satisfaction in the workplace. **Zhang and Liu (2011)** presented a critical review and prospect on the antecedents of work-family conflict. They said that with the increase in the proportion of dual-earner families and work stress, there are increasing emphases placed on the study of work-family conflict (WFC). They viewed that antecedent of WFC from the aspects of individual, work and family. Their findings and implications include the effects of individual factors like demographic and personality variables, the influences of work variables like work stress, family friendly programs and impacts of family variables like family demands and spousal interactions. In addition, they proposed that more efforts should be put into theoretical development, integrative studies, individual and family variables in the future.

Aslam et al. (2011) studied the work-family conflicts and discussed the relationship between work-life conflict and employee retention. They stated that work-family conflict is an inter role conflict that arises due to conflicting roles required by the organization and from one's family. They also said that this issue is of great importance as far as employee's performance and ultimately organizational performance is concerned. They have investigated that the relationship between work family conflict (WFC), family work conflict (FWC) and turnover intentions of employees in three public and private sector organizations from services sector of Pakistan. They found positive but insignificant relationship between work-family conflict (WFC), family-work conflict (FWC) and turnover intention of employees.

Kossek and Ozeki (1999) presented an extensive literature review on the bridging of the work-family policy and productivity gap. In this work, they examined the relationship between the six work outcomes: performance, turnover, absenteeism, organizational commitment, job involvement, and burnout. They also reviewed the effects of employer (work-family) policies aimed at reducing such conflict and highlighted that policies to aid employees in managing work and family roles

can be expensive. The relationships between work-family policies and organizational effectiveness are seen to be complex and their connection to work-family conflict is often under-examined. **Tausig (2001)** studied on unbinding time in which he discussed about the alternate work schedules and work-life balance. They examine the possibility that alternate work schedules affect perceived work-life imbalance—the "time bind." The results showed from his studies that alternate schedules per se do not "unbind" time and perceived control of work schedules increases work-life balance net of family and work characteristics. They said that the firstly most consistent family characteristic predicting imbalance is being a parent. Secondly, the most consistent work characteristic predicting imbalance is hours worked. They had shown that it perceived more imbalances when they control the hours worked by women and part-timers. Younger and better educated persons also perceive more work-life imbalance. Finally, they also report higher levels of schedule control and since schedule control improves work-life balance, it may be more important for unbinding time than schedule alternatives.

Victorian Government's Action Agenda (2003) for work and family balance studied that Australia and Victoria face the challenge of finding new strategies to achieve a better balance between work and family responsibilities. They said that the Victorian government was committed to show that the leadership was necessary to realize these benefits and achieved a better work and family balance for Victorians. They also focused that the government's *Action Agenda for Work and Family Balance* set out the Bracks government's strong record of achievement on work and family balance and outlined a positive agenda for leadership and action over the next two years. They also said that it committed the government to work closely with employers, unions and the wider community to address three key areas i.e., business and community awareness, providing practical assistance and support to employees and employers; and also they ensured that government policies and programs reflect and reinforce the pursuit of a better balance between work and family life.

Wickham and Fishwick (2008) studied to facilitate the approach to the work-life balance issue through the conceptualization of a career-life balance impact audit. Such an audit would provide employees with an avenue to express their work life balance needs and career aspirations formally with their employer, and provide a firm basis upon which to implement their job evaluation/design and performance. This study

found that 'Flex-Time' actually diminished our employees' perception of WLB. The employees ended up accruing lots of unpaid over-time because there is so much work to be done, and no opportunity to take time off. Our people are tired, with no time to recharge; they feel no pay-off for their continued hard work.

Wight and Raley (2009) studied the extent to which work at home has implications for the integration of work and family life by documenting work and non-work activities of those who work at home and comparing them to those who do not. They said that balancing the competing claims about the extent to which working at home offers a reprieve from the time-intensive demands of work and family life. They analyzed and found little evidence that this work arrangement allows workers to mesh these two critical aspects of their lives any more smoothly than those who work exclusively outside the home. It also underscores the somewhat divergent nature of working at home for men and women. They have concluded from their findings that parenthood is only loosely associated with working at home (among men only) and most workers did not cite work-family balance as their main reason for having a work-at-home arrangement. Secondly, although mothers who work at home were more likely than mothers working exclusively outside the home to report a child under age 13 in their care while engaging in paid work, they did not feel more responsible for children over their entire day (including non-work time) nor did they engage in more direct childcare activities. On the one hand, if we assume that ''balance'' is the ability to engage in work and caring for a child simultaneously, then perhaps working at home arrangements does enhance work-family balance.

Odle-Dusseau (2012) examined two new correlation of work-family balance, based on discrepancies between actual and desired hours spent in the work domain (work hour discrepancy, WHD) and family domain (family hour discrepancy, FHD). They explained that the support for the utility of work and FHD scores for individual and organizational outcomes. Finally, they have given the result that Work-family balance mediated relationships between FHD and quality of life, stress, depression, and intention to leave.

Studies of Stress on Work-Life in Indian Context

Mukherjee (2005) studied about the job-oriented frustration and dissatisfaction in Police service. He suggested that the frustration is a psychological phenomenon which "*eats up an employees mind just*

like cancer". He emphasized that proper functioning and efficient output was essential and that a police organization should remain free from frustrated employees. He argued that the frustration levels must be reduced and minimized by joint efforts of superiors and subordinates. **Nagar (2009)** discussed about the causes of stress, occupational stress and health problems in police personnel, due to good and bad features of police life style. He also explained as to how can they cope up these types of stress among police officers at their work place. He concludes from his findings that overall occupational stress level is higher on various components in the police professionals like role ambiguity, under participation. He also suggested that the police administration may develop modalities to define career path for lower echelons of police personnel, besides enhancing their involvement in decision making in their functional areas of work. **Shahu and Paithankar (2009)** found that the police head constables are satisfied with their jobs; their job is repetitive but they feel that the police department does take care of the police fraternity. **Sarma (2009)** studied about health protection of police professionals. They stated that police personnel are more prone to get into serious health problems due to the duties and related professional hazards. They also explained about the "*Arogya Bhadrata Scheme*" which is designed to take care of the serious ailments or medical condition of police personnel through identified super specialty hospitals in Andhra Pradesh.

Khanna (2011) studied the work-life balance as a tool for increased employee productivity and retention. They said that ensuring a 'quality time with the family' or such strategies as work-life balance should be a joint effort by the employee and the management. While a man needs to work for his livelihood, he has to give himself a healthy break from the daily routine in the interest of his body, mind, family and society. He should be enabled to achieve this balance so that the employer derives the benefit of having a satisfied employee. Consequently, the subject of 'work-life balance' is now becoming the focal point of study by Human Resource Management experts and their managing teams. To an employee, WLB means stress-free enjoyable work-life. They provided an understanding of the term WLB as well as the conceptual paradigm of work-life balance, discussion of different causes and consequences of WLB, and the importance as well as the benefits of WLB.

Rationale for the Study

Keeping in mind the above facts relating to the various aspects of the family and work life balance of the working individuals, this study will factor it for the police professionals, whose occupation is generally perceived as highly stressful, caught between the increasing threat of violence on our streets, high public demand and a mounting focus on police efficiency and probity. Policing is amongst the top three occupations most commonly reported by both occupational physicians and psychiatrists in the Occupational Disease Intelligence Network (ODIN) system for Surveillance of Occupational Stress and Mental Illness (SOSMI) (Centre for Occupational & Environmental Health: March, 2000). It is evident that in comparison to the police personnel slain by an assailant while performing their duty, sizable numbers succumb to the day-to-day pressures emanating from the job. Recent statistics presented by National Crime Record Bureau (NCRB) confirm this when 226 policemen ended their lives in the country. Madhya Pradesh recorded the second highest figures with 23 cops committing suicide, an increase of 16.8%. One potent reason of high suicide rate may be increased level of occupational stress or spill over effect of stress from work life to family life (Nagar, 2009).

Objectives of the Study

To fulfill the gap in the available literature summarized above and considering the critical need for the investigation of the work-life balance, the followings are the objectives:

- To study the working/work culture of Punjab Police.
- To study the sources of stress within Non-Gazetted Officers (NGOs) & Other Ranks (ORs) at their work place.
- To examine the family support for the job of police personnel.
- To examine the job satisfaction of police in selected area of Punjab.
- To study the possible actions which can improve work-life balance of police personnel.
- To study the possible actions which can improve family-life balance of police personnel.
- To give suggestions about the improvement of work life balance and family life balance.

Scope of the Study

The scope of the study is confined to cover work-life, family-life and its relationship among these two aspects of police professionals. As we have only 24 hours in a day that can be divided into three most important activities: work, family and rest, we cannot ignore any of them. And when one of these activities takes precedence over others in terms of demands on time and attention, there is little scope available for the other two. Most of the people interpret satisfactory work-life balance differently, with some needing more time than others to experience the well being.

This study is limited to Doaba Region of Punjab, India. It consists off-our districts of Doaba Regioni. Hoshiarpur, Shaheed Bhagat Singh Nagar, Kapurthala, Jalandhar City and Jalandhar Rural. Only Non-Gazatted Officers (NGOs) & Other Ranks (ORs) will be considered for this study.

Research Methodology

The above objectives will be explored by following the research methodology detailed in this section:

Research Design

The proposed study is descriptive-cum-empirical in nature.

Methods of Data Collection

Both primary and secondary sources of data would be used to investigate the work-life balance.

(a) **Primary data** will be collected with the help of well designed open and close ended structured questionnaire and semi-structured interviews of the higher rank police officers. The survey will proceed by a pilot study to test both questionnaire design and the delivery system. Draft copies will also be circulated to the employees of the police Department for comment and feedback, which will be duly noted and act upon accordingly.

(b) **Secondary data** will be collected through published journal, books, magazines, various universities libraries, websites, and periodicals of police department, etc.

Sampling Technique and Sample Size

For the purpose of this study, sample from both the segments of police i.e Non-Gazetted Officers (NGO's) and Other Ranks (OR's) will be taken. A sample of NGO's and OR's police personnel from Doaba Region i.e districts of Hoshiarpur, Shaheed Bhagat Singh Nagar, Kapurthala, Jalandhar City, Jalandhar Rural and Punjab Police Academy Phillur will be taken by random sampling method . The sample of this study consists of 650 police personnel drawn from above mentioned districts are given rankwise below.

Sr. No.	Category	Ranks	Nos.	Total
(1)	Non-Gazetted Officers (NGOs) (Inspectors, Sub-Inspectors and Asstt. Sub. Inspectors)	Inspectors Sub-Inspectors Asstt.Sub. Inspectors	10*5 approx. 10*5 approx. 10*5 approx.	50 50 50
(2)	Other Ranks (ORs) (Head Constables and Constables)	Head Constables Constables	30*5 approx. 50*5 approx.	150 250
(3)	Families of Non-Gazetted Officers (NGOs)	Family Member	10*5 approx	50
(4)	Families of Other Ranks (ORs)s	Family Member	10*5 approx	50
	Total			**650**

Data Collection Tools

All the respondents will be requested to complete the following two sections:

Section A:

• Demographic Details which will include Name of the Sub Division, Police station, Police Post if any, age, gender, marital status, designation, total work experience.

Section B:

• Personal & Family Characteristics

• Work-Family Conflict

• Work-Life Balance

• Job Satisfaction

• Job Stress

The well-designed open ended and close-ended structured questionnaire on Personal & Family Characteristics, Work family Conflict, Work Life Balance and Job Satisfaction will be prepared. The responses will be taken on five point likert scale.

Conclusion

Despite the societal and organizational change, levels of stress-related mental ill-health in police personnel do not appear to have improved over the past many years. The above studies show that the majority of members of a police unit who specializes in riot and crowd control has a good capability to withstand operational stress and to keep balance in spite of prolonged exposure to particularly stressful and dangerous situations. The police are thrown directly into the middle of the maelstrom and are called on to handle explosive situations. While they are striving to restore order they are assaulted and killed. The all-India list of policemen killed on duty is becoming so large that it becomes difficult to read it. Nevertheless, a considerable number of officers suffered from excessive levels of stress. Some of them suffered from excessive levels of stress leading to higher short term absence (most of the time taken as a recovery from fatigue and phycho physiological exhaustion). Finally, leisure and social interaction is as much important as work and career. An effective police officer has to continuously juggle around with different priorities and needs of the domains of work and life. It is thus concluded as the Meaningful Daily Achievement and Enjoyment of four life quadrants: Work, Family, Friends and Self. The Work-Life Balance Programmes for police personnel are an investment for improving productivity, reducing absenteeism, achieving improved public service as well.

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Social Media: Analysis of New Challenges and Opportunities for Indian Law Enforcement Agencies

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Abstract

Use of social networking sites by Indian internet users, especially younger generations, has grown exponentially in recent years. This has thrown several challenges to the Indian law enforcement agencies. They need to understand its implications in prediction, prevention, detection and investigation on crimes and maintenance of law and order. By properly integrating social medial strategies in its police work, Indian law enforcement agencies can leverage upon the opportunities offered by social media apart from tackling the challenges it poses. Monitoring of social media content has become necessary in the backdrop of its misuse in certain recent incidents in India. Police departments in several countries have already adopted a comprehensive and integrated approach to use social media for their advantage and Indian Police can ill afford to ignore this powerful media. The paper presents SWOT analysis of the issue and recommendations for Indian law enforcement agencies.

Introduction

COMPUTERS, internet and the worldwide web have changed the way we collaborate, interact and share information with each other. The online interaction is not bound by the geographical limitations and is entirely in virtual world. Internet abounds with sites which offer facilities for interaction, uploading information, pictures

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and videos for sharing. Mobile connectivity and smart phones have added a new dimension to this new phenomenon called social media networking or Web 2.0. Children and younger generation have been quick to adopt this technology. There are several implications of this socio-technological change for law enforcement organizations. The broad adoption of social media by the public and the increasing effect that this adaptation has in police work requires police organizations to define and implement strategies for social media adaptation (Denef *et al.,* 2012).

This paper examines the implications of social media revolution for the law enforcement agencies in India. It further discusses the strategy to deal with the challenges it poses. Strengths-Weaknesses-Opportunities-Threats (SWOT) analysis has been carried out. Successful use of social media by some of the police organizations has also been discussed. Recommendations have been made for similar use by Indian law enforcement organization.

Social Media Definition and Origin

Social Media is a term used to describe a variety of web-based applications and mobile platforms through which users can generate and share digital contents. The digital contents could be in various forms such as text, picture, audio, video, location etc. International Association of Chiefs of Police (IACP) defines Social Media as a category of Internet-based resources that integrate user-generated content and user participation (IACP, 2013A). Boyd and Ellison (2007) define social network sites as web-based services that allow individuals to (1) construct a public or semi-public profile within a bounded system, (2) articulate a list of other users with whom they share a connection, and (3) view and traverse their list of connections and those made by others within the system. The nature and nomenclature of these connections may vary from site to site. Some of the popular social media sites are Facebook, MySpace, Twitter, Nixle, Flickr, Orkut, YouTube, Wikipedia, Digg, Reddit, LinkedIn, Podcasting, Google+, RSS feed, Picasso, Pinterest, Instagram, Flicker, Tumblr, FourSquare etc.

The roots of social networking can be found in the 'Usenet' (user network) developed in 1979. Usenet predates internet and was used by universities and colleges to communicate on topics of interest. First social networking site SixDegrees.com started functioning in 1997 and it allowed users to create profiles and list friends. Since then the social media sites have been mushrooming.

Growth of Social Networking Sites

Social networking services have become highly popular among the children and youth all over the world. They not only allow individuals to meet strangers, but also enable users to articulate and make visible their social networks (Boyd and Ellison, 2007). They offer unique opportunities in terms of extent, spread, reach, accessibility, immediacy and permanence. Various social media sites have emerged over the years as shown in Table 1.

Table 1: Social Media Timelines

Timeline of Social Network Sites	
Year	**Released Social Network Sites Name**
1997	SixDegrees.com
1999	LiveJoumal, AsianA venue, BlackPlanet
2000	LunarStorm, MiGente, SixDegrees (Closed)
2001	Cyworld, Hyze
2002	Fotolog, Friendster,skyblog
2003	Couchsurfing, Linkedin, Myspace, Tribe.net, Open BClXing, Last.FM, Hi5
2004	Orkut, Dogster, Multiply, aSmallWorld, Flickr, Piczo, Mixi, Facebook (Harvard), Catster, Dodgeball, Care2, Hyves
2005	Yahoo!360, Youtube, Xanga, Bebo, Ning, Cyworld (China), Facebook (High School Network), AsianA venue, Black Planet (Relaun)
2006	QQ, Facebook (Corp.Network), Windows Live Space, Twitter, MyChurch, CyWorld (U.S), Facebook (Everyone).
2011	Google+

(Source: http://networkrangers.blogspot.in/)

Facebook, which started in 2004, has emerged as the largest social networking site with more than 1.4 billion users in the world. If it was a nation, it would be the third largest. There are more than 900 million unique visits to YouTube every month. There are more than 645 million active registered users on twitter (Source: http://www.statisticbrain.com). LinkeIn, the world's largest professional network, has more than 250 million users. Google has more than 540 million Google+ users.

Social networking sites have become immensely popular in India, getting the boost from decreasing cost of computers, internet and mobile connectivity. According to a survey by Internet and Mobile Association of India (IAMAI) and IMRB International there were 62 million users of social media in urban India by December 2012 (IAMAI, 2013). According to research firm eMarketer, India will have the world's largest Facebook population by 2016, Indian are increasingly logging into their Facebook and Twitter accounts, with the country recording the highest social networking growth of 37.4% (eMarketer, 2013). According to another study, 83% of Face book users in India are less than 34 years old (Nayak, 2014).

Usage of Social Media

The use of social media started with the need of individuals to instantaneously connect with each other digitally, cutting across geographical boundaries. Today it is being used not only by individuals but by corporate, government departments, political parties and various types of organisation. Social media has now become an integral part of modern digital society and it is growing exponentially. Tapscott and Williams (2006) have termed social media as "mass collaboration". In their opinion, transparency, peer collaboration, audience participation and globalization are changing markets and companies. Comm (2010) has explored the latest trends in how businesses and marketers can integrate Twitter into their existing marketing strategies to expand awareness of their product or service and handle negative publicity due to angry or disappointed customers. In the recent times, a significant role has been played by social media (particularly Facebook, Twitter and YouTube) in Arab Spring revolutions in Middle East. During the year 2011 East Japan Earthquake and Tsunami, social media such as Twitter and Facebook served as a means of information sharing, and a way for people inside and outside Japan to volunteer and to provide information-based support to affected individuals (Peary *et al.,* 2012). Similarly, during the disaster created by hurricane 'Sandy', social media was used for warning, tracking, information updates and recovery operations. Several Indian politicians and news personalities have Twitter and Facebook followers running into lakhs. Delhi Legislative Assembly Elections in 2013 and Loksabha Elections in 2014 have witnessed widespread use of social media for political purposes.

Social Media and Challenges for Law Enforcement

Criminals have not been behind in realizing the potentials of this powerful media. Cyber is a digital beat, which now needs to be patrolled by police just like a real and physical beat. Numerous legal and illegal activities are taking place in the cyber beat. Criminals are using social media for sale of contraband items, organising terrorism, selection of targets and victims, social engineering, spreading mal ware, committing cyber frauds, defamation, intimidation, hacking etc. Sex offences linked to Facebook or Twitter users have rocketed in UK in the last four years. Paedophiles are increasingly logging on to the social networking sites to target children (Mirror, 2013). There have been several cases of use of social networks in human trafficking, trade in arms, drugs and other contrabands. Taking advantage of the Facebook and Twitters postings and the location information, burglars have committed theft knowing that house occupants are outside town. Using the personally identifiable information available on the social media and internet, it is possible to create a detailed profile of an individual, which can then be used by cyber criminals to commit crimes such as spamming, impersonation, phishing, vishing (phone based phishing), identity theft, cyber stalking and bullying, online harassment, online grooming of children for sexual exploitation etc.

During their research, Jain et al. (2013) were able to uniquely identify several Indian social media users who had posted their mobile numbers on social networking sites. Terrorists and extremists are using social media to propagate their ideology and recruit members. American-born Al-Qaeda leader, Anwar al-Awlaki used various social media such as Facebook, blogs, and YouTube videos to try and recruit and develop a cadre of terrorists in the United States (GPO, 2012). For crime prevention and detection, maintenance of law and order and intelligence collection, it is imperative on the part of law enforcement agencies to patrol and monitor the activities in the social networking sites. The spread of inflammatory and provocative photographs, video and other contents by miscreants through social networking sites has resulted in religious unrest in several parts of the world. In August 2012, gory and disturbing fake images and messages of alleged torture and killing of Muslims in Rohingya in Myanmar and Assam appeared on the social networking sites and spread like a wild fire. This resulted in protests and riots in several parts of India. In September 2012, a small

14 minute anti-Islam video clip from a movie "Innocence of Muslims", uploaded on YouTube, caused widespread protests and violent riots in several countries. The efforts to block access to these contents by Indian government, under Section 69 of the Information Technology Act, were not fully successful due to various reasons. Naxalites and various other groups have also been using social media for their propaganda and support. There are reports that efforts are being made by Sikh militants to network and revive militancy using social media. While Blackberry Messenger (BBM) played an alarming role in the spread of series of riots in London in August 2011, at the same time Twitter was used to mobilize community clean-up operations (Guardian, 2012).

In December 2012, during the demonstrations related to Nirbhaya gang rape case in Delhi, protestors and journalists used social media in an unprecedented way. The event also witnessed flash mob mobilization using social media. Police realized its shortcomings in analyzing and generating pre-emptive actionable intelligence from the rapid online postings as the protests were escalating. Between 9th September to 18th September 2013, during Muzaffarnagar riots, 84,806 tweets were posted by 17,925 unique users with hashtags #Muzaffarnagar and #UPRiots (Kumaraguru, 2013). Circulation of an old fake video and rumours about the violence through social media contributed to the fuelling of riots. Recently, in a high profile case, war of Tweets culminated in a tragic death of wife of a Cabinet Minister. A large number of fake social media accounts of famous personalities, including that of President of India, have also been bothering the law enforcement agencies.

Opportunities Offered by Social Networking Sites

Notwithstanding the challenges, the unique characteristics of this media also offer several opportunities to law enforcement agencies. If used judiciously, these can be leveraged to harness the power of information technology through them. They are highly suitable for police to instantaneously connect with the public. They can be used for updating police activities, issue press releases, traffic alerts about congestions, special events, diversions, road conditions, crime prevention advisories, dispel rumours, tracing suspects and missing persons, emergency notification, community policing, etc. They can also be useful in identification of criminals, their activities and locations. The digital evidences of cyber crimes or traditional crimes,

committed with the help of social media, can be found on various social media sites. They need specialized forensic tool for collection. In 2005, Virginia Police used social media to solve the Taylor Behl murder case by tracking her MySpace page. On 8.6.2007, Wellesly Police became the first police department to use twitter. Vancouver police effectively used different forms of social media to solicit photos, videos and other information to identify rioters and collect evidence against them during hockey riots in June 2011 (ICSM, 2011). Social network analysis played an important role in the capture of Saddam Hussein and killing of Osama Bin Laden. Twitter handles of several police departments in USA are now displayed on their uniforms. Fourth Annual Survey about the use of social media by law enforcement agencies in USA, conducted by IACP, shows that 95.9% of agencies surveyed use social media in some capacity. They use it for criminal investigation, community outreach, notifying public, crime prevention, public relations, collection of intelligence, soliciting tips about crime etc. (IACP, 2013B).

Nextdoor, a social networking service for connecting with people who live in a neighborhood, is emerging as a digital evolution of time tested neighborhood watch scheme. Cyber undercover operations on social networking sites can be very effective in prevention and detection of cyber criminals proactively. In Canada, Toronto Police Service, which started its social media program in 2010, has emerged as a leader in its use. It has effectively used social media for crime prevention, traffic updates, internal communications, monitoring large events and protests, etc. It is reported that National Domestic Extremism Unit of London Metropolitan Police Service has been monitoring and keeping records on almost 9,000 political campaigners and activists on a 24x7 basis by social media surveillance team, which uses a technique called "Socmint" (Social Media Intelligence). Police Services of Northern Ireland have used Facebook as a tool to conduct local surveys to learn more from its citizens (Alderson 2011). During the 2011 riots in London, the Metropolitan Police effectively used Flickr to publish images of suspects with simultaneous announcements on Twitter. By talking about positive news, emotions, police culture and experiences of daily life on social media, it is possible to effectively portray the human side of policing to public. The benefits of Enterprise Social Network (ESN) are being realized by business organisations. According to Gartner (2013), by 2016, 50% of large organisations will have

internal Facebook-like social networks. A secured social networking platform can be used internally by the law enforcement departments to efficiently connect with its own officers for professional information sharing, human resource management and better bonding, as has been done by Toronto Police Service. In Australia, New South Wales Police have added 'Project Eyewatch' to their social media strategy under which police work together with their local communities to find solutions to local issues.

A Case for Social Media Monitoring

Law enforcement agencies can afford to ignore social media beat only to its peril. If monitored effectively, social networking sites can provide resourceful, economical and effective tactical and actionable intelligence (Fitsanakis and Bolden, 2012). Social networking sites are now one of the most fertile sources of criminal evidence. Social media monitoring and analysis has been in use by business organisations to find the market trends, sentiments, likes and dislikes of customers. Law enforcement agencies can also use social networks as a source of information, pattern and event recognition, analyzing public mood and trend. Researches by Asur and Huberman (2010) and Bollen et al. (2011) have shown that social media can be utilized to forecast future outcomes. Real time monitoring and analysis of social media can be very useful in unrest anticipation and predicting snap demonstrations. Monitoring social media will also enable police to identify provocative and objectionable contents so that they can be blocked under provisions of section 69 of IT Act and associated Rules. Although law enforcement agencies have been late to realize the opportunities offered by social networking sites, several police organisations have started working in this direction. In 2012, Federal Bureau of Investigation (FBI) had floated a 'Request for Information' to explore solutions for automated search/monitoring of social media, generation of real-time alerts and actionable information, based on select parameters/Keywords (FBI, 2012). In India, some intelligence agencies and Mumbai Police have already set up social media monitoring labs. Delhi Police is also contemplating such a cell and has floated ·expression of interest for implementation of "Open Source Intelligence (OSINT)" solution. Central Bureau of Investigation has recently recommended that "investigating agencies should exploit social networking sites for their

"overt, discreet and covert" probe by digging out profile photos, status messages and following the users." Social media monitoring can be undertaken by Tech-Int agency such as National Technical Research Organisation at the national level and state intelligence departments can do so at the state level. It is pertinent to mention that US Library of Congress is now archiving every publicly available tweet ever posted on the social network Twitter since 2006.

SWOt Analysis

Strengths-Weaknesses-Opportunities-Threats (SWOT) analysis is a technique for critically evaluating the external and internal environment of an organization for strategic decision making. Table 2 presents the SWOT analysis for the use of social media by the law enforcement agencies.

Table 2: SWOT Analysis

	Beneficial	Harmful
Internal	**Strength**	**Weakensses**
	• Young, educated and tech savvy new recruits	• Inadequate understanding and support of police leadership
	• Smart phones being used by a significant number of police officers	• Resistance to change
	• Significant number of police personnel already use social media for personal use	• Lack of comprehensive policy about the use of social media
	• Availability of funds under police modernization	• Inadequate social media trained manpower
		• Misuse or improper application of provisions of IT Act
		• Non availability of tools for social media monitoring and analysis
		• Lack of social media labs
		• Possibility or inappropriate use by police personnel

External	Opportunities	Threats
	• Easy to setup social media presence	• Misuse of social media by criminal and anti-social elements
	• They are cost effective	• Inadequate cooperation by social networking sites
	• They are instantaneous	• Privacy and security concerns
	• Enabling provisions under IT Act and rules	• Inadequate appreciation of utility of social media by criminal justice system
	• Tech SDavvy younger citizens already on social media	• Adverse comments by public on police social media sites
	• Cheap internet connectivity and smart phones	
	• Public expectatios towards police to use social media	
	• Highlyeffective in two way communication with public	
	• Monitoring social media contents useful for intelligence collection, crime prevention, detection maintenance of law and order and traffic management	
	• Can be used for internal communication as well	
	• Successful models of use available	

As summarized in the SWOT analysis, social media poses new challenges to Indian law enforcement agencies and there are inherent weaknesses in dealing with them. However, at the same time, it offers numerous opportunities which can be utilized by leveraging on the internal strengths and further capacity building.

Social Media Monitoring Tools and Technologies

The ever increasing volume of the data generated by social media users makes the tasks of its monitoring and analysis humongous.

Business community and research agencies have been using number of automated tools for this purpose. A number of free and paid tools and services are available in the market for monitoring social media. Some of them are *Social Mension, Social Snapshots, Twitalyzer, Social Flow, Radarly, Twazzup, Addict-o-matic, Cyber Alert, hootsuite, BoueJay, Accurint, Geofeedia, Trendsmap, Buzzient and Twitter Investigator, XI Social Discovery, Radian6, TweetDeck, BlueJay etc.* There are software tools for social network analysis for mapping and measuring the links of people/groups on social networks. The approach, functions, coverage, extent, analysis etc. of these tools differ considerably. Since most of them have been developed for business community, they only partially meet the law enforcement requirements. Study by Human Digital (2011) shows that the social media monitoring tools, available in the market, have limited abilities to effectively deal with both scale and speed in unison to provide actionable intelligence. A detailed examination of these tools is beyond the scope of this article. A single tool is not able to cater to the wide need of law enforcement agencies and a specially developed solution is needed. Researchers at the Indraprastha Institute of Information Technology, Delhi (IIIT-D), under the guidance of Prof. P.K. Ponnurangam, have come up with a new system called 'MultiOSN', which has been monitoring multiple online social media during real-world events and presenting an analysis on real-time basis. Social media forensic tools are now capable of digging into past postings on social media.

Recommendations

In the complex and rapidly changing crime and terrorism landscape in digital society, Indian law enforcement agencies need to stay ahead of their adversaries by adopting new tools and strategies. There are already several unofficial police social media sites trying to fill the gap in the absence of official social media presence by most of police organisations in India. At the moment, the use of social media and mobile applications by Indian law enforcement agencies is only at experimental stage. A very few police departments in India have put together a system to harness the potentials of social media. Even those who are using it have done it partially in a limited manner. Police in Delhi, Bangalore, Kolkata, Mumbai, Hyderabad, and Chandigarh have taken significant steps in the use of social media to disseminate information to public. Social media sites and resources are another

tool in the law enforcement investigative toolbox and should be used in a manner that adheres to the same principles that govern all law enforcement activities (Global Justice Information Sharing Initiative, 2013). The police leadership in India needs to be made aware of the leveraging role of social media and mobile applications in policing. The law enforcement agencies must develop a comprehensive strategy to leverage social media to its advantage by integrating it with their functioning. It must also be ensured that while doing so the privacy and civil liberties of individuals are not infringed. On the lines of "Social Media the Internet and Law Enforcement" (SMILE) Conference, Bureau of Police Research and Development, MHA can initiate a similar annual conference where law enforcement officers of the country can discuss and share experiences, best practices, tools and technologies about use of social media in law enforcement activities. In the digital world where everyone is becoming online and connected, law enforcement agencies in India cannot afford to miss the social media bus by falling prey to 'Digital Darwinism'.

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Women Police in India

Sankar Sen*

Abstract

Employment of police women in different countries has advanced in slow stages. Initially, there was employment of women, often untrained and without police powers, to perform certain specific duties and then gradually there was growing use of women police officers to deal with crimes against women and children. In most of the countries of the world police women do not constitute a separate unit of the police force, but are mixed with general police units and then given specific tasks to perform. In some countries like France and Finland, there are specialized units exclusively made up of police women who are earmarked for handling certain types of investigation involving women and children. These are special units in addition to the general units in which police women perform their duties side by side with men.

ORIGIN of women police in India may be traced back to Kautiliya's Arthshastra. Women were employed as spies and armed women guarded the palaces of Kings in India. There are references to Maurya Kings who were guarded by women skilled in the use of swords and archery. However, there is no record of induction of women on a regular basis in the police till the 20th century. Women police were first utilized to handle the labour strike in Kanpur in 1939. But the force was disbanded after the strike was over. In 1942 the state of Travancore appointed women as special constables[1].

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1   Mahajan Amarjeet, Indian Police Women: a sociological study, 1982, Deep and Deep Publication, New Delhi

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According to the latest statistics of the Home Ministry out of 15,85,117 persons working in the state police forces only 84,479 or just 5.33 percent are women. Maharashtra, Tamil Nadu and the Union Territory of Chandigarh have relatively better representation of women in the police forces. There are 5,358 police women in Delhi out of 75,169 police personnel.

In 1997, the police authorities of Tamil Nadu took advantage of a labour law legislation requiring to ensure that 33 percent of the new police recruits have to be women. This 33 percent reservation has substantially increased the strength of women in Tamil Nadu police. It may be mentioned in this connection that when the Punjab Police Commission (1961-62) sought the views of state government on induction of women in the police, the Chief Secretary and the IG of Madras had stated in no uncertain terms that recruitment of women in police department will be unwise. Fortunately, this perception did not last long.

Women police have now become an integral part of the police forces in different countries of the world. Though policing is considered as a tough, masculine job necessitating the use of physical force for which women are not considered suitable, changes in the social situation, increasing involvement of women in crime either as accused or victim, growing juvenile delinquency necessitated the employment of women police officers for discharging a variety of police work.

Employment of police women in different countries advanced in slow stages. Initially, there was employment of women, often untrained and without police powers, to perform certain specific duties and then gradually there was growing use of women police officers to deal with crimes against women and children. In most of the countries of the world police women do not constitute a separate unit of the police force, but are mixed with general police units and then given specific tasks to perform. In some countries like France and Finland there are specialized units exclusively made up of police women who are earmarked for handling certain types of investigation involving women and children. These are special units in addition to general units in which police women perform their duties side by side with men[2]. Women police officers are assigned to all police duties, but in some countries restrictions have been imposed on police jobs assignable to women police personnel. In Australia (Tasmania) and in Japan there

2   Fifth Report of the National Police Commission, page 56.

are restrictions pertaining to women employed at night. In France and Brazil women police officers are never called on to participate in order maintenance operations.

Special Features of Policing by Women

Law enforcement is very often a complex and stressful job. The police have to deal not only with ordinary crimes and routine law and order situations but also gruesome violence unleashed by the terrorists and notorious criminals. There is also growing expectations by the public from the police to discharge various service-related functions. It is here that police women may play an important role in changing the image and character of the profession. Research conducted internationally shows that policing by women marks a change from the traditionally tough and hard-nosed policing. Women officers use less physical force and shine better in defusing and de-escalating violent confrontations with the public, and are less involved in problems regarding the use of excessive force[3]. Additionally, women police officers possess better communication skills than their male counterparts and are better able to facilitate cooperation and trust required for implementing community policing model. Female police officers also often respond more efficiently to incidents of violence against women[4]. Similar research conducted in other countries has found that there IS no tangible difference between male and female officers in their activities and functions at patrol duties and in response to violent confrontation and in their commitment to law enforcement and participation in training and professional development activities.

Additionally, women possess better communication skill than their male counterparts. Another benefit of having female officers is that they respond more effectively to violence or crime against women which is increasing exponentially. Finally, very presence of a female officer in the field brings about changes in policies and procedures that benefit both male and female officers. Joseph Balkin says that "not all women are able to handle police jobs, but neither are all men. The fact is that in some respects, at least, women are better suited for police work than men[5]". For police officers very often ability to

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3   National Centre for Women in Policing - A Self Assessment Guide for Law Enforcement, 2001, page 23-28.

4   Michael Cassidy and others, result of a survey compiled by Metropolitan Police of Victims who reported violence against women. Executive Summary Published by Metropolitan Police Department 2001.

5   Joseph Balkin, Why Police men do not like Police women, Journal of Police Science and Administration No. 1, 1988, page 29-38.

maintain composure in a situation of conflict is more important than physical strength. It is estimated that 80% of policing involves non-criminal or service functions and hence the emphasis in traditional policing on physical strength might actually become a liability in the police department seeking to successfully meet the demands of the community[6].

Domestic Violence

A research study found that female officers demonstrate more concern, patience and understanding than their male counterparts when responding to calls of domestic violence. Battered victims of domestic violence have also rated the performance of female officers more favorably[7].

Mainstreaming of Women Police Officers

Mainstreaming of women in the police means acknowledging that women are equally capable and competent to perform core police functions. It does not mean tokenism where a few women are in high profile jobs, but there is no level playing field for women officers in general law enforcement. At present, mostly women police officers are posted in soft inconsequential jobs and not given important and challenging charges. Though, the number of women recruited in police is gradually increasing, but it has to be augmented manifold to attain the critical mass within the organization. Though some states like Madhya Pradesh, Rajasthan, Tamil Nadu and Maharashtra have reservation policies ranging from 10 to 33 percent, but it is applied only to fill up new and resultant vacancies.

Women of requisite skill and caliber will choose policing as a career if the environment within the police organization becomes congenial and woman-friendly. The prevailing myth that women can only perform soft jobs and are not suitable for tough assignments is to be demolished. Indeed, mainstreaming of women in police is to be viewed against the main streaming of women in other walks of life. Lack of infrastructural facilities also hampers mainstreaming. A study conducted in Tamil Nadu revealed that women in police due to poor infrastructural facilities like absence of "toilets" consume less water and thereby

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6   David J. Bell, Police women Myths and Realities, Journal of Police Science and Administration, 1982, pages 112-120.

7   (J. Homant & D.B. Kennedy. Police Perception of Spouse Abuse a comparison of male and female officers, Journal of Criminal Justice XIII (1985) page 29-47).

encounter health problems. Mainstreaming means also grooming and mentoring women police officers to enable them to shoulder higher responsibilities. Instead of restricting their roles to soft desk jobs and investigating only cases of rape, dowry death, harassment, molestation, they could also be assigned other general duties. Mainstreaming would help proper utilization of often unutilized or underutilized women force. It has been found that many women officers in charge of sub divisions, districts and zones have acquitted themselves very creditably. India's landmark decision to send a contingent of female police officers to assist UN Peace Keeping Operations in Liberia was a thoughtful move which sent a message to many countries about the importance of having women police officers.

Challenges Faced

Some of the challenges faced by women police officers are the following:

- Lack of appreciation from male counterparts.

- Sexual harassment.

- Discriminated against and given a lower status within the organization.

- Not allowed to function as independent entities.

- Isolated from networks.

Research has shown that women in policing are not readily accepted by their male peers or superiors. They are viewed with skepticism or worse by their male counterparts. The public, however, is more positive and appreciative, and welcome their presence. A study of Amsterdam Police by Van D Koel reveals that many male officers said that police women were unreliable in a fight, but complained when they showed aggression. There were also other irrational complaints. Actually, very little time is taken up in police work in physical confrontation. Media is, by and large, responsible for portraying police work as one of constant physical confrontation. In police organization junior women police officers try to ape their senior male colleagues and burn themselves out with hard and aggressive lifestyle and repressed femininity. Indeed, the greatest source for stress for police women is the attitude of male colleagues. These attitudes affect the way the women behave, the work they do and also their self-esteem.

Further, policing culture has also a pecking order of specialization, Homicide, terrorist crimes, armed holdups are at the top of the ladder, while crimes against women and children, cases of missing persons are at the bottom. Another challenge before women police officers is to work out a balance between family life and career. For both man and woman no amount of career success is worth irreparable harm to the family. Police job, which requires additional sacrifice and risks, needs involvement, support and agreement with the members of one's immediate family. As work experience affects family life, so family life also affects the workplace. Support from the spouse or other family members can promote involvement, success and satisfaction in the work domain for men and women. It is seen that in police women officers very often choose postings that are compatible with their family needs. It has also been found that women officers turn down opportunities for career development and growth when that interfere with their family responsibilities and obligations.

Sexual Harassment

Sexual harassment is a problem prevalent in workforces throughout the world and the police service is no exception. In 2009, 77 percent of the police personnel from 34 different countries have reported sexual harassment. It is not only verbal but also physical harassment that women police officers face. There are two forms of sexual harassment: one is quid pro quo harassment, which occurs if something is given or promised in exchange for job benefit. It is overt and directed at particular individuals. Two, hostile work environment. It creates a situation in which sexual harassment makes the workplace unbearable. But these two forms of sexual harassment do not occur in isolation and very often one leads to another.

In our country there has not been any comprehensive empirical research on sexual harassment in police organization, but such studies with regard to police forces have been done in other counties in the world. A study conducted by Martin with United States Police Woman found that 63 percent of the female officers surveyed had experienced sexual harassment in some form[8] Similarly, J. Brown in a paper presented at the first women police conference in Sydney made a comparative study on Australian, United States and British women police officers and found that 38 percent of Australian and British police officers

8   (Marital Status of women in policing Washington DC Police Foundation).

and 57 percent of US women police officers were exposed to sexual harassment[9]. It has also been found that common response of many of the women employees is either to ignore the harassment or avoid the situation in which harassment occurs. Employees who are female, young, single and work with a majority of men are at risk. Very often the victims are reluctant to make a formal complaint as they usually hold less powerful position within the organization compared to the harassers and fear retaliation. It has been found that women who did not report sexual harassment often believed that reporting will only intensify the problems and benefits of reporting will not outweigh the cost. Even women officers ostracized colleague who complaint of harassment. In India no comprehensive research study has been done on sexual harassment in police but there are volumes of anecdotal evidence regarding sexual harassment, particularly with regard to women constables in police training institutions.

During the training programs of women police officers sponsored by the BPRD and conducted by the Institute of Social Sciences, New Delhi, it came to notice that many of the police officers, particularly in the ranks of ASI and constables are not aware of guidelines laid down by the Supreme Court in Vishakha Case and are not cognizant of the complaint bodies, if any, set up by the concerned authorities.

Pregnancy Policy

One important of task of retaining women in the police is the favorable policy related to pregnancy, a policy that supports parenthood without compromising police operations. Progressive law enforcement agencies must provide for adequate maternity leave, maternity uniforms and deferral of in-service training and flexible schedules on return to work. In the case of United States vs. Virginia, Justice Ginsberg referred to the celebrated difference that only women can get pregnant. One of the big problems faced by women during the course of pregnancy is that wearing of the tight uniform and belts that are prescribed for all. A research study by a senior IPS officer revealed that there are no formal orders in any central police force for the women personnel to wear any other uniform during the prenatal and post-natal periods. Some of the CPOs have issued administrative orders permitting women to wear *Saari* or *Salwar Kameej* as these are more suitable dresses to wear. But to wear these apparels women personnel have

9   (Brown J. 1996. Women Policing in the Millennium).

to get exemption from their doctor as well as their bosses. This is not a very satisfactory arrangement. Keeping in view all these facts the Bureau of Police Research and Development conducted a study titled *"Alternative Uniform for Women in Advanced Phase of Pregnancy"* and suggested an alternative uniform. No decision on the subject has yet been taken.

Training of Women Police Officers

The National Police Commission (Vth Report 1980) has recommended that service training courses for the different ranks of the women police officers should be held at the same training institutions where police men are trained. The duration and the contents of their training should be the same as for the male counterparts. The training should seek to inculcate in them physical and mental confidence. The effectiveness of their training will be greatly enhanced if they receive special training in social defence work in appropriate institution to tackle effectively anti social elements. Training should also be imparted to them In enforcement of special acts relating to children and techniques to search of women and their belongings. It is found that in many training institutions the focus of training is on the male trainees and female trainees do not receive due attention. In some states women trainees are given a lot of concessions in respect of outdoor exercises which are avoidable and unnecessary. In a study Induction of Women in Central Police Forces[10], a former DG of Police has highlighted some of the problems faced by the women trainees in the police training schools and colleges. Male instructors, many of whom are gender insensitive, use rough and abusive language which are jarring and demoralizing. Paucity of female instructors in training institutions is another problem. There is need for more female instructors for both indoor and outdoor training in police training schools and colleges.

Consclusion

The need of the hour for the women in police is to attain professional excellence that would automatically change the gender stereotypes. Empowered women officers would become stakeholders in decision making, career planning and management in the police.

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10 Induction of Women in Central Police Forces. S. Banerjee (Bureau of Police Research & Development).

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State at Loggerheads: A Case of Insurgency in India

Shashi Kant*

The aim does not sanctify the means. No question is ever settled until it is settled right.

Keyword

Insurgency, Terrorism, State, Loggerheads, Armed Challenges, Heterogeneity, Separatist Conflict, Centralizing & Repressive Policies, Political Aspiration.

Abstract

This paper explores the historical roots of major insurgent movements and state responses. It takes into account the federal structure of the Indian state and of those centre-periphery tensions that this framework has been unable to peacefully manage. The major separatist insurgencies find their roots in problems of managing distinct political aspirations within a single political system: centralizing and repressive policies at the centre, intra-ethnic political competition on the periphery, and the availability of external sanctuary and support have created volatile situations on India's north-western and north-eastern frontiers. It then deals with the specific separatist conflicts.

INDIA is the largest democracy characterized with the multi-ethnic, multi-lingual society. This success must be qualified by the armed challenges to the Indian state that have regularly erupted from time to time. Insurgencies in India have been motivated by religious, ethno-linguistic and leftist ideologies, reflecting the heterogeneity of the peoples ruled by the Indian state. Separatist conflicts in Punjab, Jammu and Kashmir (J&K), Nagaland, Assam, Manipur, Mizoram and Tripura have turned many of India's border regions into war zones for years and even decades. Maoist insurgents in West Bengal, Andhra Pradesh, Bihar, Jharkhand and Chhattisgarh continue to operate in vast interior

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areas of the country. It is Insurgency and counterinsurgency has taken an extraordinary cost in human suffering, economic costs, and social dislocation. Internal conflict is an integral, if often understudied, part of India's political experience.

The paper seeks to draw out some general insights that help us understand the dynamics of violence in India. First, the roots of separatism crucially involve the ways that centre-periphery relations intersect with political and militant competition within peripheral areas. Second, the dynamics of Naxalism reflect the dual problems of insufficient and excessive state strength. Minimal or non-existent service provision, basic law enforcement, and infrastructure create areas that insurgents can mobilize within, while crackdowns by poorly-trained, often brutal security forces can trigger escalation and growing violence. Third, Indian counter insurgency challenges conventional wisdoms. Some wars have been ended by the ruthless application of coercion and human rights abuses, while others have been resolved or at least stabilized by political bargains, tacit deals, and the creation of ambiguous nexuses of politics and violence**.**

Some Exploration about the Causes of Insurgencies

Insurgencies do not emerge in a vacuum. Their underlying root causes are invariably to be found in political, socio-economic or religious domains, their nature and scope depending upon the nature of the grievances, motivations and demands of the people. India has had its share of insurgencies. Here in India, there are some thirty insurgencies which have taken the country into its fold and it symbolises that there are acute sense of grievance and alienation lies with them. Broadly, these can be divided into movements for **political rights** - e.g. Assam, Kashmir and Khalistan (Punjab), movements for **social** and **economic justice** - e.g. Maoist (Naxalite) and north-eastern states, and **religious grounds** - e.g. Kashmir. These causes overlap at times.

Political Causes

South Asia, as well known fact, has never been a homogenous society. The multiplicity of races, ethnicities, tribes, religions, and languages led to the creation of hundreds of sovereign entities all over the subcontinent ruled by tribal and religious leaders and conquerors of all sorts. Like Europe over the centuries, the map of South Asia also kept changing owing to internecine warfare. The numerous entities were in many cases territorially and population-wise much larger than

several European countries, were independently ruled and qualified for nationhood by any modern standards. During and after the colonial rule, such territorial entities were lumped together to form new administrative and political units - or states, without, in many cases, taking into account the preferences and aspirations of the people. For the people of these territories, this administrative and political amalgam amounted to loss of identity and freedom and being ruled by aliens. The new dispensation - democracy, in many cases brought no political or economic advantage.

To complicate matters, hundreds of religious and ethnic groups, some of which are fiercely sectarian and independent in nature, found themselves passionately defending their religions, ethnicities, languages and cultures, at times clashing fiercely with rival groups, challenging even the writ of the state in the process. As the time passes, it is becoming clear that keeping a conglomerate of nationalities and sub-nationalities together as one nation would be an impossibility, given the absence of a common thread that could weave them together. Thus the artificial nature of the modern state created by the British colonialists and adopted by post-colonial India also triggers violent reactions in different hotspots.

Caste Based Discrimination and Discontent

India's caste system, which tears apart its social fabric and divides people into potential warring groups, is unique and has no place in the modern world. This sinister game has historically been played by the social elites (Brahmans) in collaboration with the ruling class to their mutual benefit. The issue assumes more horrific dimensions when those who practice it among the Hindus insist that it is a divinely sanctioned concept and cannot be abrogated by humans. Even the anti-caste activist - Dr. Ambedkar, acknowledges that 'to destroy caste, all the Hindu shastras would have to be done away with'. The system confers on the 'higher' castes the absolute right to plunder the wealth of those belonging to the 'lower' caste or Dalits (or the 'untouchables'). For over four thousand years, the system has been driven by the intense hatred and by the yearning of the 'higher' castes to accept nothing less than abject subservience from the 'lower' castes. Ironically, its defenders have argued that it has kept a sense of order and peace among the people and has prevented society from disintegrating into chaos.

Despite the fact that the Indian Constitution has abolished it, this caste based discrimination continues because it has infiltrated into the Indian polity, serves the vested interests of a powerful minority and gives it a hold over a helpless majority in the name of religion and ancient social customs. It has even been glorified by M.K. Gandhi who is reported to have said that 'caste is an integral part of Hinduism and cannot be eradicated if Hinduism is to be preserved.' This creates the mentality of hate among the lower castes in an age when the concepts of democracy-socialism, awareness about human rights and equality and dignity of man are spreading fast, this 'helpless majority' has begun to resort to violence to overthrow this yoke. The Maoist/Naxalite uprising in eastern India is just one case in point.

Economic Disparity and Discontent

India is a country of 1200 million population about 800 million - more than 60% - are poor, many living on the margins of life, lacking some or all of the basic necessities. Despite its emergence as Asia's third biggest economy, India has the highest illiteracy rate in the world - 70%, and the people lack adequate shelter, sanitation, clean water, nutrition, health-care and job opportunities. There is a growing concern that unless this situation is addressed, the country will be torn apart by the despair and rage of the poor sooner or later.

Indian Practice of Federalism and Social Diversity

India is a federal state in which there is a division of responsibility between the federal government in New Delhi and state governments. For our purposes, it is important that the central government is responsible for national security and defence while, under most circumstances, state governments are responsible for law and order among other areas. The federal system emerged after independence as a means of managing ethnic and linguistic diversity: demands for autonomy could be more easily accommodated than in a unitary structure like that of Sri Lanka. Indian states vary dramatically in their languages, social structures, economies, and party competition, and the federal system institutionalizes these differences rather than attempting to homogenize them.

The tension also comes from the state level. A great fear of central governments is that state governments will become intimidated by or sympathetic to separatist insurgencies. In some cases, local political

actors engage in processes of "outbidding" within their ethnic or religious bloc in the direction of separatist sentiment. Sometimes their goal is simply to create a new state within the Indian Union, but sometimes it is at least formally independence. The basic idea of the federal bargain is that states will retain loyalty to India even while acting with significant autonomy within it. Separatist rhetoric and positions - and connections with armed actors - can trigger centre-state conflict and tension. Local political competition within states thus can be an impetus for the Centre to become more hostile and interventionist. This combination may lead to escalation, violence, and even insurgency.

The federal system demands a careful balance between local autonomy and central authority. This balance is manageable under most circumstances, but it is most clearly threatened when dealing with linguistic and religious groups that have access to external support and that see themselves as distinctive from the Indian heartland. When these relations break down and violence erupts, the Indian state deploys large numbers of Army and Ministry of Home Affairs - especially Border Security Force (BSF) and Central Reserve Police Force (CRPF) - forces to target insurgents and political dissidents. In doing so, it often sidelines local police and politicians who are seen as infiltrated or untrustworthy. Variants of the Armed Forces (Special Powers) Act since 1958, as well as other pieces of legislation, have created immunity for central armed forces in the Northeast and Jammu and Kashmir, contributing to human rights abuses and heavy-handed behaviour. It is possible to reclaim a stable equilibrium (as has happened in Punjab and Mizoram) but this outcome requires time and a careful combination of coercion and political bargaining that is easier suggested than done.

Centre-State Relations and Insurgent Movements

The emergence of insurgency in India is linked to the problems of centre-state relations and of relations within states between political contenders. It is also important to keep in mind India's geopolitical environment to understand insurgency specifically, as opposed simply to contentious politics, protest, or political grandstanding. India's neighbours have historically shown willingness (even eagerness) to provide guns, money, sanctuary, and training to insurgent groups, thus creating a greater opportunity for armed groups to emerge and

endure. The regional context makes the periphery particularly primed for violent conflict, as does the existence of distinct social blocs and networks that define themselves in reaction to the massive Indian "mainland."

This section of the paper identifies the origins and evolutions of the major separatist insurgencies in India. Two points deserve particular emphasis. *First*, the origins of separatist conflicts have combined central misperceptions and miscalculations with debilitating local political and military competition that escalated conflict. Military counterinsurgency policies have often been poorly adapted to circumstances, though there are possibilities for learning. *Second*, there has been significant variety in the trajectories and resolution of these wars. Some have ended in formal deals, others in tacit bargains, and others through brute force, while yet other conflicts endure as low-level peripheral wars.

Discontent and Insurgency in Northeast

India's Northeast is a collection of seven states wedged between Myanmar, Bangladesh, Bhutan, and China. Though the region includes only about 4% of the Indian population, it is strategically important, includes remarkable linguistic and religious diversity, and has become a site of enduring violence and conflict (as well as some changes towards peace and diminishing violence). At independence in 1947, the region consisted of the state of Assam, the princely states of Manipur and Tripura, and the North East Frontier Agency (NEFA). Manipur and Tripura became Union Territories in 1949 and then states in 1972. NEFA was part of Assam until becoming a Union Territory in 1972 and a state in 1987 as Arunachal Pradesh.

These political reorganizations over time reflect the mobilization and tensions within the Northeast, which are often intertwined. Insurgencies have occurred in contemporary Nagaland, Assam, Mizoram, Manipur, and Tripura, involving dozens of armed groups with complicated links to external states, illicit economies, and electoral politics. India's management of its north-eastern frontier has combined violence and bargaining, and has been largely ignored in mainstream politics.

Naga Insurgency: The original insurgency that emerged in the region in the mid-1950s was by Naga political entrepreneurs who believed that they had been granted autonomy and the option to leave India at the time of partition. The Indian government did not look sympathetically at these claims. Intra-Naga violence led to the introduction of Indian

combat forces and the escalation of violence into a full-fledged insurgency in the Naga areas of eastern Assam state. Naga insurgents were able to find sanctuary in neighbouring areas of Burma and, even after the creation of a Nagaland state, received support from China and Pakistan. The state's politics have spilled over into neighbouring states both through the mobilization of Naga populations in these states and through NSCN training of and support for other separatist movements. During the 1970s, negotiations between the government of India and moderate Naga factions led to greater political participation and incorporation.

Mizo Insurgency: In the mid-1960s under the leadership of Mizo National Front (MNF), insurgency broke out. Following a famine in Mizo areas and the perception that the Assam government neglected the Mizos, the MNF violently mobilized for an independent state. Impressively organized, the MNF rapidly established significant influence and power. The Indian state responded with forced population relocations and influxes of troops. The 1971 India-Pakistan war ended the MNF's sanctuary in East Pakistan (now Bangladesh) and opened political space for other Mizo political forces to emerge. However, the key turning point was the decision by the MNF to directly cut a deal with Delhi, which finally occurred in 1986 and led to an MNF government taking power in the state of Mizoram. This is a case in which direct negotiation with an insurgent group paid dividends.

Assam Insurgency: Other insurgencies in the Northeast have been driven by interethnic competition, particularly the perceived threat of massive migration from the outside or by claims on a state by members of another ethnic group. The clearest example is the rise of the United Liberation Front of Asom (ULFA) in Assam in the 1980s. Bengali migration into Assam came to be viewed as an existential threat by Assamese "sons of the soil" (Weiner 1978). Student mobilization and riots against Bengalis migrants in the late 1970s and 1980s accompanied the rise of ULFA as a major insurgent group that became extremely powerful in large swathes of Assam. Eventually Delhi imposed President's Rule and used the Army and MHA paramilitaries to restore order. Insurgency and counterinsurgency dominated Assam during much of the 1990s. ULFA militancy spurred reactions from minority tribal and linguistic groups within Assam, particularly among the Bodos, that proliferated both armed groups and various autonomous governance structures. The government was able to pull away some ULFA splinters and to suppress the insurgency, which

draws sustenance from cross-border sanctuaries and links to other armed groups. At present, ULFA is a contained and apparently divided force, but Assam remains heavily garrisoned and has seen outbreaks of various types of inter-ethnic violence.

Manipur Insurgency: In Manipur, an extremely complex insurgency arose from the early 1960s led by members of the Meitei ethnic group. This movement then became locked into ethnic conflict with Nagas and Kukis, with NSCN factions operating in Naga areas and Kuki armed groups growing. Communist and Muslim armed groups have also emerged (and in some cases disappeared) in the state, which remains heavily populated by a variety of insurgent organizations. The government response has combined coercion, bargaining, and amnesty offers without much overall success. Manipur remains extremely unstable and characterized by byzantine links between insurgents, politicians, crime, and the state.

Tripura Insurgency: In Tripura, another complex insurgency emerged in backlash against influxes of migrants in the mid-1960s and then again in the early 1980s. A proliferation of armed groups has developed during the conflict, many with links to other insurgents in the Northeast and sanctuaries in Bangladesh. Rivalries between and within these groups, over politics, money, and personalities, complicate both policy and analysis. Violence in Tripura has diminished dramatically since 2000, though insurgent groups continue to operate.

Northeast reflects the difficulties of managing extraordinary diversity in areas with comparatively weak historical links to contemporary India, an international context that allows and encourages violence, and a lack of sustained political interest from the Centre. The deep political and organizational divisions within linguistic, religious, and tribal groups in the Northeast has allowed the Indian state to play games of divide-and-rule but has undermined lasting political settlements.

Punjab: The roots of Sikh militancy in the Punjab are tightly intertwined with electoral and coalitional politics both in Punjab and in India more broadly. Sikhs were badly affected by Partition in 1947, being driven in large numbers from the Pakistani Punjab amidst intense violence. Sikhs found themselves a tiny minority in the new India. Ethno-linguistic reorganization led to the split of Haryana from Punjab, which created a Sikh majority in Punjab. The two states shared (and continue to share) Chandigarh as their capital city. Punjab was the home of a major, if often divided, Sikh political party, the Akali

Dal, The Akali Dal would become a prominent opponent of Indira Gandhi during and after the Emergency, creating endemic state-centre tensions. The Green Revolution triggered economic growth in Punjab even as political instability grew in the 1970s. The Akalis were part of the coalition that opposed Indira Gandhi and that briefly supplanted her after the Emergency.

The insurgency is Punjab clearly reveals how competition within groups on the periphery intersects with centre-state relations to create unstable and dangerous political dynamics. The existence of Pakistani support, a large and mobilized diaspora, and a Sikh population with a tradition of military service all made the Sikh militancy much more potent than many other possible separatist movements and encouraged violence rather than pure political bargaining. The government response to the insurgency varied over time as both Delhi and Punjabi politicians tried to figure out whether it could be politically managed. The ultimate reliance on significant force proved effective, but came at the price of human rights abuses. Punjab's politics have returned to normalcy, in stark contrast to most of the other conflicts studied in this chapter, in part because coalition governments at the Centre have been much less aggressive in their centralization than Indira Gandhi.

Jammu and Kashmir: The problem of Kashmir goes back to the partition of the sub-continent. In 1947, the Maharaja of Jammu and Kashmir (J&K), a Hindu king ruling an overwhelmingly Muslim population, took his time to decide on the accession to India or Pakistan. Pakistan taking the advantage of indecision of Maharaja Hari Singh laid its claim on the state on the grounds of its demographic composition and sent in tribal raiders, who almost reached Srinagar. It was then Maharaja hastily decided to accede to India. The Indian army then was then flown in, and it pushed back the invaders. The issue in the meanwhile was taken to the UNO and ceasefire was imposed, leaving a large area under Pakistani occupation. The virtual division of the state between India and Pakistan made Kashmir into a disputed territory and resulted in divided loyalties in the valley. However, it remains in the background till 1988. But in the mid of 1989, the violence in Kashmir came on to the surface. Since then, the strength of the insurgency in Jammu and Kashmir fluctuates. Faced with wrath of many of the Islamist Militants Groups, more than 200,000 Hindus (known as Pundits) have fled the Kashmir valley. Currently, nearly 400,000 thousand Indian Army and Paramilitary troops are deployed in the state. The security forces are battling at least a dozen major insurgent groups of varying size and

ideological orientation, as well as dozens more minor operations. The more prominent of the insurgents groups include the nominally secular, pro-independence Jammu and Kashmir Liberation Front (JKLF) and the radical Islamic and pro Pakistani groups Hizb-ul-Mujahidin (HUM), Hezbollah, Harkat-ul-Ansar, and Ikhwanul Muslemin. The first among the insurgent groups, formed in mid-1989, calling for the merger of Kashmir with Pakistan on the basis of a common Muslim identity was the Hizbul Mujahiden. At least 15,000 to 20,000 insurgents, police, parliamentary personnel, and civilians have lost their lives since the onset of the insurgency. As of mid-1996, the insurgency appears to have reached a stalemate. Despite substantial Pakistani assistance and the involvement of several thousand Afghan *muzahidin,* the insurgents cannot prevail on the battlefield. Nor have the Indian security forces been able to crush the insurgents militarily. After Kashmir's accession to India, it was given a special status under Article 370 of the Indian Constitution. Over a period of time, New Delhi curtailed the powers and scope of Article 370 which gives J&K substantial autonomy. The present government strategies appear to be three-pronged: to apply substantial military pressure on the insurgents, to sow discord in their ranks with offers of negotiations, and to revive the political process in the state. This strategy has evolved from the government's experience of the defeating insurgents movements in the neighbouring state of Punjab and in India's north-eastern states.

J&K remains a volatile place and an enduring issue between India and Pakistan and between Kashmiris and Delhi, but the era of intense insurgency appears to be over. This outcome reflects India's military successes in containing militancy and its political failure to arrive at an acceptable political arrangement for J&K. Though political competition within J&K has contributed to fragmentation instead of a clear united front, the primary axis of contention has been between the centre and the state. It is here that Delhi has much more work to do before the state is likely to become "normalized." Building a new, stable equilibrium will require further bargaining with Pakistan and truly substantial reforms in how J&K is governed.

Left Wing Insurgency (Maoist Insurgency)

A very different type of insurgency has become a major force in a swath of India stretching from West Bengal to northern Andhra Pradesh. Rather than the separatist militancy described above, India's Maoist Naxalite guerrillas allegedly seek to capture power in India and

transform it into a communist state. This movement originated in West Bengal in the late 1960s amid the tumult of leftist mobilization and feuding during that period. After being suppressed, Naxalite organizers took to interior jungles and forests and maintained their war at a much lower level. Since the early 2000s, another surge of Naxalite activity has become hugely important in much of eastern India. A former Prime Minister has called the Naxalites the largest internal security threat to India. The major centre-state issue in this context has been coordination of counterinsurgency efforts across different states, each with its own capabilities and political interests.

The Naxalite movement began in India in the late 1960s as a peasant struggle (in Naxalbari, West Bengal, hence the name Naxalite). It represented the revolutionary stream of Indian Marxism which did not believe that parliamentary democracy would lead to the requisite systemic change and argued for armed struggle instead. While the Indian state managed to crush the movement in the 1970s, causing an already ideologically fractured movement to splinter further (currently 34 parties by official estimates), in 2004 two of the major parties, the Communist Party of India (CPI) (Marxist-Leninist) People's War (formed out of the merger of the People's War Group with Party Unity) and the Maoist Communist Center (MCC) of India, united to form the Communist Party of India (Maoist). The CPI (Maoist) is currently a significant political force across several states, especially in rural areas where state services have been inadequate or absent. Since about 2005-6, the Maoists have become the main target of the Indian state, with thousands of paramilitary forces being poured into the areas where they are strong. As a consequence, armed conflict is occurring across large parts of central India and is taking several hundred lives on an annual basis. In the state of Chhattisgarh, which is the epicentre of the war, sovereignty is contested over large parts of terrain.

Concluding Observations

Insurgency and counterinsurgency in India have affected the lives of millions of people. Government responses to militancy have ranged from political deal making to sustained repression. Some of these responses challenge an understanding of India as a liberal democracy. Torture, human rights abuses, extra judicial killings, and forced population displacement have all been used, often with legal impunity. Insurgent violence has also regularly been horrific. Significant swathes of India have been ravaged by brutal warfare since Independence.

Yet other responses challenge our assumptions about the state's pursuit of a monopoly of violence. India's government has sometimes simply ignored insurgent mobilization, cut tacit deals with militants, and directly bargained with them outside of the electoral process. This heterogeneity in reaction to insurgency is quite remarkable. It hints at the complexity of insurgency as a political phenomenon: different rebellions threaten different interests and worldviews, and thus attract varying responses. The ultimate success of these policies has been mixed, with success in Punjab and Mizoram, but enduring instability in J&K and other areas of the Northeast.

India's future holds in timely solving the internal conflicts with taking care of marginalised people's larger interests. At one hand, the Naxalite challenge poses a serious threat to the state's reach in large areas of the interior. Though, it is clear that this insurgency will not be in the position to seize state power, it will nevertheless be able to disrupt normal economic and political life for thousands of Indian citizens and drain the resources of the state. There is a risk that inept state responses will play into the hands of the Naxalites and contribute to the endurance of the conflict. On the other hand, India's Northeast remains militarily volatile and politically unsettled, particularly Manipur and Nagaland. The Kashmir issue will haunt Indian state until it summons the political will to change how it governs the state. India's dramatic growth and democratic survival are remarkable and worthy of attention, but rebellion and coercion constitute politics in worrisomely large swathes of the country.

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Issue of Police Autonomous Status in India: Functional or Personnel Autonomy

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Keyword

Abstract

Police reforms in the post independence period have been the subject of a number of Commissions and Committees, appointed by Government of India as well as various State Governments. All these reports and pronouncements emphasize the urgency for reforms in the police and the criminal justice system. Soli J. Sorabjee Commitee to draft a new Police Act (2006) and the 5th Report 'Public Order' of latest Second Administrative Reform Commission (2007) voiced very firmly for major and drastic reforms in the system of Policing in India. The present research paper introspects their important recommendations and present situational prospects of police in particular context of issue of its Autonomy. Moving ahead of recommended 'Functional Autonomy' the paper discusses the inevitability of autonomous status to the police organisation for its personnel management in order to curb the political interference in transfer/posting, promotion, service matter issues and day to day working of police. And, suggests a new idea of 'Personnel Autonomy' and 'Police Personnel Management Board'.

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"Everything has been said already, but as no one listens, we must always begin again"

Andre Gide, French thinker and writer

THE very starting lines of Committee on Reforms of Criminal Justice System headed by Dr. Justice V.S. Malimath (March 2003) reflects the Indian scenario of the whole criminal justice system. A strong and effective criminal justice system is a fundamental requirement of the Rule of Law in any democracy. Police, the law and order machinery, is an integral part of Criminal Justice System; the other parts are, the prosecutor (prosecution), the courts (trial) and the prison (punishment and reforms). The role of the police is, no doubt, important in dealing with imminent threats to peace and order as well as in tackling violence when it erupts. Indian police in addition to crime prevention, functionally (and equally responsible) engaged in investigation of crime, maintaining law and order, security duties to VIPs, traffic management, etc. These functions are quite distinct requiring different capabilities, training and skills. Also, these functions require different types of accountability mechanisms and different degree of supervision from the government.

The present age is the age of perfection, expertise, high technology and progressive outlook. Our traditional policing, its men, material and workings, getting mismatched to the present requirements. This situation gets worse by the ugly fact that no one appears to be sincerely interested to reframe our law and order machinery indeed this is the high need of time.

Reforming Measures

In the post-independence period, police reforms have been the subject of a number of Commissions and Committees, appointed by various State Governments as well as the Government of India. All these reports and pronouncements put emphasis on the urgency of reforms in the police and the criminal justice system. The latest *Second Administrative Reform Commission* (ARC) in India (headed by Veerappa Moily) in its 5th Report on '***Public Order***' has also figured out the changing nature and expected picture of police organisation in India as its transformation into

– *autonomous within legal framework*

–   *citizen-centric service* from agency of the government

–   *efficient, professional and people friendly, upholding rule of law* from law enforcement agency, and

–   *representative of all sections of society* for more representative of society.[1]

The present transitional stage of Indian civilisation demands innovative and experimental approach in all the sub-systems of the society, including the administrative sub-system too. This is nothing but for the multi-dimensional reform (legal, structural-functional-procedural-behavioural and welfare) to enhance the democratic governance, effective administration, and providing sense of security to civil society. The Second ARC by recommending various reforming measures on the structural-functional-procedural-behavioural and legal aspects of administration has proved that the drastic changes, major amendments and progressive outlook are the need of time. The central government's decision on commission's recommendations seems to be unworthy and unjustifiable to the commission's sweat, particularly, the government's no-action status on ARC's fifth report **'Public Order'**, eighth report **'Combating Terrorism'** (is being handled by Ministry of Home Affairs) and tenth report **'Refurbishing Personnel Administration-Scaling New Heights'**. Let us have a view on II ARC recommendations on this issue:

A View on ARC Recommendations

The Second ARC has suggested for some major organisational-structural reforms to bring out functional autonomy and functional separation of present over loaded police. To be very precise, these points of suggestions by ARC are –

A.   To create three broad categories of functions clearly identified: **Crime Investigation**; an elite agency treated as quasi-judicial function to deal serious offences, **Law and Order**; includes intelligence gathering, preventive measures and riot control, **Local policing**; for functions like enforcement of civic laws, traffic control, investigation of petty crime, patrolling and management of minor law and order problems by local government. ARC also suggests outsourcing some of peripheral services like protection of State assets, ceremonial duties, service of summons etc.

B. Constitution of State Police Performance and Accountability Commission to frame broad policy guidelines for promoting efficient, effective, responsive and accountable policing, in accordance with law; to prepare panels for the office of Director General of Police against prescribed criteria; to identify performance indicators to evaluate the functioning of the police service; and to review and evaluate organizational performance of the police service.

C. Constitution of a **State Police Establishment Committee** (to deal with establishments cases relating to officers of the rank of Inspector General of Police and above), a separate State police Establishment Committee (to deal with establishment cases relating to all gazetted officers up to the rank of Deputy Inspector General of Police), a District Establishment Committee (to deal all establishment matters of non-gazetted police officers) for all kinds of service matters like posting and transfer, promotion and grievances.

These recommendations, if executed, instead of restricting political interference will hamper and complicate the police personnel matters. ARC suggestions seem nothing but the fabrication of upper hierarchy performing similar kind of policy functions at various platforms, again not free from the political interruptions. Further, the above measures focus on upper hierarchy of the organisation while the need of the time is lower and middle level hierarchy which are the most pressurised tiers of the vehicle of 'law and order'.

A View on Directives of Honourable Supreme Court of India

In 1996, two former Director Generals of Police requested the Supreme Court[2] to direct central and state governments to adopt a set of measures to address the most glaring gaps and bad practices in the functioning of the police. The petitioners based their recommendations on the findings of the various police reform commissions and committees. In October 2005, as the Supreme Court was considering the matter, the central government set up a Police Act Drafting Committee (PADC) commonly know as the Soli Sorabjee Committee, tasked to draft a new model Police Act. The committee submitted its report on 30 October 2006. The Supreme Court required all governments, at centre and state levels, to comply with the seven directives by 31st December 2006 and to file affidavits of compliance by the 3rd of January 2007.

A hearing before the Supreme Court was held on 11 January 2007. The directives can be broadly divided into two categories[3]:

Part I: Directives seeking to achieve functional autonomy for the police.

- **State Security Commission**– To shield the police from the undue interference of politicians and ensure appropriate policy directions, the Supreme Court requires the establishment of a State Security Commission.

- **Director General of Police (DGP)**– To ensure that there is no arbitrariness in the appointment of the highest ranking police officer, the Supreme Court has laid down the procedure for selecting the Director General of Police (DGP). And, once he has been selected for the job, he should have a minimum tenure of at least two years irrespective of his date of superannuation.

- **Minimum tenure for other police officers**– Security of tenure is similarly important for other police officers on operational duties in the field. In order to help them withstand undue political interference, have time to properly understand the needs of their jurisdictions and do justice to their jobs, the Supreme Court provides for a minimum tenure of two years for IGP, DIG, SP and SHO.

- **Police Establishment Board**– To counter the prevailing practice of subjective appointments, transfers and promotions, the Supreme Court provides for the creation of a Police Establishment Board. In effect, the Board brings these crucial service related matters largely under police control.

- **National Security Commission**– The Supreme Court directs the central government to establish a National Security Commission at the Union level to prepare a panel for being placed before the appropriate Appointing Authority, for selection and placement of Chiefs of the Central Police Organisations (CPO), who should also be given a minimum tenure of two years.

Part II: Directives seeking to enhance police accountability.

- **Police Complaints Authority**– The Supreme Court sets out an independent accountability mechanism in the form of a Police Complaints Authority to be established both at the state and the district levels. Their mandate is to look into public complaints against police officers in cases of serious misconduct.

- **Separation of investigation and law and order police**– The Supreme Court judgment seeks to enhance police performance by directing separation of investigation and law and order functions of the police in towns and urban areas to ensure speedier investigation, better expertise and improved rapport with the people.

Here the issue of functional autonomy and measures for its attainment need to be analysed with different angels. And, the first question is why autonomy is being demanded?

Political Interference: Reason behind Autonomy ?

The reason is 'political interference' ranging from police's day-to-day working to the transfer and promotion of policemen. It also hampers police professionalism and divert them to work on politicians' outlook towards society, caste, class, religion, region, gender basis. Political interference in day-to-day working of police is a very well known fact. The burgeoning Indian democracy has weakness for providing ample opportunity of illegal, immoral and irrational interference by political functionaries of all varieties. Famous and reputed senior retired IPS officer J.F. Ribeiro has blamed, political interference in investigation of cases and transfer as one of the reasons behind ineffective working of police force.[4]

The seriousness of the issue have been undermined despite of many controversial events, open revelation by electronic and print media, and by various academic studies. In a doctoral research work[5] police respondents' responses on various questions speak of the reason behind the poor police performance in India. Political interference in police function most of the time (68.5%), sometimes (26.8%), local level politicians' interference (66.7%), local level, state level and ministerial level politicians' interference (25.6%) and acceptance of

political pressure by about 76% policemen gives a very clear picture of unwanted and illegal presence of a strong external factor in the organisation. Further, 46.4% policemen accepted political interference in transfer matters. Some of the 31.5% who says that transfer are done on definite intervals also revealed that at the time of transfer politicians recommends for their favourable men. 18.5% respondents emphasized the role of senior officers in transfer matter.

Police, which basically, is a law and order machinery, is continuously overburdened with variety of tasks of different skills. These varieties of tasks are also not free from the political interference. Along with this functional status, police have faced and continue to face many difficult problems which are political, administrative, financial, and psychological in nature. In a country of India's size and diversity, uncertainty of political regime (due to increased practices of Allied government and political bargaining) and weak civil societal structure, maintaining public order at all times is a scary and challenging task which require expert and experienced leadership of senior men, and efficient and effective working of subordinates in the system. But, **the fact is that due to all around challenges, threats and criticism police system deserves pure administrative and managerial reforms (free from traditional political outlook) to stand along with rapidly changing societal-cultural-psychological patterns and growing corporate agencies.**

Most of the time the political party in power uses police machinery against their opposition party and expect that police should treat their political opponents as anti-social elements. Further the growing 'criminalization of politics' and 'politicization of criminals' works as a big hurdle in the working of police. Thus, to get free from the clutches of this external influence the police organisation essentially require an autonomous status.

Functional Autonomy or Personnel Autonomy

Autonomy stands for 'condition or quality being independent or the right of self-government or self-determination'. Functional autonomy of any organisation can be defined as right of self-determination over functional, operational and working part on the realization of the organisational objectives. The personnel autonomy can be conceptualised as independent status or right of self-determination on the execution of personnel policies of organisation. In other words, it is

nothing but self-determined, self-reliant personnel administration (free from all kind of political interference) covering from recruitment to post-retirement benefits of the employees. **Self-determined personnel administration directly lead to capacity building of employees, participative management in organisation and indirectly strengthen functional independency.**

ARCs vision of Indian Police having autonomous status within legal framework is a noble thought but difficult to implement. The study of ARC reveals the true and bitter facts of functioning of criminal justice system in India which are unbearable and unendurable too, while its **views and recommendations are utopian in nature as it seems to be impractical and impossible under the present system.** It is because of the very well known fact of political interference and misuse of police machinery by political body which has also been accepted by ARC as hurdle in good policing; and we could not have **police-politician separation** until it is initiated by politicians themselves. As we don't have any signal of political interest for 'politics-police separation', and as the functional autonomy of police is difficult (politically) to carry out, the concept and idea of police personnel autonomy is being suggested here in the form of Police Personnel Management Board.

Hence, the possible barriers before police for having its functional autonomy are;

• The concept is impractical, complex and extremely difficult to execute in an organisation having long colonial history of brutality and suppression, having a large and unapproachable distance between upper, middle and lower levels of hierarchy, and having poor managerial and professional foundations.

• Neither any political party nor any politician has ever shown interest on empowering policemen in their professional, career and individual part. Not even a single political activist would like to lose his/her political influence on law and order machinery. This is the reason, actually, why recommendations for police reforms by number of commissions and committees could never get approval by any government. That is why, there has been no comprehensive review of the police system after independence despite radical changes in the political, social and economic situation, and increasing crime rates in the country.

- A large section of social-political activists, philanthropists, scholars and experts believe that in a country like India having diversities of caste, class, sections, and religions functional autonomy to police will spoil its democratic fabrics. In democratic set up, law and order should necessarily be under political representatives.

Thus, Indian police suffers from some of its internal and external loopholes which are obstacles in the way of stepping towards functional autonomy. Instead of voicing again and again for police reforms, and demanding and carving out for functional autonomy or functional divisions, a strong articulation in favour of 'personnel autonomy' may be more practical and convenient. Instead of ARC's suggestion to constitute various level Police Establishment Committees constitution of **Police Personnel Management Board** **(PPMB) on the concept of** *Independent Regulatory Commission* is a better way to carry out political neutrality in police's day-to-day functioning.

Proposed 'Police Personnel Management Board'

A better way to have effective, efficient and professional policing, an alternative reforming measure is being suggested here. For this, the police body at the state level should be given the autonomous status under the headship of a *'Police Personnel Management Board'* **(PPMB)** comprising of three or five senior most IPS officers of the highest repute in the state. The autonomous status of police will allow them to work on the pattern of a corporate body where the board is meant for personnel management and related decision-making. This is nothing but the establishment of a **'management body'** at the higher hierarchy, responsible to carry out professionalism and participative management in police system. All personnel matters (except the recruitment, for which a separate recruitment agencies system is working, almost properly) of employees like training, transfer, promotion, pay and service conditions, redressal of grievances post-retirement engagements and other welfare activities should be kept in the purview of the board. The basic features of proposed **Police Personnel Management Board** are:

- The Constitution of PPMB should be on the line of practices of Independent Regulatory Commission (IRC) in United States of America (the first country in the world to establish this type of agencies). IRCs are established to be outside the power of both the executive and legislative branches of the government.

- The PPMB shall be a multi-headed (collegial) body with three or five senior most senior IPS officers of the highest repute appointed by the Governor of the state with the formal approval (as they will be senior most police men in the seniority list) of the state legislature for a fixed tenure of three years. The appointment of senior most should be on Rotation basis without any male/female/caste criterion of reservation.

- The member of PPMB may resign by writing to the President and may be removed on the grounds of proved misbehaviour and misconduct by the President of India.

- The PPMB shall be responsible for police personnel Management (except recruitment) under the rules and regulations made by the state government. The board shall be independent on the implementation and execution of all the personnel policies for policemen in the state.

- Working on the corporate line with professional and managerial outlook, the PPMB will have developmental and welfare approach while dealing with police members. And, their primary focus will be personnel's satisfaction while working in police organisation.

- The PPMB will have staff constituted by in-service policemen, retired policemen and also expert/academic advisors by transfer and deputation respectively. A small staff will be divided into divisions e.g. training division, transfer division, service and working complaint division, salary and allowance division and pension division.

Notably, a trend in international best practice is that government has a role in appointing and managing senior police leadership, but service related matters of other ranks remain internal matters. (**Bruce, D. and Nield, R., 2005,** *The Police That We Want: A Handbook for oversight of police in South Africa*, Centre for the Study of Violence and Reconciliation, Open Society Foundation for South Africa and the Open Society Justice Initiative). Also, Police's autonomous status within legal framework is nothing but the thrust desire to save this body from its internal demise due to unsatisfactory personnel, functional, behavioural aspects and in order to strengthen functional performance.

The proposed **Police Personnel Management Board** will exist as in the figure:
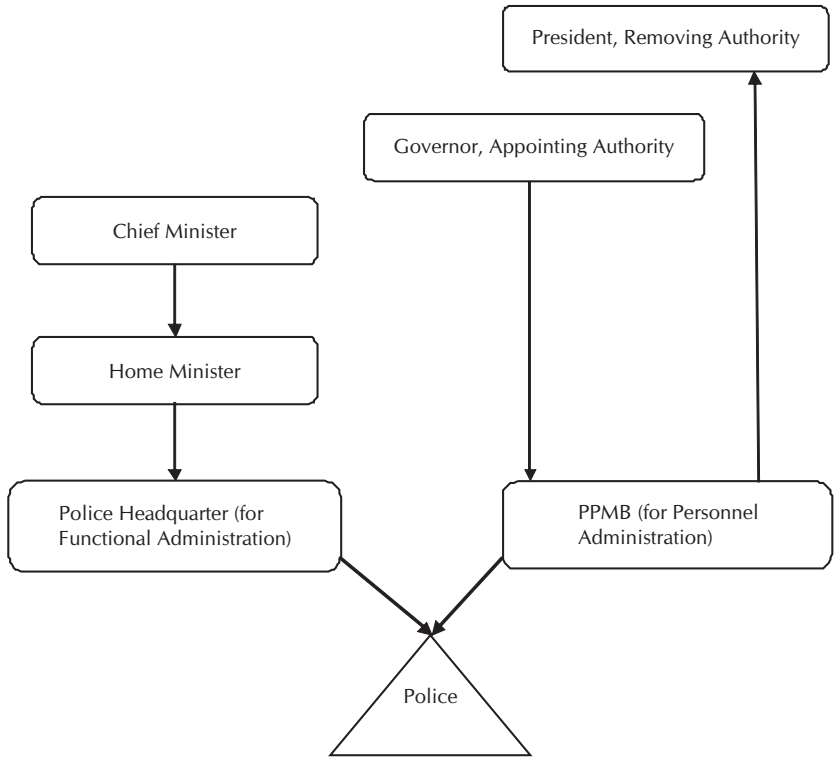
Proposed Benefits of PPMB

- No political interference on transfer and promotion of any policemen. Transfers will be carried out by board on regular and fixed interval with the formal and open consent of policemen concerned.

- There will be possibility to provide platform for association/union of class IV, III and II policemen.

- Development of informal organisation within police organisation.

- Above three will enhance 'Participatory Management' in the organisation. The behaviouralists believed that an organisation should be able to secure the participation of members by offering them such inducements (e.g. physical, social, safety, salary, status, promotion needs) which contribute to its goals.

Conclusion

Both, the Directives of Honourable Supreme Court and the recommendations by Second ARC reveals some of the common reform grounds i.e. autonomy in personnel matters and functional division on the line of specialisation and desirable merits. The proposed idea of *Police Personnel Management Board* (in the place of Police Establishment Board) is supposed to simplify the creation (or organisation) and functional area of any of the authority having objective to restrict political elements in the internal matters of police organisation. Well integrated, easy to understand and free from the complexities of formation, PPMB is a better alternative agency than the ARC's recommended various police Establishment Committees for different police hierarchy in a state. **However, a detailed expert study to frame the PPMB is required to carry out the meaningful change** with all around benefits of effective police, perfect policemen, satisfied citizen, supporting politicians and law, order and peace to the country.

"To improve is to change; to be perfect is to change often."
– Winston Churchill

References

Endnotes

1   Fifth Report, Second Administrative Reforms Commission, Public Order, June 2007.

2   Prakash Singh & Ors. vs. Union of India & Ors.; Writ Petition (Civil) 310 of 1996, date of judgment 22nd Sept. 2006; Bench: Y.K. Sabharwal, C.K. Thakkar & P.K. Balasubramanyan.

3   Analysis of the Supreme Court Directives on Police Reforms (Prakash Singh and others vs. Union of India and others), Commonwealth Human Rights Initiatives.

4   Times of India, Feb.12, 2013, city Pune.

5   Pandey Megha, *The Psycho-Ethical Study of Police Behaviour: with Reference to District Ujjain*, Virkam University, Ujjain, p. 252-256.

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Victimization of Public Space: Sexual Harassment at Workplace

Tanu Parashar*

Abstract

One need not look at the statistics collected by the National Crime Records Bureau or the National Commission for Women to reveal that women in our country face high levels of violence and discrimination; even a random glance at the daily newspaper would give us the answer. Gender based violence and discrimination is a serious problem in our society more so because it is deeply entrenched in the cultural and social relations between them.

Introduction

"SO God created man

- in His own image,
- in the image of God
- He created him."

Woman, as per the Holy Bible, was not even perceived by God until He realised "it is not good for man to be alone" and so out of the ribs of 'the first man' came the woman, his "helper".

- "...She shall be called 'woman'
- For she was taken out of man."

Author Intro:

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From time immemorial woman has been perceived through the male gaze and no doubt she emerges as his second half…'subordinate', 'secondary', 'subservient', 'inferior' so on and so forth…"[1]

One's imagination flies back to the Hindu mythology, which proclaims that woman is 'Shakti' incarnate, not just as a Goddess or 'Devi' but the fundamental creative vital energy underlying the cosmos. One faction of the Hindu mythology asserts that a woman should be looked upon as the Hindu Divine Mother—as the absolute, ultimate Godhead. But, has that changed the status of women in our part of the world? Are we doing any better than our Western counterparts? Well, one need not look at the statistics collected by the National Crime Records Bureau or the National Commission for Women to reveal that women in our country face high levels of violence and discrimination; even a random glance at the daily newspaper would give us the answer. Gender based violence and discrimination is a serious problem in our society more so because it is deeply entrenched in the cultural and social relations between them.

Hundreds of incidents of such physical, sexual abuse and culturally justified assault happen every day. Almost every woman in this country experiences some sort of violence in her lifetime and fear of violence becomes an important factor in her life. It determines what they do, when they do it, where, how and with whom. These acts shape their attitude to life and their expectations of themselves. It should be taken into account that it is not just physical and sexual violence but also verbal, emotional, financial, social and intellectual violence that they have to face. It leads not only to the denial of various fundamental and moral rights but also deprive her of her identity as an individual and robs her of her dignity and pride. Even gender discrimination is an inherent part of the social fabric in India. Ranging from gender-based division of labour to the alarming rate of female foeticide or infanticide, our society has it all. A look at the turn of the century census reveals that there were 972 females per 1000 males in 1901 whereas the figure is 933 females per 1000 males in 2001 and in the latest 2011 census it is 940 females per 1000 males. A combination of gender based economic pressure (especially related to dowry and property inheritance) and traditional/religious beliefs (family lineage and pious obligations or rites) explicitly favour male child over the female. While growing up also, usually the male children get better

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1   Ragini Nayak, 'Not in the Image of God', Mainstream, Vol. XLVI, No.17, p.1.

diet, clothes, education, etc. Even the division of labour in a society like ours is directly tied to the socialisation pattern within them. The different reproductive roles that stem from biological differences between men and women form the basis to divide tasks at home and in the public sphere. Women are confined usually to the household chores, upbringing of children and looking after older members of the family, whereas men act as the breadwinners and perform tasks related to the public and productive work. Even if women step out of the framework of the household, since most of them fall into the unorganised sector they are overworked and underpaid.

What comes under the purview of Sexual Harassment?

The following direct or indirect unwelcome act or behaviour constitutes sexual harassment which includes physical contact and advance; demand or request for sexual favour; making sexually coloured remarks; showing pornography; any other unwelcome physical, verbal or non-verbal conduct of sexual nature. The following acts may also amount to sexual harassment i.e., implied or explicit promise or threat to a woman's employment prospects; creating intimidating or offensive or hostile work environment; or humiliating treatment likely to affect her health or safety.

When one speaks of the word 'workplace', it constitutes the public and private sector organizations; organised or unorganised sectors; Hospitals or nursing homes; Sports institutions, stadiums, sports complex, competition or games venue; Universities, colleges, schools, research institutes, etc.; Any place visited by the employee arising out of or during the course of employment, including transportation provided by the employer; dwelling place or house.

Bhanwari Case

It was not until the 1990s that the sexual torture endured by a rural level change agent in Rajasthan and her subsequent efforts to challenge what led to her violation gave rise to a long overdue commonsense approach to what needed to change. It was us. Sexual harassment hit the Indian legal map when Bhanwari, a *saathin* in Rajasthan, prevented the child marriage within an upper caste community. In doing so she was subjected to unwelcome sexual harassment through words and gestures from men of that community. When she reported the harassment, the local authority did nothing. That lapse was at great

cost to Bhanwari as she was subsequently gang-raped by those very men.

Surprisingly, nationwide calls for justice hovered around demands for a stringent criminal law response, i.e., the filing of a first information report (FIR). With a history of failures by the criminal justice system to stem the pandemic of violence towards women, such demands appeared futile. At the risk of offending purists of criminal law, it has always struck me as somewhat offensive that a breach of criminal law is effectively treated as a crime against the state. Each FIR becomes the pursuit of a culprit by the police for a harm which the "State" has endured. At most the complainant woman is only ever a witness.[2]

Bhawari case gave us a ready reckoner wherein we were entitled to think and rethink as to the efficiency of our criminal laws. The microcosmic unity of Bhanwari's experience of sexual harassment mirrored what scores of working Indian women faced in India with each passing day. In the absence of any existing legal response to "sexual harassment", the opportunity was ripe for a comprehensive approach. In 1992, therefore, Naina Kapur[3] along with her other fellow advocates, approached the Supreme Court of India in public interest litigation to do precisely that - rethink "the way things are" so that a comprehensive law be carved out to curb workplace sexual harassment.

Sexual Harassment at Workplace

Sexual harassment was a form of discriminatory conduct at the workplace. It hampered women's constitutional rights to equality and dignity. It sabotaged work performance, affected working environments, impaired women's progress, resulted in absenteeism and cost both individuals and institutions in terms of qualitative health and growth.

"Statistics apart, constitutional equality was never the lens through which we viewed women's experience of sexual harm at work. It took that rare creative courage of a judge, the late Justice J.S. Verma (then chief justice of India) to rise to the occasion and in 1997 we

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2   Naina Kapur, 'Workplace Sexual Harassment The Way Things Are', *EPW*, Vol. XLVIII, No.24, June 15th 2013.

3   Naina Kapur is an advocate who pioneered the Vishaka directions on workplace sexual harassment.

were given *Vishaka vs. State of Rajasthan*.[4] Unlike anything before it, Vishaka was a visionary decision. Primarily, it filled a legal vacuum. Second, it viewed sexual harassment through an equality lens and thus prioritised prevention. Third, in the absence of legislation, it became legally binding on all work places. Unlike the criminal law, it was the State, the employer, and the institution that had to own up for the equality and dignity of women at work.

Finally, it gave us a map for creating accountability. Workplaces, organisations, institutions (including educational establishments) were compelled to raise awareness about sexual harassment, take steps to prevent it and to offer effective redress. We sought and were granted the presence of a third party expert on complaints committees for sexual harassment, a mechanism mandated by Vishaka for all workplaces."[5]

It was an innovative moment in the history of women's constitutional rights within all workplaces. It expands and uplifts them through an all inclusive process. Vishaka changed the map of how we could respond to other forms of violence against women. Unfortunately, the moment and momentum was frittered away by a state unable and unwilling to adhere to the bar Vishaka had set. Despite the Government of India's own ratification of *Committee on the Elimination of Discrimination against Women (*CEDAW), the women's convention which promised to uphold the equality rights of women in all aspects of life, its commitment rang hollow. Added to this was increased public immunity to the daily sexual exploitation of women who never took adequate notice of what Vishaka had to offer.

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4 **Vishakha and others vs State of Rajasthan** was a 1997 Indian Supreme Court case where Vishakha and other women groups filed Public Interest Litigation (PIL) against State of Rajasthan and Union of India to enforce the fundamental rights of working women under Articles 14, 19 and 21 of the Constitution of India. The petition was filed after Bhanwari Devi, a social worker in Rajasthan was brutally gang raped for stopping a child marriage. The court decided that the consideration of "International Conventions and norms are significant for the purpose of interpretation of the guarantee of gender equality, right to work with human dignity in Articles 14, 15 19(1)(g) and 21 of the Constitution and the safeguards against sexual harassment implicit therein." The petition, resulted in what are popularly known as the Vishaka Guidelines. The judgment of August 1997 given by a bench of J.S. Verma (then C.J.I)., Sujata Manohar and B.N. Kirpal, provided the basic definitions of sexual harassment at the workplace and provided guidelines to deal with it. It is seen as a significant legal victory for women's groups in India.

5 Naina Kapur, *Op. cit*, p.2.

Inadequacies of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Bill, 2012

Still, Vishaka made it impossible for us to slip back to the way things are. It gave us language. Women's experience of unwelcome sexual conduct was no longer a patronising moral transgression of her "modesty", it was sexual harassment - a violation of her constitutional equality.

Sixteen years post the landmark judgment, the Government of India introduced a new bill. The very gap between the revocation of the bill and putting it back into its place was a cause provided by an issue of the coal block allocations scam in the Lok Sabha, a defective Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Bill was allowed to pass into law without debate in September 2012. Before the Rajya Sabha, a feebler introduction was made by the minister whose "vision" suggested that it was a bill "to make them economically empowered so that they can do their work properly" – a condescending preface to constitutional equality which was the backbone of the Vishaka judgment. Adding insult to injury, nowhere does the debate find mention of constitutional equality.

Apart from the statement of objects, there is little in the language and content of the new Act which has continued to raise the bar, let alone retain the spirit of Vishaka. A definition of what constitutes "workplace" might have been more easily stated as any place where a woman is present by virtue of her work - a suggestion supported by many at a consultation held in the presence of parliamentary standing committee members. Educational institutes have complained that the definition does not go far enough to include students who, while not workers, frequently suffer coercive sexual harassment on campus or otherwise linked to their educational growth, a concern endorsed by the Justice Verma Committee. Such institutes will need to adopt a creative approach to ensure students are covered. Extensive cross-country research carried out for the Vishaka hearings provided contemporary approaches to the definition and a road map for preventing workplace sexual harassment.

Use of such knowledge was hardly evident in crafting the latest Act. Erroneous phrasing (a trait which characterises much of the Act) of hostile workplace sexual harassment eclipses the importance of the most common forms of workplace sexual harassment which indeed

needs a wide purview of discussion. Mismatches between subheadings and content compound that perception. A section titled "Prevention of Sexual Harassment", for instance, fails to deliver on anything related to preventive measures. Instead, the section highlights "circumstances" which may amount to sexual harassment. Such glaring oversight betrays an abysmal lack of homework by the legislative heads and ignorance about the issue by parliamentary representatives across the political spectrum.

This version of 2012 revised Act on Sexual Harassment of Women at Workplace defeats very objective of being inclusive and one having the informed redress mechanism to facilitate both the internal and local complaint committees. Diluting third party presence on these committees to persons committed to "the cause of women" demeans the skill and specialisation required to meet the nuances of workplace sexual harassment. Therefore, third party persons (lawyers or not) must bring knowledge, skill and capacity to the table to ensure processes are professionally informed and unbiased. Vishaka envisaged an inclusive complaint committee mechanism to ensure fair treatment in the issue and enhance knowledge and experience around workplace sexual harassment.

Of all sections, the most disturbing provision in the Act (Section 14) is one which punishes a "false or malicious complaint". Such inventions are only ever peculiar to gender-specific legislations which relate to women and violence. In no other area of law do such penalty clauses exist as a matter of practice. Its presence in the new Act has no legal basis. Investigations are conducted to determine whether harm occurred or not and this is true for any law. To premise an act on the assumption that women are potential liars about their human rights abuses show signs of stereotyping women and for that reason would be constitutionally untenable. Flawed drafting further also suggest the lack of political seriousness towards socially relevant legislation for women.[6]

The absence of user-friendly, definite and accessible language throughout the new Act renders it prone to typical gender stereotyping in such cases. In all consultations on the bill, this conservative provision was rejected outright. To impose it into the legislation can only be perceived as an attempt to discourage women from making complaints of sexual harassment.

6   Ibid.

In the 16 years since Vishaka, still these guidelines form the basis of the Sexual Harassment at the Workplace (Prevention, Prohibition and Redressal) Act 2013 passed in April this year. Under this law, it is mandatory for institutions employing women to set up an Internal Complaints Committee comprising representatives of the employer, the employees and someone from outside the institution. It is also mandated that half the members should be women.

Documenting Some Recent Cases of Sexual Harassment at Workplace: A Review

There have been several cases in the past wherein the sexual harassment cases are quite visible in both media and judiciary. There have been women who in their twenties had to fight off the groping hands of powerful men much older than themselves-trusted men, men who should have maintained the requisite distance, men who should have known better-decided to do the almost unthinkable. They decided to speak out their stories and issues that happened with them. The ubiquity of social networking helped their stories spread in record time, leading to widespread outrage especially among women, and almost certainly goaded the media to take a stand.

The Supreme Court's landmark judgment in the Vishaka case in 1997 may have defined sexual harassment and set guidelines to deal with complaints from women employees, but not many victims are willing to go public with their complaints. The reason may well be the consequences that follow when women do complain: pressure from the employer to resign, isolation within the company and an organized campaign for the victim's colleagues to close ranks against her. In the year 2007 Bangalore's garment industry, which employs nearly four lakh semi-literate and illiterate women, reported three suicides last year due to "humiliation" by superiors and a suicide by a 16-year old girl in mid-June due to sexual harassment.

Various studies have documented instances of sexual harassment, including in export zones where firms employ a large number of women. Women higher up in the corporate hierarchy are no freer from harassment by their male colleagues. For instance, in a couple of high-profile cases in Mumbai in the year 2007, two senior employees of well known corporates (who have since resigned from their positions) have gone to the police and the courts, and have also publicly aired their stories. (One was a director in the *audit firm of KPMG*. She further

has also filed a case under Section 188 of the IPC[7] against KPMG India for not having a sexual harassment committee, as mandated by the Supreme Court in the 1997 Vishakha judgment, the other was a senior employee in the accountancy firm of Deloitte Haskins & Sells). Institutions of higher learning are not free from instances of abuse. A public campaign brought to light the harassment by a senior academic of a junior woman colleague. It required a sustained campaign for the university to punish the offender, a decision that is now being contested in courts.[8]

According to the Vishaka guidelines, it is mandatory to have complaints committees in all workplaces. But private companies rarely constitute them while the public sector and government institutions do so only on paper. The deep-seated attitude of denial, the trivialisation that sees a woman's complaint without much seriousness and the toothless nature of the state women's commissions that makes them incapable of dealing with such complaints, all ensure that the victim has little chance of being heard properly.

"Futhermore the Government's failure to pass a comprehensive sexual harassment law at workplace that would replace the Vishaka guidelines has further compounded the state of affairs.

Generally, Section 354[9] of the Indian Penal Code (IPC) is the criminal provision applied in most sexual harassment cases (the ruling in the

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7   **Section 188 in The Indian Penal Code,** says that disobedience to order duly promulgated by public servant. Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management. disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both: and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. Explanation. It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm. Illustration An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this section.

8   Editorial, 'Sexual Harassment at Workplace', *EPW*, June 28, 2008, pp. 6-7.

9   **Section 354 in The Indian Penal Code, 1860** says that assault or criminal force to woman with intent to outrage her modesty-Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will there by outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Rupan Deol Bajaj vs KPS Gill case was based on this section of the IPC), the other being Section 509[10]. Yet, these provisions in the IPC, dealing as they do, with the insults to the "modesty" of women have only limited effectiveness. One can infer from this case that "imposing the burden of proof on the accused, levying a penalty for non-constitution of a complaints committee, ensuring the accountability of the employer to act upon a complaint are some of the important aspects that only legislation specifically dealing with sexual harassment can be effectively deal with."[11]

Rina Mukherjee vs The Statesman

Within six months of joining *The Statesman*, Rina Mukerhjee lost her job. While the company alleged that her work was "tardy" and "lacking in quality", it suppressed Rina's complaint of sexual harassment against the news coordinator, Ishan Joshi. Within her first month of work, Rina had taken her complaint directly to the managing director (MD), Ravinder Kumar. Understandably, she expected him to act professionally and intervene, but time passed and nothing happened. Exploiting her status as a probationer, Rina was fired by *The Statesman*.

Such patterns are common to organisations who fail to see the importance of promoting a workplace free from sexual harassment. Frequently, a woman on probation will find it impossible to make a complaint, let alone succeed with one. Hence, most women hesitate and tolerate the behaviour. Rina was an exception. Post her termination she filed a formal complaint with the MD, *The Statesman*'s owner, C.R. Irani and the West Bengal Women's Commission with the firm belief that her termination was a result of her sexual harassment complaint.

The matter was eventually heard by the Industrial Tribunal (West Bengal). In a rare display of social context, insight and clarity amongst the judiciary, judge Kundan Kumar Kumai, rejected *The Statesman's* claim that Rina only referred to "professional" harassment in her

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10 **Section 509 in The Indian Penal Code, 1860** says that a word, gesture or act intended to insult the modesty of a woman. Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

11 Editorials, 'Sexual Harassment at the Workplace', *EPW*, June 28, 2008, p.7.

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complaint to Ravindra Kumar. In Kumai's view, Kumar's failure to dig deeper was clearly suspect.

> In the judge's words: "Ravinder Kumar has gone hammer and tongs over the delay made in making the sexual harassment public, in writing. What else could she have done... she made a verbal complaint of sexual harassment and professional harassment and she was dismissed from her service even without completion of her probation period. It should also not be forgotten that the lady workman was not only well-educated but had about ten years of journalism, with other well known publications, behind her and not a novice or a rookie journalist, at that relevant time.

> Moreover...it becomes clear that there was no Committee on sexual harassment, as per the Honb'le Supreme Court's direction in Vishaka vs State of Rajasthan, existing in The Statesman, at that relevant time...to expect-the lady workman to file a written complaint and not to believe the same, when it has been filed 'at a later date' is sheer bias.[12]

The Statesman was ordered to reinstate Rina and grant her full arrear wages from the time of her termination to the date of the order. It took 11 years but Rina won an order that dispels assumptions about why women take time to complain about sexual harassment, how those in power try through sheer majority of their supporters in a particular organisation to gag employees to dismiss such claims, and how workplaces can no longer take legal compliance on sexual harassment lightly. There could have been a brighter scope for Rina, women workers, the workplace environment and inevitably the company's reputation, had *The Statesman* taken her complaint seriously at the outset and complied with *Vishaka.*

One can conclude from this case that people like judge Kumai, justice Verma, Bhanwari and Rina remind us that this need not be so. They inspire the rest of us who care, to use our carefully crafted skills, know-how and passion to innovate and transform the most ill-crafted provisions in law to work for us rather than limit us.

Case of Justice Ganguly

"Exactly five months ago, a law intern wrote a blog post alleging that she was sexually harassed by Justice Ganguly in a Delhi hotel

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12 Naina Kapur, 'Workplace Sexual Harassment The Way Things Are', *EPW*, Vol. XLVIII, No. 24, June 15th 2013.

on December 24, 2012. She followed the blog post with a detailed interview to a website reiterating her allegations against the former Supreme Court judge. After TOI reported the allegations, CJI P Sathasivam had set up a three-judge fact finding committee to look into the controversy. The committee comprising Justice RM Lodha, Justice HL Dattu and Justice Ranjana P Desai heard both the law intern and Justice Ganguly and gave a report to the CJI saying it found prima facie evidence of unwelcome sexual behaviour on Justice Ganguly's part towards the intern. After this report there was pressure from all corners for Justice Ganguly's resignation. Though he resigned both as guest faculty of the National University of Juridical Sciences and the West Bengal Human Rights Commission, but again denied the allegations against him.[13]

Case of Tarun Tejpal

There have been several cases in the past wherein the sexual harassment cases are quite visible in both media and judiciary. Tarun Tejpal, editor of the investigative journalism magazine Tehelka, has been accused of attempting to rape a young female colleague. This case appeared in November 2013. Tehelka specialises in sting operations, exposing corrupt politicians and writing against sexual violence. While the magazine has lost some of its sheen in recent years, a generation of journalists thought of Tejpal as a crusader for the underdog. No more. In a graphic email leaked to the media, the victim accused Tejpal of assaulting her in a hotel lift during a festival in Goa.

"The whole case might have been swept under the carpet if Tejpal had not written a series of emails, to try to justify his behaviour. Initially, he admitted a "bad lapse of judgment" and "recused" himself from the editorship of Tehelka for six months. Meanwhile, managing editor Shoma Chaudhury downplayed the alleged rape in an email to staff, calling it an "untoward incident" to be dealt with internally. Then a further email of "unconditional apology" from Tejpal to the victim emerged, in which he spoke of attempting a "sexual liaison" despite her "clear reluctance". Faced with a barrage of criticism, Chaudhury also quit, along with six other Tehelka staffers. In the latest development, Tejpal was this week summoned to Goa for questioning by police and is on bail until Saturday morning. There has been much introspection

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13 http://www.business-standard.com/article/current-affairs/justice-ganguly-quits-as-nujs-guest-faculty-114010300803_1.html accessed on 14th March, 2014.

about how a man like Tejpal could have assaulted a young woman. There has been even more angst about how a respected female journalist, and feminist, could argue that sexual assault was simply an internal matter. This kind of behaviour happens not just at Tehelka; most Indian workplaces are completely ill-equipped to deal with working women. Often a culture of omerta prevails, and powerful men escape punishment."[14]

"Social stigmatisation, traumatising legal procedures, the hostile attitude of public officials, discouragement from families and friends who want to protect the victim and her identity from the toll that fighting a case may impose on her, are some of the often compelling factors that impose silence around the crime."[15] This, in effect, works to the benefit of the perpetrator of the crime. In the case of a working woman, almost always an employee subordinate to the man who has sexually assaulted her, reporting the crime is all the more difficult because of the apprehension that it would involve, in addition to everything else, the loss of livelihood. In case after case this is what happens: the woman who dares to complain of sexual harassment against her boss loses her job.

"What is needed is now a true tehelkaa inside Tehelka, where the employees, instead of resigning in disgust, enforce democracy and the rule of both civil and criminal law in that organisation."[16]

Initiatives taken to curb sexual harassment

One certainly agree that after Independence and especially from the Fifth Five-Year Plan (1974-78) there has been a marked shift in the approach to women's issues from 'Welfare to Development'. Various initiatives were taken in line with this like in the 1950's, the Hindu personal laws were overhauled banning polygamy and giving women the right to inheritance, adoption and divorce. The National Commission for Women was set up by an Act of Parliament in 1990 to safeguard the rights and legal entitlements of women. The 73rd and 74th Constitutional Amendments (1993) provided for reservation in the local bodies of panchayats and municipalities. Domestic Violence

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14 Kavitha Rao, http://www.theguardian.com/commentisfree/2013/nov/29/india-sexual-harassment-women-workplace accessed on 12th March, 2014.

15 *Ibid.*

16 Ayesha Kidwai, 'Needed a 'Tehelka' in Tehelka', *EPW*, Vol XLVIII No. 48, November 30, 2013, Web Exclusives, p.3.

(Prevention) Act was passed in 2006. But one is forced to admit that this is only a beginning and we have a long way to go. There has to be a combined effort of national governments, local authorities, law enforcing agencies, the education sector, the massmedia, community based organisations, women's organisations, NGOs and human rights organisations. All these wings of associations and bodies should come together to implement the required laws.

Moreover, if the trajectory of past cases is any indication there emerges a pattern whereby cases are allowed to peter out through inaction. Indeed, there appears to be a closing of ranks among those in authority, so that the perpetrator is shielded and empathized with, while the complainant's case, who is almost always working under the direct authority of the perpetrator, is cast under a shroud of suspicion and dismissed as unreliable and motivated.[17]

'In cases related to sexual harassment, first and foremost any organization where a case has taken place should make the recommendations of the enquiry committees should be made public and the report immediately available to the complainants. Following the procedure laid down in its own ordinance, it should implement the recommendations that have been made. Most authorities are bound by the Policy on Sexual Harassment to ensure that its employees do not have to work in a hostile working environment.'[18] Thus immediate action should be taken so that timely justice could be done.

Some underlying measures should also be taken

• The legal system directed to elimination of all forms of gender violence and discrimination has to be strengthened and strict enforcement of all relevant legal provisions along with speedy redressal of grievances has to be ensured.

• Measures to prevent and punish sexual harassment at workplace, protection of women workers in the organized or unorganised sector and strict enforcement of laws like Equal Remuneration Act should be undertaken efficiently.

• Involvement of voluntary organisations, associations, federations, NGOs, trade unions, women's organisations to ensure formulation, implementation, monitoring and review of all policies and programmes in this regard is important task at hand.

17 Letters, 'Sexual Harassment Case', *EPW*, Vol-XLII, August 04, 2007, p.1.

18 *Ibid.*

- Promotion of societal awareness and sensitisation on gender issues and women's human rights.

- Women cells in police stations, family courts, counselling centres, legal aid centres and Nyaya Panchyats should be expanded and speedy justice should be ensured.

- Widespread dissemination of information on all aspects of legal rights, human rights and entitlements of women should be carried out.

- Integration of gender awareness, anti-violence and human rights should be effected in the curriculum and educational materials at both school and college levels to enable the youth to challenge the stereotypes and the attitudes on gender based discrimination.

- Use of different forms of media to communicate social messages relating to women's equality and empowerment like banners, advertisements and various social drives, and even social networking sites like Facebook, Twitter alongside different kind of apps etc. should also be launched wherein various issues are raised and discussed.

Moreover at the International level, the very concept of safe cities is evolved; UN Women supports '20 Safe Cities' initiatives around the world. Through the 'Global Safe Cities Free of Violence Against Women and Girls Programme', and a joint initiative with UN-Habitat and UNICEF called 'Safe and Sustainable Cities for All', municipalities take a wide range of innovative actions to prevent sexual harassment and violence against women and girls. In Delhi, a 2013 Safe Cities survey gave weight to worldwide headlines about a horrific gang rape, finding that only five percent of the city's women and girls feel safe in public spaces. The municipal Safe Cities strategic framework and women's safety audits in five city neighborhoods informed recommendations by a government-appointed committee to review laws on violence against women.[19] Subsequently, a criminal law amendment came into force with an expanded definition of rape, steeper penalties, and the first definition of voyeurism and stalking as crimes. Measures in other cities include Rio de Janeiro's introduction of smart phones to map

19 UN Women Annual Report 2012-2013, p.12.

threats in 10 high-risk *favelas*[20]. Similar initiatives have been taken in both Egypt and El Salvador as well.

Conclusion

Societal attitudes and community practices would not change overnight. It would need persistent mainstreaming of the gender perspective in the thought process of every individual. Only then women can have both *de jure* and *de facto* enjoyment of all human rights and fundamental freedom on an equal basis along with men in all spheres-political, economic, social, cultural and civil.

Repetition creates a life pattern. Enduring workplace conduct which sexually demeans, intimidates, offends, excludes and limits women is not only about the patterns of sexist behaviour, it is also about the repetitive nature of our own complacency. We have become immune to the pervasive harm of sexual harassment and its unconstitutional character.

It is up to us as political leaders, judges, responsible workplaces and individuals to change that pattern of thought. Having found its way onto our constitutional map for all to follow the direction and visibility of workplace sexual harassment will be determined by the men and women who understand the professional and human worth of speaking up and fighting for their rights.

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20 A 'favela' is the term for a slum in Brazil, most often within urban areas. The first favelas appeared in the late 19th century and were built by soldiers who had nowhere to live. Some of the first settlements were called *bairrosafricanos* (African neighbourhoods). This was the place where former slaves with no land ownership and no options for work lived.

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Development of the Occupational Stress Inventory for Women Police

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Keywords

Chennai, Occupational Stress, Psychological Well-being, Women Police.

Abstract

Occupational stress received great deal of attention from researchers and employers. The study of occupational stress among women police is hindered by the lack of compact and comprehensive standardized measurement tools. This study aimed to develop a standardized tool to measure sources of stress uniquely for women police. Initially, conceptualization of occupational stress was arrived at and items for the tool were pooled from various theoretical and empirical sources on occupational stress. Further, to focus on specific sources of occupational stress among women police, qualitative data was obtained through focus group interview among women police from various police units. Further, the items were refined by inputs from subject experts from the relevant field. After pilot testing the items for clarity and comprehensibility among 100 women constables, main study was conducted with the refined tool. The purpose of the main study was to test the psychometric property of the tool and it was conducted among 826 Grade I and Grade II women constables from Chennai City and Suburban police. Women police from various police units such as Tamilnadu Special Police (Battalions), Armed Reserve (AR), All Women Police Stations (AWPS) and Local police stations were included in the study. The survey questionnaire used in main study also included job satisfaction scale, work-life balance scale and psychological well-being scale along with Occupational Stress Inventory (OSI). The 769 utilizable data were analyzed by using Exploratory factor analysis (EFA) using oblique rotation, Cronbach alpha and Pearson's correlation to address

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the objectives of the research. The OSI data was subjected to item analysis followed by factor analysis. The factor loading patterns for the occupational stress inventory items supported a six factor solution. They were operational hassles, external factors, hazards of occupation, physical working conditions, women relates stress, and supervisory stress. The OSI was tested for internal consistency using Cronbach alpha and it was found to be adequate. Content validity and convergent validity was also established for the newly developed tool. On the whole, the 71-item self-report questionnaire provides an integrated measure of major dimensions of occupational stress among women police and demonstrated sound psychometric properties, with good internal consistency and validity. It has implications for various research and practice.

Introduction

STRESS is highly inevitable in this modern era and it is part of everybody's daily affair. Occupational (job, work or workplace) stress has become one of the most serious health issues in the modern world (Lu, Cooper, Kao & Zhao, 2003), as it occurs in any job and is even more present than decades ago. Occupational Stress has come to be viewed as a serious problem facing law enforcement, and attempts to both understand and remedy the problem have been undertaken. Fennell (1981) rated policing as "the most dangerous job in the world emotionally". Axelbred and Valle (1978) concluded that "police work has been identified as the most psychologically dangerous job in the world". Police work has been described as one of the most stressful occupations in existence, by various researches (Anshel, 2000; Bano, 2011; Berg, Hem, Lau & Ekeberg, 2006; Saha, Sahu & Paul, 2010). The occupation of policing involves various tasks that are potentially harmful and life threatening. As a part of their job, officers often have to face difficult situations such as encountering victims of crime. Many officers have reported that they feel a great deal of psychological distress from dealing with victims of crime and fatalities, particularly children (Alexander & Wells, 1991; Duckworth & Charlesworth, 1988). It is evident from the research literature that police stress does cause officers to experience an array of psychological and physical ailments (Ayres & Flanagan, 1994) that contribute to high incidents of absenteeism, burnout, turnover, and early retirement (Anshel, 2000;

Note. This paper won Dr. Dipak Bhat Award for Best Presentation at International Conference organized by Indian Academy of Applied Psychology (IAAP) at Andhra University, Visakapatnam.

Brown & Campbell, 1990, 1994; Burke, 1993). Obviously, police stress is known to be associated with certain health problems, such as cardiovascular disease and depression, both of which are prevalent in police populations (Brown & Campbell, 1990; Collins & Gibbs, 2003).

Stress Prevalence in Women Police

Although stress is prevalent among both genders, it is ever more manifest among women police personnel. They not only have to fulfill the job duties, responsibilities and expectations but also equally have to look after their family responsibilities, without compromising either of the responsibilities. In addition, it has been reported that women police tend to experience additional stress due to gender discrimination, minority status, negative attitude of male co-workers, sexual harassment, and night duties causing discord within the family etc (McCarty, Garland, & Zhao, 2007; Wexler & Logan, 1983). Due to their job nature, women police find it very difficult to juggle between the demands of their family and work. Lipp (2009) reported that a greater proportion of females (54%) than males (40%) were found to have stress. This finding is supported by Brown and Fielding (1993) who also reported that women uniformed officers reported higher levels of associated self-perceived stress than their male counterparts. These findings show that women police are at increasing risk of suffering the deleterious consequences of stress.

The trend of the strength particulars over a decade in the Tamil Nadu police reveals that there is rapid increase in the recruitment of women police recently (Statistical Cell, Handbook on Police Department, as on January 2010). The migration of women into law enforcement has prompted a call for the development of an increased understanding of this population. Women police play a pivotal role in police department. The need for women police are increasing with the rise in number of women accused, criminals, and victims of crimes such as rape, kidnapping, sexual harassment, dowry deaths, etc (Ali, 2006). Women were preferred in this occupation as they possess inherent personality characteristics like maternal sympathy, instinctively relating with a person in distress, compassionate, human responsiveness, good listening etc (Ali, 2006). All this prompts the need for research in the area of women police who may play a more central role in police department in the near future.

Importance of Stress Prevention

All the above findings underscore the importance of stress prevention and treatment efforts with women police personnel. It is evident that police officers are engaged in a high-risk occupation, one that has been shown to be highly stressful and there is also a great need for stress management programs. It is imperative to know the aspects of policing that are stressful. The information about sources of stress will be very useful to develop appropriate policies and procedures which will reduce the impact of those stressors. However, past attempts to study police stress and its associations with poor health and well-being have been limited by the types of measures available to assess stress (McCreary & Thompson, 2004). Past research exploring police stress has been limited in several ways. There are many generic measures available to assess stress (Spielberger's Job Stress Scale by Spielberg & Reheiser, 1995), Occupational Stress Indicator by Cooper, Sloan & Williams, 1998), however, this generic approach may be useful for measuring work-related stress common to, or across, many occupations. It will necessarily under-represent the job stressors for those who work in high-risk jobs such as policing (McCreary & Thompson, 2004).

The general measures of occupational stress fail to account for the fact that there are several aspects of policing that are unique to this occupation (e.g., dealing with violent people, hurried eating, working in extreme climates, uncertainty in duty allocation, witnessing traumatic events, working in male-dominated occupation, etc). Further, the existing police related tools on stress, like police stress inventory (Suresh, 1992) and Police Stress Questionnaire (McCreary & Thompson (2004) did not address the unique stressors experienced by women police. Moreover, questionnaires developed in other countries cannot be used in India due to organizational and cultural differences in the police force. A review of literature of the instruments comprising the questionnaire for this study showed that they had been used to study stress in both male and female in other populations (Geick, 1998). To the investigator's knowledge, there is no exclusive instrument available to measure women police stress so far especially in India. Thus, specific measures of occupational stress need to be developed for women police in India and there is definite need for measuring sources of stress among women police personnel.

There are various theoretical models explaining stress. The concept of stress has variously been defined as both an independent and a dependent variable (Cox, 1985), and as a "process". Stress has been defined as a stimulus, a response or result of an interaction between the two, with the interaction described in terms of some imbalance between the person and the environment (Cox, 1978).

The purpose of the present study: (1) to understand the unique stressors in police work by interviewing women constables to identify major areas of stress in their occupation, (2) to develop tool to measure occupational stress, based on the focus group interview and also review of related literature, (3) to establish reliability and validity of the newly developed tool and, (4) to arrive at the factor structure of tool in the women police population. Hence, in order to achieve the objective of the study, occupational stress inventory was developed to measure the sources of occupational stress unique to women constables.

METHOD

In the present study, since the main focus is to identify the sources of stress, occupational stress is conceptualized as degree of unpleasant feelings and emotions experienced by women police when they are exposed to various stressors in their occupation.

A three phase development procedure was followed:

- Focus Groups
- Pilot-testing
- Main Study

Knowledge about the conceptualization of stress was obtained after extensive searches in books, journals, internet sources, libraries, etc. Many standardized and non-standardized instruments (both Indian and International) from various sources such as test catalogues, sample tools given in text books, handbooks of social and psychological instruments, related dissertations were studied before test construction. Review of literature was done to understand the sources of women police stress.

Focus Group Interviews

In phase-I, **Focus Group Interviews** with the target population (women constables) was carried out to gather information needed for the

development of the tool. It proved to be very useful for deciding the content and format of the inventory. The interview schedule with questions regarding stress of women constables was prepared prior to the focus group interview. Focus group interview was conducted among 35 women constables from all 4 units namely, local police stations, All Women Police Stations (AWPS-North Zone, South Zone, and Central Zone), Armed Reserve, and Battalions. This was conducted in 5 sessions. Each session consisted of 6-7 women constables. The details obtained during the focus group were noted down and later organized for clarity. The major sources of stress for women constables were identified by qualitative analysis of the focus group transcript. Rich source of data was organised in the form of focus group interview transcripts. Transcripts of these focus groups were reviewed for common themes and these commonalities served as the basis for an initial set of questionnaire items. The stressors which were reported repetitively by women police were those concerning organizational factors like job timings (24/7) and shift aspects, lack of holidays, the unpredictable nature of the job and inadequate maternity leave (similar issues were reported in the questionnaire also, as comments). Based on the information collected from various sources, an initial draft of the occupational stress inventory was developed. The total number of items generated was 208. The items were generated in such a way that the items were simple, clear, relevant and not double-barrelled. All the items were reviewed carefully by experts from the field for further refinement of the test. Based on suggestions, the dimensions of the occupational stress inventory were verified in light of theories, some of the items were modified to make it simple. Further, items were checked for their relevance in the dimension. Careful attention was paid to make the items free from the factor of social desirability and finally, irrelevant items were deleted.

Pilot Study

At phase-II, **Pilot study** was carried out among 100 women constables from both Chennai City and Suburban police. Based on the field experience and the results of the pilot study, certain modifications were made in the items to improve the clarity. After improvising the tool on the same, it was ready for the main study.

Main Study

In Phase-III, main study was carried out after completing the pilot study which tested the applicability of the tool for the main study.

Sample and Study Site

According to the Handbook on Police Department, Tamil Nadu State, as of January 2009, majority of women police were employed in Constable Rank. Hence, women police in constabulary ranks were only selected for the present study. This tool is intended to aid in addressing the stress of women constables. If stress of women police in this particular rank is addressed, consequently it can help in creating a healthy and efficient police force as they climb up the career ladder occupying more important ranks in the future.

Initially, Director General of Police, Commissioner of Police and Inspector General of Police-Armed Police in Chennai were approached to obtain permission. The details about the study and the scope of the research were explained to them. Upon their consent for the research, secondary data were collected for research purpose. Based on the obtained data, the study site and sample were estimated. The Chennai City is divided into north, south and central zone. The Chennai suburban City is again divided into three districts namely, St. Thomas mount, Ambattur and Madhavaram. TSP-II, TSP-III battalions were located in Chennai City. Data were collected from women constables working in the above said sites. The women constables who participated in the survey belonged to various units like Tamilnadu Special Police, Armed Reserve, Local and All women police stations. Random Sampling method was adopted to select the sample for the current study.

Data Collection Procedure

The researcher fixed a day that was mutually convenient to both the investigator and the police officials in each location. On the day of data collection, the research team met a group of women police, in a place arranged by the police department. It was emphasized that participation was entirely voluntary and anonymous. They were also asked for their consent to participate in the survey prior to the distribution of the booklet. The need and significance of the study were thoroughly explained to the women police and they were motivated to take part in the survey. The survey was conducted among 826 women constables in Chennai and the suburban city. Data was

personally collected from 826 women police Grade I and II constables in Chennai City and Chennai Suburban by the investigator. However, only 769 data were usable because of missing details. Table I shows the demographic details of the respondents. (Please see Table I at the end of Paper).

MEASURES

The newly developed Occupational Stress Inventory (OSI) along with other measures such as job satisfaction (Overall Job Satisfaction scale by Brayfield & Rothe, 1951), work-life balance (Hayman, 2005), neuroticism (NEO-FFI Form S by Costa & McCrae, 1991) and psychological well-being (GHQ by Goldberg, 1972) were used for the present study. The OSI was divided into 2 sections. The items in the first section of the inventory (factor named as operational hassles – Items 1-19 see Table IV) were rated on a four point Likert scale ranging from Not distressing (0) to always distressing (3). The second section of the inventory was again rated on a four point Likert scale ranging from Never experienced (0) - Always experienced (3). All the scores were added to obtain the composite score on overall occupational stress. The higher score on the scale indicated high levels of Occupational stress while lower scores indicated low levels of Occupational stress.

Other demographic details such as age, experience, marital status, grade level, workplace, and police unit were also collected from the sample.

DATA ANALYSIS

The scores of the sample in the present study were normally distributed. Descriptive statistics, Exploratory factor analysis (EFA) using oblique rotation, Cronbach alpha and correlation analysis, were used to address the objectives of the research.

RESULTS

Item Analysis

The data was initially subjected to item analysis using item-total correlation for 89 items and it is presented in Table II (Please see Table II at the end of Paper). The table also shows the mean and standard deviation of all the items. Ten items were deleted (3, 7, 8, 16, 28, 29, 37, 41, 49 and 52) based on certain criteria. The criteria are that mean

of an item should not be extreme and item-total correlation should be at least .35. The item-total correlations for remaining items were above their minimum expected values and ranged from .35 – .64

Factor Analysis-Construct Validity

An exploratory factor analysis was undertaken with SPSS Version 16.0 to examine construct validities by using principal component method for extraction, with Oblimin with Kaiser Normalization as rotation method. Factors with eigen values greater than one were retained (Hair, Anderson, Tatham & Black, 1998). Nine factors emerged in oblique rotation and the factor loading of items greater than 0.30 were retained. While labelling the factors, six factors were retained and eight items were deleted (38, 39, 55, 71, 72, 75, 81 and 88) as conceptually they do not fit into any dimensions based on their factor loadings. The factor loading patterns for the occupational stress inventory items supported a six factor solution. The details of eigen values and rotated sum of squared loadings of the dimensions are furnished in Table III (Please see Table III at the end of Paper). Again, second-order factor analysis was carried out to further explore the factor structure for underlying factors. However, all the factors converged to a single-factor solution and explained 69 percent of variance in occupational stress. This provides evidence for the stability of the items and the underlying constructs. The emerged dimensions were Operational Hassles, External Factors, Hazards of Occupation, Physical Working Condition, Women Related Stress and Supervisory Stress. The factor pattern for the scale is presented in Table IV (Please see Table IV at the end of Paper).

Reliability (Internal consistency)

The internal consistencies of the scales were checked with Cronbach alpha coefficient for establishing reliability (Cronbach, 1951). The coefficient alpha score in the order of 0.70 were expected. All the dimensions of the inventory were found to have coefficient alpha above their minimum expected values (See Table III). Occupational Stress Inventory was originally developed in English language. The sample in the present study can understand only Tamil language and not very proficient in English. Hence, it was translated into regional language (Tamil) using back to back translation method with the help of bilingual experts. Inter-rater reliability for the same was established with the help of three experts in the field.

Content Validity

Content validity refers to the degree to which a test measures an intended area, and experts in the field would be asked to judge whether the instrument is content valid in accordance with there searched theme. Accordingly, the questionnaire was given to eight experts in the field of psychology and criminology for establishing content validity. They judged the clarity, relevance and simplicity of the items. The items agreed by the experts were retained, and a few items were modified for simplicity and clarity, based on their suggestions. After taking care of the redundancy of the items, the total numbers of items were reduced to 89. Again the experts were asked to judge the instrument for content validity.

Convergent Validity

The purpose for giving other measures during data collection was to establish the convergent validity for the newly developed tool. Construct validity tests that constructs which are expected to be related are, in fact, related. Convergent validity, a subset of construct validity was tested through correlations analysis which explored the relationship of occupational stress to constructs like job satisfaction, work-life balance, psychological well-being and personality (neuroticism). These constructs are expected to be related to occupational stress. The Occupational Stress Inventory (OSI) showed negative correlation with various constructs like psychological well-being ($r = -.33$), work-life balance ($r = -.50$), job attitude ($r = -.38$) and positive correlation with neuroticism ($r = .29$). All the correlations were significant at .01 levels. This provides strong evidence for convergent validity of the inventory. This is presented in Table V (Please see Table V at the end of Paper).

Descriptive Statistics of the Scores

The mean and standard deviation of the dimension and occupational stress index scores for the entire sample are presented in Table VI (Please see Table VI at the end of Paper).

DISCUSSION

The major purpose of the present study was to develop an instrument to assess sources of stress among women constables. The Occupational Stress Inventory demonstrates sound psychometric properties, with good internal consistency and validity. The inventory exhibits content

as well as construct validity. Several steps were followed to finally arrive at the 71 item inventory to measure sources of occupational stress. The six factors that were extracted show some similarity to factors previously extracted in other studies of police stress. They are conceptualized as follows:

Operational Hassles

It is the stress experienced while carrying out everyday duty which includes, dealing with abusive cases, handling riots, making forcible arrests, etc.

External Factors

It is the stress arising out of external pressure other than police department such as public, politicians, judicial system and media. It involves stress due to non-cooperation of public, interference from advocates, Government officials.

Hazards of Occupation

It is the stress experienced by women police due to the vulnerability attached with the nature of their job such as hectic work schedule, working during holidays, unpredictable work assignments, hurried eating, etc.

Physical Working Condition

It is the stress experienced by women police due to certain aspects of their physical work environment such as poor infrastructure (lack of space), unhygienic working condition, inadequate manpower and poor basic facilities.

Women Related Stress

It is the stress experienced uniquely by women police because of their gender and the resultant poor status in the department. This involves performing duty during menstruation, facing negative attitude of co-workers and poor image of women in society.

Supervisory Stress

It is the stress experienced by women police due to the obnoxious behaviour of their immediate supervisors. This includes lack of recognition, ill-treatment, domination, humiliation by supervisors, etc.

The emerged 6 dimensions were comparable to past research on sources of stress by Abdollahi (2002), Police Daily Hassles and Uplifts scales (Hart, Wearing & Headey, 1993) and Wexler and Logan (1983). The general areas reported by women police officers as sources of stress were categorized as Operational hassles, External Factors (negative public attitude, media, and courts/criminal justice system), Supervisory Stress (organizational stressors), Hazards of Occupation, Physical Working Condition and Women Related Stress. The findings of the present study corroborates with the police stress literature (Bannerman, 1996; Savery, Soutar & Weaver, 1993; Slate, Johnson & Colbert, 2007).

Berg et al., (2006) insisted that daily routine work as well as police operational duties must be taken into consideration in assessing job stress and police health. Operational hassles dimension emerged as a source of stress in the present study, which is conceptualized as the stress arising out of operational duty as stated by Berg et al., (2006). Operational hassles and external source of stress has been reported by Slate et al. (2007) and Bannerman (1996) in their studies. Hazards of occupation as a source of stress was quoted by Abdollahi (2002) in his study. Savery et al. (1993) mentioned physical working condition dimension of occupational stress as noxious physical environment in his study. Women-related Stress and supervisory stress were also found in the literature (Wexler & Logan, 1983). Supervisory Stress was measured as part of Organizational Stressors in Police Daily Hassles and Uplifts scales by Hart et al., (1993).

All the above quoted studies supporting the dimensions of occupational stress inventory proved that the new psychological test has strong theoretical base. In addition, the inventory also has a rich information base in the form of qualitative data provided by women police through focus group interviews.

The tool has many applications in areas of research and interventions. The present tool probes into the unique sources of stress among women constables. The police force can be periodically assessed for prevailing sources of stress using occupational stress inventory developed in the present study. Unlike other stress tools which predominantly measures perceived source of stress (the stress that might be felt if certain situations were encountered), this tool measures the actual stress that has been felt by women police when certain situations are encountered.

Hence, this tool is beneficial in the aspect that it focuses on extracting actual feelings of stress associated with stressors encountered in the past six months. Appropriate stress management program can be conducted based on the knowledge of the various sources of stress. Moreover, this knowledge about sources of stress can help police organizations to develop appropriate policies and procedures, which would reduce the impact of those particular stressors on women police.

Routine occupational stress exposure appears to be a significant risk factor for psychological distress among police officers, and a surprisingly strong predictor of post-traumatic stress symptoms (Liberman et al., 2002; Pasillas, Follette, & Perumean-Chaney, 2006). The relationship between stress and health has received much attention over the years, with researchers demonstrating a consistent association between the two (Matthews & Gump, 2002); that is, the more stress people experience, the poorer their physical and mental health. So, this tool can be used to screen women constables at risk for poor mental health or psychological distress. Further, it can also be used for any future research in the area of occupational stress among women police.

Robust sampling procedure used in this study and more than 90 percent response rate are one of the major strengths of the present study, which makes the results widely generalizable. Occupational stress inventory is a self-reported measure and it can be further validated against any biological measures of stress like Electromyography (EMG), cortisol measures and blood pressure etc. However, in this study efforts were taken to directly administer the questionnaire after adequate briefing which would have reduced the bias associated with the self-report measure. This inventory is applicable for women police in constable rank and further research can be conducted keeping this tool as base to measure occupational stress for women police holding higher ranks in the police department. Moreover, this tool is exclusively meant for women police and cannot be used among policemen. Future studies can explore the nature of stressors among male police constables. Criterion validity and divergent validity can be established in future studies to strengthen the psychometric property of the tool. This tool can be used in studies involving women police from other states of India to test the generalizability of the tool. Confirmatory Factor Analysis (CFA) can be carried out in further studies to confirm the factor structure of the tool.

The OSI would be extremely useful to law enforcement for many purposes stated above. It is concluded that OSI is a self-rated measure of occupational stress among women police that has sound psychometric properties. The inventory could have potential utility in research and practice.

Acknowledgement

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Table I
***Demographic Details of the Respondents
participated in the Study (N = 769)***

Sl. No.	Variable	Category	%
1	Age	< = 26 Years	56.9%
		27-45 Years	43.1%
2	Work experience	< = 4 years	52.8%
		5-10 years	47.2%
3	Marital status	Married	45.5%
		Unmarried	54.5%
4	Education	10th/plus2	44.6%
		UG and PG	55.4%
5	Place of work	City	81.4%
		Suburban	18.6%
6	Police unit	TSP	45.1%
		AR	30.9%
		AWPS	16.4%
		LPS	7.5%

Note: UG-Undergraduates; PG-Postgraduates; TSP -Tamilnadu Special Police; AR-Armed Reserve; AWPS -All Women Police Stations; LPS -Local Police Stations

Table II
Item Analysis of Occupational Stress Inventory (OSI)

Item	M	SD	r
OS1	1.76	0.78	.38
OS2	1.64	0.82	.36
OS3	1.35	0.61	.07
OS4	1.81	0.90	.35
OS5	1.74	0.96	.39
OS6	2.16	1.11	.47
OS7	1.44	0.79	.28
OS8	1.37	0.73	.32

Item	M	SD	r
OS9	2.06	1.17	.43
OS10	1.77	1.01	.42
OS11	1.72	0.97	.37
OS12	1.54	0.87	.35
OS13	1.95	1.06	.44
OS14	1.91	1.12	.44
OS15	2.03	1.09	.43
OS16	1.41	0.78	.27
OS17	1.58	0.79	.36
OS18	1.85	1.01	.40
OS19	2.10	1.20	.39
OS20	3.05	0.74	.40
OS21	2.36	0.81	.45
OS22	2.22	0.79	.40
OS23	2.80	0.84	.44
OS24	2.95	0.92	.41
OS25	2.47	1.00	.55
OS26	2.80	0.87	.56
OS27	2.10	0.85	.51
OS28	1.26	0.61	.22
OS29	1.29	0.58	.36
OS30	2.70	0.83	.56
OS31	2.27	0.99	.56
OS32	2.83	0.88	.61
OS33	2.35	0.96	.60
OS34	2.55	0.99	.62
OS35	2.41	1.03	.58
OS36	2.32	0.99	.58
OS37	1.17	0.51	.23
OS38	1.59	0.74	.42
OS39	1.45	0.72	.36

Item	M	SD	r
OS40	1.88	0.87	.51
OS41	1.16	0.49	.30
OS42	2.50	0.87	.58
OS43	2.60	0.98	.55
OS44	3.34	0.84	.53
OS45	2.27	0.92	.57
OS46	1.95	0.95	.55
OS47	2.56	0.97	.58
OS48	2.98	0.85	.56
OS49	1.31	0.69	.33
OS50	2.75	0.85	.54
OS51	2.45	0.88	.56
OS52	2.78	1.06	.20
OS53	2.65	0.95	.51
OS54	1.51	0.81	.39
OS55	1.79	1.13	.39
OS56	2.30	0.91	.64
OS57	2.27	0.95	.61
OS58	1.92	0.89	.51
OS59	2.47	1.01	.61
OS60	2.64	1.01	.55
OS61	2.13	1.06	.58
OS62	2.25	0.94	.59
OS63	2.88	0.96	.52
OS64	2.61	0.96	.61
OS65	2.25	0.81	.48
OS66	2.00	0.83	.50
OS67	2.03	0.92	.55
OS68	1.77	0.82	.57
OS69	1.80	0.86	.47
OS70	1.77	0.98	.48

Item	M	SD	r
OS71	1.52	0.79	.33
OS72	1.88	0.85	.46
OS73	1.82	0.84	.46
OS74	2.07	0.92	.50
OS75	1.76	0.81	.42
OS76	2.63	0.96	.53
OS77	2.78	0.93	.51
OS78	1.75	0.96	.48
OS79	2.07	0.94	.51
OS80	2.02	0.88	.58
OS81	1.71	0.75	.44
OS82	1.94	1.00	.52
OS83	2.03	1.00	.52
OS84	2.10	0.86	.53
OS85	2.23	0.98	.57
OS86	2.52	1.01	.63
OS87	2.55	0.92	.60
OS88	2.12	0.94	.41
OS89	2.69	0.96	.50

Table III
Reliability and Factor Analysis Details of the
Occupational Stress Inventory

Sl. No.	Dimensions	Cronbach alpha (α)	Eigen value	Rotated sum of squared loadings
1	Operational Hassles	.90	5.3	9.6
2	External Factors	.83	2.74	8.84
3	Hazards of Occupation	.89	1.68	7.77
4	Physical Working Condition	.85	1.37	11.67
5	Women Related Stress	.87	1.27	9.54
6	Supervisory Stress	.88	1.82	6.71

Table IV
Factor Structure of the Occupational Stress Inventory

Sl. No.	Item No.	Dimension and items	Factor loading
Operational Hassles			
1	19	Being unable to charge one who is guilty	.71
2	10	Going for raids in lodge and brothel houses	.71
3	18	Making forcible arrests	.70
4	17	Handling various issues related to dowry cases	.69
5	14	Dealing with criminals who have influential background	.68
6	6	Seeing dead bodies in different condition	.68
7	9	Seeing brutal child abuse cases	.67
8	15	Delivering death news to relatives of victims	.66
9	13	Dealing with drunken people	.66
10	11	Handling riots, mob violence, bandh, goondaism etc.	.64
11	5	Dealing with the unreasonable demands of the accused/prisoner and their relatives	.61
12	4	Dealing with domestic violence cases	.56
13	12	Taking accused/criminals safely to the court	.54
14	2	Dealing with quarrels among people living in slums	.54
15	1	Using physical force during duty	.51
16	82	Irritated by waiting long hours in the court	.41
External Factors			
1	61	Annoyed by interference of government officials, politicians etc.	.66
2	70	Irritated by interference of advocates at work	.60
3	86	Bothered about lack of police powers	.58
4	89	Irritated about poor image of police projected by media	.57
5	84	Bothered by non cooperation of public	.57
6	40	Annoyed due to lack of equal respect in society when compared to policemen	.57
7	69	Upset by false accusations by public	.53

Sl. No.	Item No.	Dimension and items	Factor loading
8	66	Difficulty in facing negative temperaments of the public	.41
9	21	Worried over abusive/derogatory comments by public at work	.35
10	27	Annoyed by unreasonable expectations from people other than police personnel	.34
Hazards of Occupation			
1	26	Overburdened by working continuously without break	.64
2	30	Tired by long hours of work	.64
3	23	Difficulty in working in extreme climatic condition like hot sun/rain/fog	.58
4	22	Anxious about sudden inspection by superior officers on duty	.55
5	32	Physically exhausted because of standing long hours in field duty	.54
6	34	Anxious about unpredictable change in place of duty	.50
7	20	Irritated about hurried eating due to work	.46
8	42	Exhausted by too much travelling from place to place	.43
9	48	Difficulty about not taking food on time	.42
10	44	Pressure of working even during holidays and festivals	.39
11	33	Tension about unexpected sudden calls for duty while at home	.37
12	36	Troubled about night duty assignments	.36
13	50	Disturbed sleep due to nature of work	.31
Physical Working Condition			
1	43	Distressed by lack of privacy for women at workplace	.72
2	51	Suffering doing field duty in intolerable unhygienic places	.72
3	47	Bothered about lack of basic amenities in field duty	.71
4	53	Uneasiness due to lack of proper space at workplace	.70

Sl. No.	Item No.	Dimension and items	Factor loading
5	57	Suffering due to inadequate transport facilities for field duties	.57
6	24	Annoyed by poor toilet facilities at workplace	.56
7	59	Work pressure due to inadequate police personnel	.50
8	67	Bothered about lack of adequate office equipments and requirements	.47
9	83	Discontent about lack of proper furniture at workplace	.38
10	65	Annoyed by commotion due to crowding at workplace	.37
Women Related Stress			
1	77	Feelings of discomfort while performing difficult duty during menstrual cycle	.79
2	63	Distressed by parade march during menstrual cycle	.71
3	87	Agony due to suppressing emotions at public places, caused by unexpected work events	.67
4	64	Tensed about continuing work after regular working hours	.61
5	56	Stressed due to too much of work beyond physical capacity	.59
6	76	Tensed about superior not granting leave or permission in times of need	.59
7	85	Feeling hurt about working with coworkers who are insensitive to problems of women police	.51
8	60	Feeling hurt due to poor image of women police in the society	.44
9	45	Upset about sudden orders for long distance travel	.34
10	46	Frustrated about sarcastic comments by coworkers about your capability as police women	.33
Supervisory Stress			
1	79	Stressed on account of being forced to carry out work by the supervisor against willingness	.62

Sl. No.	Item No.	Dimension and items	Factor loading
2	78	Irritated doing personal works for superior officers apart from police duty	.61
3	68	Anxious about unrealistic expectations from superiors	.59
4	25	Annoyed due to domination by superior officers	.56
5	35	Annoyed about biased treatment by superiors	.56
6	62	Bothered about lack of support from superior when needed	.55
7	74	Agitated by humiliation of superior officers in front of others	.54
8	31	Frustrated about not being able to express ideas and opinions to superior officers	.52
9	54	Insulted by superiors using unrespectable words to call you	.49
10	58	Frustration due to lack of recognition/appreciation from superiors for a job well done	.47
11	80	Annoyed about too much of supervision	.43
12	73	Frustrated due to denial of opportunities to utilize skills compared to policemen	.38

Table V
Convergent Validity of Occupational Stress Inventory

Sl. No.	Variable	Neuroticism	Job satisfaction	Psychological well-being	Work-life balance
1	Occupational Stress	.29**	-.38**	-.33**	-.50**
1.1	Operational Hassles	.09*	-.09*	-.08*	-.18**
1.2	External Factors	.17**	-.26**	-.18**	-.36**
1.3	Hazards of Occupation	.34**	-.44**	-.38**	-.53**
1.4	Physical Working Condition	.22**	-.32**	-.28**	-.45**
1.5	Women Related Stress	.33**	-.43**	-.38**	-.54**
1.6	Supervisory Stress	.31**	-.42**	-.37**	-.47**

$** p < .01$ $* p < .05$

Table VI
Descriptive Statistics of Occupational Stress Scores (N = 756)

Sl. No.	Dimensions	M ± SD
1	Operational Hassles	13.5 ± 10.1
2	External Factors	11.3 ± 5.8
3	Hazards of Occupation	22.2 ± 7.4
4	Physical Working Condition	14.2 ± 6.1
5	Women Related Stress	14.8 ± 6.5
6	Supervisory Stress	12.3 ± 7.2
7	Occupational Stress Index	88.4 ± 34.9

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Illicit Proliferation of Precursor Chemicals in India

Rama Sundaralingam* & V. Balasubramaniyan**

Abstract

India, sandwiched between "The Golden triangle" and "The Golden crescent" is currently facing this new component in global illicit drug proliferation. Geographical proximity to major drug markets like Afghanistan on its western flank and Myanmar on its eastern flank, have made India very vulnerable to illicit drug trade. As a result of this unique position, India has become one of the major transit routes for South East Asia and Oceania.

IT is quite alarming to notice the recent trends in illicit proliferation of precursor chemicals in India. The detection of a clandestine Methamphetamine unit in Tamilnadu run by Iranian traffickers should be a serious cause of concern for the law enforcement authorities. When viewed along with dramatic seizures of chemicals like the largest drug haul of pseudo ephedrine worth Rs. 24 crores in Imphal in the North East, haul of Drugs and chemicals worth Rs. 130 crores in Punjab in the North, and repeated seizures of Ketamine, ephedrine in Chennai in the South goes to prove that this menace has spread across the length and breath of the country.

India which is sandwiched between "*The Golden triangle*" and "*The Golden crescent*" is currently facing this new component in global illicit drug proliferation. Geographical proximity to major drug markets like Afghanistan on its western flank and Myanmar on its eastern

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flank, have made India very vulnerable to illicit drug trade. As a result of this unique position, India has become one of the major transit routes for South East Asia and Oceania. However, apart from being a transit route, India has emerged as the single largest illicit supplier of chemicals which aid in production of drugs especially new generation drugs called synthetic drugs.

According to a United Nations Office on Drugs and Crime (UNODC) Report, 2012 titled *"Regional Trends : South Asia"*. India is among the countries most often reported as source of seized illicit precursor chemicals like ephedrine and pseudo ephedrine. India's illicit precursor chemical network have been supplying not only to Myanmar and Afghanistan but also to South East Asia, Europe, Africa, Balkans ,Gulf, Latin America and the Oceania. This rampant illegal proliferation is driven by diversions from ever growing legitimate industry which produces these chemicals for industrial, chemical and medical use.

Dual Use

The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 lists 23 chemicals under regulation. This convention deals specifically with "substances frequently used in the illicit manufacture of narcotic drugs and psychotropic substances". These substances are often referred to as "precursor chemicals" which have dual use – constructive as well as destructive. Precursors have legitimate scientific, chemical, industrial uses, hence is manufactured legally (Table 1).

Table 1: Dual use of precursor chemicals

Raw Material	Precursor chemical	Constructive Use	Destructive Use (Drug Producing Nation)
Coco Leaf	Sulphuric acid & Potassium permanganate	Sulphuric acid- auto mobile batteries etc Potassium Permanganate- Antibacterial, antifungal, disinfectant agents	Cocaine (Colombia, Peru Ecuador)
Opium	Acetic anhydride	Cellulose acetate, brake fluids, dyes, pharmaceuticals, polishing metals	Heroin (Afghanistan)

Raw Material	Precursor chemical	Constructive Use	Destructive Use (Drug Producing Nation)
Phenyl acetic acid	Ephedrine/ Pseudo Ephedrine Phenyl, Nor-ephedrine	Ephedrine-Used in Cough medicines Pseudo Ephedrine/ Nor-ephedrine- Nasal Decongestants	Methamphetamine (Myanmar) & Amphetamine (Europe)
Anthranilic acid	Acetic anhydride	Plastics, Pharmaceuticals and fine chemicals	Methaqualone / Mandrax (India)

Source: International Narcotics Control Board (INCB), 2012

Licit production and illicit diversion

India is one of the major producers of the entire precursor chemicals listed above. Precursors namely Anthranilic acid, Acetic Anhydride, Ephedrine, Pseudo Ephedrine and N- Acetylanthranilic acid meant for legitimate purposes have been categorized as "controlled substances" by Government of India. According to the International Narcotics Control Board report, 2012, China along with United States, India and Hong-Kong has emerged as the largest producer of Potassium permanganate

Table 2: Total output against total seizures Ephedrine and Pseudo ephedrine (2005-2009)

Precursor Chemical	India Export (Kgs) 2005-09	Global Export (Kgs) 2005-09	% India's contri-bution in Total output	Seizures Global (Kgs) 2005-09	Seizures India (Kgs) 2005-09	% India's Contri-bution in Total Seizures	Total estimated leakage in India (Kgs)
Ephedrine	901398	1195312	75%	129668	4207	3.4%	42070
Pseudo ephedrine	4202876	1928985	46%	38713	340	0.5%	3400

Source: Global and Indian Export data compiled from International Narcotics Control Strategy Report (INCSR), 2011

Note: *Ephedrine Seizure figures compiled from Annual Report of Narcotics Control Bureau of India (NCB), 2009.*

Pseudo ephedrine figures compiled from International Narcotics Control Board Report (INCB), 2010 (figures available only for 2006 and 2007).

The principal source for the illicit manufacture of synthetic drugs is precursor chemicals diverted from licit production units in India. However, some ambiguity always exists with relation to the exact production data which, in turn, can act as a measure to quantify

the percentage of leakage. India's estimated output for ephedrine is pegged at 500 tons which is manufactured at units located at Tamilnadu, Andhra Pradesh and Karnataka. However, to arrive at an indicative figure if we are to study the export data alone depicted by the INCSR, 2011 which shows an average of 180 tons of export per year from 2005-09, India contributes roughly around 75% of the total export output globally. For pseudo ephedrine, it contributes 45% of the total export output making India as the single largest manufacturer and exporter of both ephedrine and pseudo ephedrine. However, the seizure data indicates India's contribution at a mere 3.4% and .5% of the total seizures globally which is quite dismal.

India's estimated production capacity of Acetic Anhydride is pegged at 70,000 metric tones approximately with active production of around 75% of the estimated capacity. The manufacturing units are located mostly in the states of UP, Gujarat and Maharashtra. The diversion occurs through the borders of Pakistan and through misdeclared sea cargo mostly through Dubai. The seizure data indicate that Indian seizures (4,461 kgs) account for only 1.5% of the global seizures (3,28,485 kgs) between 2005-2009. Apart from contributing to Heroin production in Afghanistan and domestically, it also caters to the local illicit Mandrax/Methaqualone production. According to INCSR, 2011, India is one of the world's largest clandestine Methaqualone producers. Methaqualone (Mandrax) in pill and bulk form is mainly trafficked to South America and South Africa.

Theft and leakage from legitimate industrial sources at different stages of business cycle is the main concern. The leakage could happen at the initial manufacturing stage during export and import, or at distribution and transportation stage, or at the final stage of end use and disposal. However, there is no clear estimate as to how much leakage takes place in India.

The practical approach to determine the approximate leakage is the application of what the experts call as *"Ten percent rule"*. It is believed among experts involved in anti-drug operations that currently only 10% of the illicit drugs are or can be interdicted inspite of the best efforts leaving the other 90% to be diverted to their end use. Applying this *"Ten Percent Rule"* and working backwards, the estimated or potential leakage can be arrived tentatively at 42,070 kgs and 3,400 kgs of ephedrine and pseudo ephedrine in India respectively from 2005-2009.

This undetected leakage from either of the stages is then diverted to clandestine labs outside the country or to domestic labs which is a very recent phenomenon.

Clandestine manufacturing units

The real cause of concern for the Indian officials should be the fact that there seems to be a transformation in the illicit precursor chemical network in India. Diversions of these chemicals towards domestic clandestine manufacturing facilities have been witnessed recently.

The very first discovery of clandestine laboratory is known to have taken place in Kolkota in 2003 resulting in seizure of 24 Kgs of ephedrine and arrest of nationals from China and Myanmar. According to International Narcotics Control Board report, 2011, two illicit methamphetamine laboratories were seized in Mumbai and one methamphetamine laboratory was seized in the State of Himachal Pradesh in 2010. According to NCB report, 2011, one illicit ephedrine laboratory was busted in Mumbai closely followed by a significant discovery of illicit laboratory producing Methamphetamine by the officers of Directorate of Revenue Intelligence, Maharashtra.

Extent of the Impact

This illicit proliferation of precursor chemicals has got social, health and economic ramifications. The rampant drug abuse among the population places a very serious health hazard which affects the social fabric of this country, while growth and prevalence of organised criminal groups and terrorists is a real threat to India's internal security.

India is known to have around 3 million drug addicts, addicted to traditional drugs like Cannabis, Brown sugar and Heroin. However, concomitant with the global trend, Indians have started to use synthetic drugs on an increasing scale, a fact supported by increased discovery of more and more clandestine laboratories in India. Apart from the primary impact of drug addiction, another deadly impact is the incidence of HIV among the drug abusers in India.

According a New York Times report in 2012, Punjab which borders Pakistan is the most affected state in India wherein 60% of the total illegal drugs are seized. According to a 2012 report in Times of India, 73.5% of the young population of Punjab between the age group of 16-35 are drug addicts.

India's North East situated in the drug transit corridor has a high drug user rate. Situated close to the Chinese and Myanmar border, it is only natural that traditional drugs are replaced with new synthetic drugs. Incidence of HIV is also high among the youth. These drugs have also contributed to growth of criminal syndicates and terror groups which has abetted continuous violence in this region.

It has been observed that trading in illicit precursor chemicals have been used to fund terror activities in India's North East. According a Delhi Police Special Cell Report, 2011, members of the Kangleipak Communist Party (KCP) (MC) faction which is involved in a number of terrorist activities in the North East region of India have been arrested for trafficking in ephedrine. However, it is believed that some of the groups also levy protection money from drug traffickers who move drugs through that region or run clandestine processing units.

Internationalisation of drug syndicates

From 2004 to 2012, there have been several attempts to establish methamphetamine, and ephedrine manufacturing facilities in India. Involvement of foreign nationals from Iran, China and Myanmar is a testimony to the fact that local drug networks are being becoming more and more internationalised. This could pave the way for the criminal groups to be more organised aided by transnational groups. According to Narcotics Control Board, 1033 foreign nationals have been arrested for drug trafficking in India from 2007-2011 which has increased each year by 10%.

Traditionally, India has been used as a transit route for drugs which originate from other countries. However, with the advent of synthetic drugs, India has been the one of the largest source for precursor chemicals which acts as raw materials to manufacture synthetic drugs.

Recent discovery of clandestine laboratories run by organised criminal networks managed by foreign nationals clearly illustrates the transformation, transnationalisation, and cartelization of local networks. Attempts to establish clandestine captive manufacturing facilities is the real concern for the Indian officials.

Conclusion

Lesser number of seizures in the transit routes can point to the fact that traffickers have found new *modus operandi* to transport these

chemicals. However, when seen alongside with the reports of more or more attempts to augur the indigenous capacity points to the fact that these chemicals are diverted for increased domestic consumption.

There are multiple issues which impede the anti-drug war in India. Lack of awareness, corruption, inter-agency discords are a few that can be named. Inadequate data is also one of the main issues which hamper the progress. Absence of complete data on total production and seizure of precursors like Potassium permanganate proves to be a stumbling block. The intelligence and enforcement apparatus is also less intense over precursor chemicals as compared to traditional drugs like heroin, ganja, etc.

These synthetic drugs are a hit with the new younger generation which is the most worrying part. While the international community is focused on curbing Cocaine and Heroin, these synthetic drugs which are easy to make have spread like an endemic. It is imperative that the Indian Government and society take notice of this and take steps to combat this menace, failing to do so will be at its own peril.

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Site Characterisation through Diatom for Forensic Consideration of Yamuna River at Allahabad

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Keywords

Diatoms, Species, Drowning.

Abstract

Diatom study for site characterization in Yamuna River at Allahabad is most important for doubtful cases of drowning/dumping as well as for medico legal purposes. For present work four most prominent sites in relation to drowning/dumping was selected for diatom identification. After analysis it was found that presence of diatom species varies site to site. At site S_4, 23 species were found, 19 species was found at site S_1, S_2 and S_3. Whereas 19 species also found at all sites (S_1, S_2, S_3 and S_4). Therefore diatom study can be utilized for site characterization as well as for forensic consideration.

Introduction

Diatoms are unicellular photosynthesizing algae; they have a siliceous skeleton (frustule) and are found in almost every aquatic environment, including fresh and marine waters, soils, in fact almost anywhere in moist environment. They are non-motile, or capable of only limited movement along a substrate by secretion of mucilaginous material from a slit-like groove or channel called a raphe. Being autotrophic they are restricted to the photic zone (water depths down to about 200m depending on clarity). Both benthic and planktic forms exist. The benthic zone is the ecological region at the lowest level of a body of water such as in Ocean River or lake, including the

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sediment surface and some sub-surface layers. Diatoms living in this zone are called benthic diatoms whereas phytoplankton's inhabit the upper sunlit layer of almost all oceans and fresh water bodies.

Natasha and Aleksej, (2005) analyzed 29 cases of drowning and emphasize on the usefulness of the diatom-test to find the manner of death and stressed on the collaboration between forensic pathologists and specialist-biologists, who could work together to generate the diatom logic map of the waters bodies of that region. In this way, some rare types of diatoms can be identified and located, which can be of great help in pinpointing the actual site of drowning for forensic consideration.

Collection of Water Sample

About 360 water samples were collected in different seasons like in summer (March-June), Rainy (July-October), and winter (November-February) at various sites of holy Yamuna river of Allahabad and also last confluence region i.e. Below New Yamuna Bridge (S1), Old Yamuna Bridge (S2), Near Old Fort (S3), and Sangam (S4) for the presence of different diatoms. Water samples were collected at the bank, mid and across the river up to 1 meter deep. Before collecting the water sample in plastic container or bottle, it was washed with plenty of water for 3-4 times. Collected water samples were sealed with appropriate evidentiary tag and labeling. All four sites are very frequent spot, where cases of drowning and dumping are reported. These water samples were brought to laboratory for the extraction and identification of diatoms.

Extraction of Diatoms from Water Sample

Before extraction and identification of diatoms in collected water samples, it was shaken vigorously then transferred into the beaker then added with 2-3 drops of Lugol's Iodine solution, covered the beaker with aluminum foil and kept overnight. Next day the samples were first centrifuged at 1000-1500 rpm for 5-8 minutes to pellet, the particulate matter of the supernatant is discarded. In the last 5 ml of supernatant in the centrifuged tube is added approximately 10 ml of potassium per magnate, hydrogen peroxide and cone. Nitric acid as new digestion mixture in 5:3:2 ratios and the suspension was incubated at 45^0C for 2 hrs. It was re-centrifuged 3-4 times by re-dissolving the pellet in distilled water. At last pellet was washed with distilled water and used for slide preparation.

Identification of diatoms

Slides of pellets were prepared by putting a drop of diluted pellet on the microscopic slide and left it on hot plate for drying. Finally mounted with DPX and after fixing, examinations were done under the microscope at different magnifications for the presence of diatoms.

The identification was done according to standard international method in which the following parameters were considered such as Frustules diameter, raphe (centic, excentric), pseudoraphe. Semi cells, number of rows of punctuate, straie diameter, valve length, breadth, symmetry (convex, concave & straight) and their morphology and presence of band different parameters were studied by **Krammer, 2003; Werum and Lange Bertalot, 2004; Metzeltin *et al.,* 2005 and Vinayak 2012**.

Result And Disscusstion

The water samples collected from four different sites of Yamuna River and the confluence region (i.e. Below New Yamuna Bridge (S_1), Old Yamuna Bridge (S_2), Near Old Fort (S_3), and Sangam (S_4) over a period of 01 year (i.e. March 2008 to February 2009) were suitably extracted and isolated by new acid digestion method. The diatoms species identified during investigation representing to the Bacillariophyta (Phylum), Coscinodiscophyceae, Fragilariophyceae and Bacilariophyceae (Class) Melosirales, Thalassiosirales, Fragilariales, Eunotiales, Achnanthales, Cymbellalels, Thalassiophysales, Rhopalodiales, Bacillariales and Surirellales (Order) Melosiraceae, Thalassioriceae, Fragilariaceae, Eunotiaceae, Cocconeidaceae, Achnanthaceae, Naviculaceae, Gomphonemaceae, Cymbellaceae, Catenulaceae, Rhopalodiaceae, Bacillariaceae and Surirellaceae (Family). The presence of 61 diatoms species under 21 genera namely *Aulacoseira*, *Cyclotella*, *Melosira*, *Synedra*, *Fragilaria*, *Diatoma*, *Eunotia*, *Cocconeis*, *Achnanthes*, *Navicula*, *Craticula*, *Pinnularia*, *Gyrosigma*, *Gomphonema*, *Cymbella*, *Amphora*, *Epithemia*, *Rhopalodia*, *Nitzschia*, *Cymatopleura* and *Surirella* were identified after microscopic examination. The total number diatom constitutes 55 pennate and 06 centric species.

The identified 61 diatom were based on their morphological characteristics and shape of frustules (cell-wall), valve, raphe and symmetry. During investigation it was found that maximum 08 species of order- Cymbellalels, Family- Gomphonemaceae, genus- Gomphonema and species namely *Gomphonema acuminatum,*

Gomphonema clavatoides, Gomphonema constrictum, Gomphonema constrictum var. *capitatum* f. *turgidum, Gomphonema intermedium, Gomphonema parvulum* var. *exilissima, Gomphonema spheroporum, Gomphonema subventricosum were identified.* Where as the minimum numbers of species were identified from genus *Aulacoseira, Diatoma, Achnanthes, Craticula, Epithemia and Cymatopleura*. The identification of the diatoms was done as per international method.

Table1: Total identified genera of diatoms in collected samples with sites

S. No.	Identified Diatom	Location
1.	Aulacoseira granulate	Site 4 (Sangam region)
2.	Melosira Distans	
3.	Melosira granulata	
4.	Cyclotella kutzingiana	
5.	*Cyclotella operculata*	Site 1, Site 2, Site 3 and Site 4 (Common Species)
6.	*Cyclotella meneghiniana*	Site 4 (Sangam region)
7.	Synedra dorsiventralis	Site 1, Site 2 & Site 3 (Yamuna River)
8.	Synedra ulna	
9.	Synedra affinis	
10.	Synedra rumpens	
11.	Fragilaria capucina	
12.	*Fragilaria crotonensis*	Site 1, Site 2, Site 3 and Site 4 (Common Species)
13.	*Fragilaria intermedia*	
14.	*Fraglaria brevistriata*	
15.	*Diatoma vulgaris*	Site 1, Site 2 & Site 3 (Yamuna River)
16.	*Eunotia alpine*	Site 4 (Sangam region)
17.	*Eunotia tschirchiana*	Site 1, Site 2 & Site 3 (Yamuna River)
18.	Cocconeis pediculus	Site 1, Site 2 & Site 3 (Yamuna River)
19.	*Cocconeis placentula* var. *lineata*	
20.	*Achnanthes exigua*	Site 1, Site 2, Site 3 and Site 4 (Common Species)
21.	*Navicula cryptocephala*	Site 4 (Sangam region)
22.	*Navicula cuspidate*	
23.	*Navicula rostellata*	
24.	*Navicula chandolensis*	
25.	*Navicula grimmei*	Site 1, Site 2, Site 3 and Site 4 (Common Species)

S. No.	Identified Diatom	Location
26.	*Navicula gottlandica*	Site 1, Site 2 & Site 3 (Yamuna River)
27.	*Navicula radiosa*	Site 1, Site 2, Site 3 and Site 4 (Common Species)
28.	*Craticula halophila*	Site 1, Site 2 & Site 3 (Yamuna River)
29. 30.	*Pinnularia acrosphaeria* *Pinnularia gibba*	Site 1, Site 2, Site 3 and Site 4 (Common Species)
31.	*Pinnularia interrupta*	Site 4 (Sangam region)
32.	*Gyrosigma scalproides*	Site 1, Site 2 & Site 3 (Yamuna River)
33.	*Gyrosigma acuminatum*	Site 4 (Sangam region)
34. 35.	*Gyrosigma distortum* *Gyrosigma kutzingii*	Site 1, Site 2, Site 3 and Site 4 (Common Species)
36.	*Gomphonema acuminatum*	Site 1, Site 2 & Site 3 (Yamuna River)
37. 38.	*Gomphonema clavatoides* *Gomphonema constrictum*	Site 4 (Sangam region)
39.	*Gomphonema constrictum var. capitatum f. turgidum*	Site 1, Site 2 & Site 3 (Yamuna River)
40.	*Gomphonema intermedium*	Site 1, Site 2, Site 3 and Site 4 (Common Species)
41.	*Gomphonema parvulum var. exilissima*	Site 1, Site 2 & Site 3 (Yamuna River)
42.	*Gomphonema spheroporum*	Site 4 (Sangam region)
43.	*Gomphonema subventricosum*	Site 1, Site 2, Site 3 and Site 4 (Common Species)
44.	*Cymbella affinis*	Site 4 (Sangam region)
45.	*Cymbella cymbiformis*	Site 1, Site 2 & Site 3 (Yamuna River)
46.	*Cymbella turgida*	Site 4 (Sangam region)
47.	*Cymbella ventricosa*	Site 1, Site 2, Site 3 and Site 4 (Common Species)
48.	*Cymbella hustedtii*	Site 1, Site 2, Site 3 and Site 4 (Common Species)
49. 50. 51.	*Amphora rugosa* *Amphora ovalis* *Amphora veneta*	Site 1, Site 2, Site 3 and Site 4 (Common Species)
52.	*Epithemia sorex*	Site 4 (Sangam region)
53.	Rhopalodia brebissonii	
54.	*Rhopalodia gibba*	Site 1, Site 2, Site 3 and Site 4 (Common Species)

S. No.	Identified Diatom	Location
55. 56. 57. 58.	Nitzschia denticula Nitzschia sinuata Nitzschia subtilis Nitzschia palea	Site 4 (Sangam region)
58.	*Cymatopleura solea*	Site 1, Site 2 & Site 3 (Yamuna River)
60.	Surirella tenera	
61.	Surirella elegans	

Site Correlation of diatoms species (Water Sample)

The site wise distribution of diatoms species at all four sites are mentioned in Table No. 2 in which Yamuna River (Site1, Site2 & Site 3) contain 19 diatoms species, Sangam region contain 23 diatom species and 19 diatoms species are commonly spread over both Yamuna and sangam region.

Table 2: List of diatoms identified at Yamuna River (Site1, Site2 & Site 3), Sangam region (Site4) and Common species found at all sites.

Sl. No.	Diatom Species
(1) Yamuna Diatoms Species (Site1, Site 2 & Site 3)	1. Cymbella cymbiformis 2. *Cocconeis placentula* var. *lineate* 3. Cocconeis pediculus 4. Craticula halophila 5. Cymatopleura solea 6. Diatoma vulgaris 7. Eunotia tschirchiana 8. Fragilaria capucina 9. *Gomphonema constrictum* var. *capitatum* f. *turgidum* 10. *Gomphonema parvulum* var. *exilissima* 11. Gomphonema acuminatum 12. Gyrosigma scalproides 13. Navicula gottlandica 14. Synedra ulna 15. Synedra rumpens 16. Surirella elegans 17. Surirella tenera 18. Synedra affinis 19. Synedra dorsiventralis

Sl. No.	Diatom Species
(2) Sangam Diatoms Species (Site 4)	1. Aulacoseira granulate 2. Cymbella turgida 3. Cyclotella kutzingiana 4. Cyclotella meneghiniana 5. Cymbella affinis 6. Epithemia sorex 7. Eunotia alpine 8. Gomphonema constrictum 9. Gomphonema spheroporum 10. Gomphonema clavatoides 11. Gyrosigma acuminatum 12. Melosira Distans 13. Melosira granulata 14. Navicula chandolensis 15. Nitzschia denticula 16. Nitzschia sinuata 17. Nitzschia subtilis 18. Navicula cryptocephala 19. Navicula cuspidate 20. Navicula rostellata 21. Nitzschia palea 22. Pinnularia interrupta 23. Rhopalodia brebissonii
(3) Common Species found at all four sites (Site 1, Site 2, Site 3 & Site 4)	1. Achnanthes exigua 2. Amphora ovalis 3. Amphora rugosa 4. Amphora veneta 5. Cyclotella operculata 6. Cymbella hustedtii 7. Cymbella ventricosa 8. Fragilaria crotonensis 9. Fragilaria intermedia 10. Fraglaria brevistriata 11. Gomphonema intermedium 12. Gomphonema subventricosum 13. Gyrosigma distortum 14. Gyrosigma kutzingii 15. Navicula grimmei 16. Navicula radiosa 17. Pinnularia acrosphaeria 18. Pinnularia gibba 19. Rhopalodia gibba

Summary And Conclusion

In the present study, it was found that the reconstruction of drowning cases to correlate the drowning site is possible by diatom study of places of river or water bodies. The result obtained during the course of this experiment have been presented, discussed and interpreted in the light of diatom diversity, distribution and its significance in drowning cases reconstruction and the research work carried out earlier. Total 61 diatom species of 21 genera were identified. The diatoms are distinguished as 55 pennate and 06centric species. The diatom species found at Yamuna River (site, 1 site, 2 & site, 3) were 19, at Sangam region (site, 4) is 23 and commonly distributed diatom species was *Achnanthes exigua, Amphora ovalis, Amphora rugosa, Amphora veneta, Cyclotella opercula, Cymbella hustedtii, Cymbella ventricosa, Fragilaria crotonensis, Fragilaria intermedia, Fragilaria brevistriatab, Gyrosigma intermedium, Gyrosigma subventricosum, Gyrosigma distortum, Gyrosigma kutzingii. N. grimmei, N. radiosa, Pinnularia acrosphaeria, Pinnularia gibba, R. gibba* were found at all sites is 19. In relation to site *Navicula, Melosira, Nitzschia and Eunotia* were found at only site, 4 which indicated as site specificity. The diatom diversity and their distributions at different geographical locations were pertinent. The diatom study can be used as marker for solving number of drowning and dumping cases happened in the particular locality of the study area and site specificity of diatom assist in reconstruction of drowning cases very compressively.

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A Novel Fluorescent Small Particle Reagent Based on Eosin B Stain for Developing Latent Fingerprints

G.S. Sodhi* & Jasjeet Kaur**

Keywords

Abstract

A novel, fluorescent small particle reagent (SPR) based on zinc carbonate hydroxide monohydrate, $ZnCO_3.2Zn(OH)_2.H_2O$ – also called basic zinc carbonate – has been formulated. The other ingredients of the formulation are eosin B dye and a commercial liquid detergent. The composition develops clear, sharp and detailed fingerprints on non-porous items, after these were immersed in water or buried under soil for variable periods. It also detects fingerprints on compact disks without despoiling the stored data. The fluorescent nature of the reagent helps enhance weak, fragmented and chance fingerprints that are often found at crime scenes. The raw materials used to prepare the SPR are cost-effective and non-hazardous.

Introduction

SMALL particle reagent is considered to be a wet powdering method for development of latent fingerprints on broad spectrum crime scene evidence. It is sensitive to the lipid constituents of fingerprint sweat and is effective for processing fingerprints on articles that have been accidently or deliberately wetted [1]. In conventional small particle reagent, a suspension of molybdenum disulfide in a surfactant is used as a base material [2]. The crystalline dimensions of molybdenum disulfide are critical for fingerprint development.

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However, as the base material is gray in color, the fingerprints developed on dark colored surfaces are not sufficiently clear due to lack of contrast. A formulation based on white colored basic zinc carbonate serves to overcome this problem by developing sharp fingerprints on dark colored articles [3]. Titanium dioxide too may be used for preparing a small particle reagent formulation. It develops white colored fingerprints on plastic, glass and metallic articles [4].

Our interest in small particle reagent technique [5] prompted us to prepare a novel, fluorescent composition for detecting latent fingerprints on crime scene evidence that has been deliberately or accidently wetted. The new formulation contains a suspension of basic zinc carbonate, eosin B dye and a commercial liquid detergent.

Experimental

Basic zinc carbonate was purchased from Glaxo Laboratories, while eosin B was procured from Sigma-Aldrich. Genteel[R] liquid detergent was used as the surfactant.

Students and faculty members of our group with variable donor capabilities were asked to impinge latent fingerprints without prior washing and cleaning of hands. This ensured practical variability in the print samples. The entire project was conducted in winter season when the temperature was 18-20°C and relative humidity 30-75%.

Surfaces considered: Latent fingerprints were detected on aluminium foils and lamination sheets after these were immersed in water for 1 to 49 hours. Fingerprints were also developed on aluminium foils which were buried under wet soil for 24 to 50 hours. In addition, fingerprints were developed on different varieties of compact disks to ascertain whether or not the present SPR technique interferes with retrieval of stored data.

Shelf life: For evaluating its shelf life, the composition was kept in a glass beaker, covered with aluminium foil. Under ambient laboratory conditions, the test solution remained stable for about 50 days.

Evaluation of results: The quality of developed fingerprints was gauged on the basis of ridge clarity and degree of fluorescence, on a scale ranging from zero to 10, according to the criteria laid down by SWGFAST [6], as summarized in Table 1.

Table 1: Grading of developed fingerprints

Grade	Ridge characteristics
10	Good fluorescence, clear ridges, no background noise
9	Poor fluorescence, clear ridges, light background noise
8	Good fluorescence, clear ridges, substantial background noise
7	Poor fluorescence, clear ridges but background smudging
6	Poor fluorescence, clear ridges but lack of contrast
5	Only a few clear ridges, background noise
4	Only a few ridge characters identifiable
3	Number of ridge characters less than that required for identification
2	Lack of ridge clarity due to high background noise
1	Entire print smudged
0	Prints not developed

Procedure: To a suspension of 5.0 g of basic zinc carbonate in 75 ml distilled water, 0.015 g eosin B stain and 0.3 ml commercial liquid detergent were added. The contents were thoroughly mixed. The suspension was sprayed on the surface bearing latent impression. This surface was earlier immersed in water or buried under wet soil. After waiting for one minute, the item was washed under a gentle stream of water for 40 seconds and then dried with a hair dryer for 30 seconds. Clear and sharp fingerprints developed.

The same procedure was adopted for detecting fingerprints on compact disks.

The developed fingerprints were illuminated with radiation having 505-550 nm wavelength. When observed through red goggles, the fingerprints showed fluorescence.

Results and Discussion

Small particle reagent technique has proved its worth in detecting fingerprints on moist, smooth surfaces. The unique feature of the present formulation was its fluorescent nature. The fluorescence arose because of the incorporation of eosin B stain in the composition.

The reagent developed sufficiently clear and identifiable fingerprints on aluminium foil samples which had remained in water for up to 28 hours. Thereafter, the quality of developed prints decreases.

On lamination sheets, clear and sharp prints could be developed after 21 hours of immersion in water. Thus better results were obtained on aluminium foil as compared to lamination sheets. The presence of plasticizers in the latter item is believed to cause a lack of contrast with the background. The results are presented in Table 2.

Table 2: Quality of developed fingerprints with respect to immersion time

Surface	Hours (Grade)							
Aluminium foil	1 (10)	7 (9)	14 (8)	21 (7)	28 (7)	35 (6)	42 (6)	49 (4)
Lamination sheet	1 (10)	7 (8)	14 (8)	21 (7)	28 (6)	35 (5)	42 (5)	49 (4)

A sample fingerprint developed on aluminium foil after 7 hours of immersion is shown in Fig. 1.

Fig. 1: A fingerprint developed on aluminium foil

Fingerprints were developed on samples of aluminium foil after these were buried under wet soil for 24 to 50 hours. Before processing, the samples were washed under a gentle stream of water to remove adhering soil particles. Although fingerprints were developed even after a burial time of 50 hours, sharp and clear ridges could be visualized only in those samples which had remained buried under the soil for 38 to 48 hours.

The present composition was used to develop latent fingerprints on compact disks. The aim of this venture was twofold: Firstly to investigate whether it would be possible to develop fingerprints on compact disks by the novel formulation and secondly, what effect the detection method would have on the stored data [7].

We used the following commercial varieties of compact disks.

Recordable: Writex, Maxell, Moserbear, Eurovision.

Re-writable: Amkette, Moserbear

The present formulation proved successful in detecting fingerprints on all of the aforementioned varieties of compact disks. A sample print is shown in Fig. 2.

Fig. 2: A fingerprint developed on compact disk

The next move was to ascertain whether the data therein could be retrieved. We were also interested to investigate whether more files could be digitalized on those very compact disks. The developed fingerprints were erased by washing these with a gentle stream of alcohol-water mixture. Thereafter, the compact disks were allowed to dry under natural conditions. On inserting the disks in the computer system it was observed that the stored data was neither damaged nor despoiled. In fact, the data could be retrieved from all varieties of compact disks, both the recordable and the re-writable. Moreover, there was no problem in saving additional files on these compact disks.

Clear fingerprint development and excellent fluorescent characteristics were observed when a 14 days old composition was used to develop fresh fingerprints on aluminium foils and lamination sheets. After that the ridge quality begins to register a decline. Nevertheless, satisfactory prints could be developed even with 40 days old formulation. Moderate quality fingermarks could be developed on these two surfaces with 7 weeks old composition. The results are summarized in Table 3.

Table 3: Quality of fingerprints with respect to the shelf life of composition

Surface	Days (Grade)					
Aluminium foil	14 (8)	21 (7)	28 (7)	35 (6)	42 (6)	49 (4)
Lamination sheet	14 (8)	21 (7)	28 (6)	35 (5)	42 (5)	49 (4)

When developed fingerprints were illuminated with radiation of 505-550 nm wavelength, and observed with red goggles, the developed fingerprints emitted florescence. As a result, the quality of fingermarks enhanced in terms of clarity and details. Due to the fluorescent characteristics of the composition, it is possible to detect fingerprints on multi-colored items as well.

The present innovation has a wide range of applications. Not only does it work on moist non-porous items, it detects latent fingerprints on dry surfaces as well. The method is simple and even an amateurish hand may operate it.

The raw materials used for preparing the present small particle reagent are cost-effective and easily available. These pose no occupational hazard to the user. Eosin B is a non-toxic stain [8]. Zinc carbonate is an astringent and topical antiseptic. It does cause eye irritation [9]. However, this type of problem is encountered when dry powder is being used. When suspended in a non-volatile liquid like water, it is highly improbable that it would injure the eyes. Moreover, since the user would be wearing red goggles to observe fluorescence, the chances of eye injury are all the more remote. In comparison, molybdenum(IV) sulfide, which is used in conventional SPR formulation, is much more hazardous [9].

Conclusion

The small particle reagent composition involving basic zinc carbonate, eosin B stain and a commercial liquid detergent offers a convenient, cost-effective and efficient methodology to detect latent fingerprints on moist non-porous surfaces. Its non-toxic nature not withstanding, the composition has a relatively long shelf life of about 7 weeks. Its ability to detect weak and faint fingerprints by virtue of its fluorescent characteristics not only enhances its utility, but also its potentiality in casework investigations.

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Crimes Against Women Exploring The Police Response

Dr. Wakar Amin*

Keywords

Abstract

It is a hard known fact that the gender based inequality is an unfortunate occurrence in India, justified and backed by age old socio-religious beliefs. Male dominance primarily due to the patriarchal character of society has made women to be a silent sufferer of violence within and outside the four walls of home. Although the situation has improved as far as the empowerment of women within the politico-economic context is concerned but empowerment does not match the reality of the social situation, and issues such as women trafficking, dowry deaths, wife battering, rapes and female infanticide remain persistent in India. However, various legislations with a view to handle these issues effectively are in place but the rate of conviction is very less primarily due to the reluctance of victims to report the crime to police. This paper attempts to provide a picture of crime against women in India and in this background suggests various strategies to be adopted at various levels required to make police more gender sensitive and responsive towards the issues pertaining to crimes against the women.

Introduction

THE Problem of violence against women is not new. Women have been victims of humiliation, torture and exploitation for as long as we have the written records of history. In the patriarch dominated familial structure of society, women's position is of sub-ordination and dependency and their various roles ultimately determine

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their position in the family, which is never equal to male household head leading to various forms of harassment at the hands of males. The societal definitions of relationships within the family system place the women, particularly the wife, at a place which warrants for obedience and subordination. Ideologies, institutional practices and the existing norms in the society have contributed much to their harassment. The situation further gets intensified with the socio-religious practices like polygamy, veiling or purdah, restricted mobility, and less or at all no opportunities to improve their conditions. Therefore making them the silent suffers of social violence perpetuated by the males. This situation leaves the women in a state where, she is not only physically injured but also psychologically hurt. It is universally felt and declared that violence against women is an infringement of human rights of women in various international and national legal frameworks. It is in this context that the Declaration on the Elimination of Violence against Women adopted by the United Nations General Assembly in 1993 defined violence against women as *"any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life"*[1]

Unfortunately, the subordination and oppression at the hands of males forces women to accept the violence and brutality against her as something which has been in their destiny, resulting in less number of cases to be reported. While, the other reason for this has been found to be the apprehension among the victims that they will not get a proper hearing from the officers who are most often male (Bowker, 1982; Browne 1984; Stephans and Sinden, 2000). The Resultant wide gap between the number of actual incidents and the number reported to the police becomes more concretized in the event of any sexual offence, the reason being the social pressures within and outside the family on women to remain silent and blaming the victim. Possibly it is due to the shame of public admission, insensitive environment in the police station; in some cases there is lack of police response and the slow process of bringing the guilty to book.

When at times the victim crosses these barriers, the rate of arrest, prosecution and conviction of rapists are insignificant. One can argue that the low rate of conviction may be the limitation of the police to produce a charge sheet, a necessary step to pursue a case against

the offender. Delay in investigation or filing is especially detrimental in rape cases where physical evidences are not always available, properly collected or preserved or may lose forever. But one can see the increasing trend as far as the reporting of the crimes is concerned in our country, (both under IPC and SLL), a total of 2,28,650 were reported in the year 2011 as compared to 2,13,585 recorded in the year 2010. The trend can be seen in successive years since 2007-2011 with 1,85,312 cases in the year 2007; 1,95,856 in the year 2008; 2,03,804 in the year 2009 and 2,13,585 in the year 2010 and finally 2,28,650 cases in the year 2011 (NCRB, 2012).

While looking at the other forms of violence against the women particularly which take place within the four walls of home and are unreported to the police, wife battering is one among them. Such offences are usually the outcome of acts like dowry. As dowry related violence is widespread in our country. It is worthwhile to mention here that in the year 2011 alone 8,618 dowry related deaths were reported. However, in the year 1983 Criminal law made Cruelty to the wife by the husband or his relatives an offence, but unfortunately it focussed only on punishment, while failed to provide any immediate relief to women (United Nations Entity for Gender Equality and the Empowerment of Women, 2013).Similarly if one looks at the figures of rapes in our country, it has shown an alarming trend during 2009-2011, as a total of 21,397,22,172 and 24,206 cases of rape has been registered during 2009, 2010, 2011 respectively. ("Rising trend noticed," [RTNRCI], 2012).

Role of Police

In this backdrop the law enforcing agencies, particularly the police plays a complex and interlinked role with the communities they serve and the occurrence of crimes against women adds an extra layer of complexity to that relationship. The situation takes an ugly turn due to the fact that male perspective prevails throughout the judicial process viz the court, police and lawyers. As far as police is concerned, it is entrusted with the power to maintain the rule of law. In exercising this duty, police has to exercise vast powers. Moreover, issues like corruption, lack of commitment, negligence towards duty, political interference, ingrained cultural biases against women, discriminatory and lack of proper implementation of existing laws as well as indifference of the law enforcing agencies also perpetuates

directly or indirectly violence against women. As far as the prevention of incidents of violence against women, one cannot deny the fact that, there is a scope for police to act and prevent cases of recurring or continuing violence against women. For instance, prompt action followed by serious investigation from the police of a women being subjected to violence, may prevent the recurrence or continuations of such violence. In this regard there is a dire need for the police to shed its reluctance to be concerned with what is going on within the walls of home and between the husband and wife. Rather, it is their statutory duty to prevent the commission of such offences by intervening effectively. At the same time, it is also important that they act within the parameters laid down by law, in absolute good faith and with transparency. A good strategy in this regard will be to enlist the co-operation of Non-governmental organisation which should primarily involve active women's organizations and social workers in the police effort. To gain an acceptance in the larger society, Police is required to make a conscious and serious effort to change the discriminatory practices against women. It can be said that reorientation of attitude is essential for the police to change from a force to a service. The change can be initiated at the institutional/departmental level, Community level & individual/Personnel level (Shamim, 2001).

At Institutional/Department Level

- To understand the dynamics of crimes against women in India, there is a need for a comprehensive learning among the police personnel. The Police leadership should take the lead by provide training and specific orientation to the police personals and to various stake holders such as Social workers, doctors, magistrates, prosecutors and women folk. Furthermore, training of police personnel from senior to field level on women rights should be made mandatory and involvement of various academic institutions should be ensured for effective training. The whole focus of the training of police personnel should be on encouraging them to serve the society.

- The training needs to put more emphasis on the concept of Alternate Dispute Resolution (ADR) mechanism. The women officers are required to be given the specialized training on alternate dispute resolution technique in dealing with domestic disputes and domestic violence cases. Apart from this they need

to be given the training in interviewing the women victims of violence. This can help reduce the criticism which is often made by the public for the handling of women issues by the police. This training would help the women police officers in dealing with the various forms of disputes and the importance of alternate dispute resolution methods in handling the issue of domestic violence. The understanding of the ADR helps the women police officers to enhance their skills of policing concerning the issues of women violence (Natarajan, 2006).

• One more important aspect of training should be counselling. The women police officers in particular and male officers in general should be provided the training in counselling approach to the interviewing. The training should cover the understanding of counselling method, basic counselling techniques, ethical issues in counselling and characteristics of a counsellor. The training in counselling can equip the women police officers with the necessary skills to deal effectively with women who are victims of violence and resultant emotional stress. It is very important to understand that the counselling approach helps the victim express their thoughts and feelings clearly. The understanding and knowledge about counselling allows the women police officer to identify the victims who are in dire need of professional counselling. Since, the immediate goal of counselling is to provide a safe environment to the victim so that she is able to give vent to her feelings and feel relieved, while the long term goal of it is to enable the victim develop ability to cope effectively with the issues of violence and develop her potential to take right decisions for her life. Lastly, it is very important to understand that there should be no confusion as far as the role of women police officer is concerned, she has to be treated as the law enforcing officer rather than a counsellor.

• While enduring implementation of all the state and national legislation, corruption should be checked and eliminated particularly in regard to law enforcing agencies. There should be no political interference as far as the execution of duties of police is concerned.

• The authorities should ensure that a cadre of women police at all levels, from block level to state one should be set up. In this

process, in some selected areas where violence against women is endemic, special cells for dealing with women arrestees should also be established comprising trained women police officials. The reason for having women police focussed training is that, though some women police officers have a very considerable experience in handling the cases of violence against women but most of them have a very little theoretical knowledge of domestic violence. This would help the police officers to develop an understanding of the issue so that they handle the victims who seek police help.

• The involvement of research institutions so as to identify the training needs should be encouraged. All new training programs should be rigorously evaluated through research.

• There should be increase in the female police personnel in the police force. There should be increase in the number of police stations in the country. Though the number of women police in states has increased to 71,756 in the year 2011 from 56,667 in the year 2009 and the number of all women police stations has increased to 442 in year 2011 from 342 in 2009 (RTNRCI, 2012).

• The police can strengthen the organisations working on women rights by way of establishment of networks of women support groups, NGOs, counsellors, religious institutions, psychiatrists and psychologists to provide the best possible service to the women victims of violence.

At Community Level

Forging partnerships between police and people is a concern of all democratic governments. The improvement in policing is part and parcel the developmental process itself. The efficacy of policing will be nullified unless the community is taken into consideration. Against the backdrop of growing numbers of crimes against women, ensuring community participation in the prevention and control of crimes against women, Police-Community participation is needed. The concept of community policing finds a special place within this scenario (Sandya, 2010).

• The community policing helps in building the relationship between the police and community and will further enhance the

crimes prevention and work efficiency. The department can take a lead to work with religious and traditional leaders in order to spread the awareness about domestic violence, making them very much aware and active preventing crimes against women in their communities. These should include sustained public awareness activities aimed at changing the attitudes, beliefs and values that condone violence as normal.

- The police can initiate formation of village level committees of non-political character, having members from all sections of the society. The committee shall meet frequently to discuss the issues and search for resolutions. For instance, the issue of wife battering or dowry, which was usually perceived as a private matter to be solved within the family itself can be solved by making both the parties reach a common settlement. This can be a very important mechanism to make physical environments safer for women, through measures such as identifying places where violence often occurs, improving lighting, and increasing access to police.

- Community leaders such as Sarpanches, Panchas, Pujaries, Imams (religious leader) should be provided information and awareness about the issues of violence against women in their communities.

At Personnel Level

- The first and foremost thing is that the personnel should consider women's rights as human rights.

- The programmes on gender sensitizations are to be organised at regular intervals. They should be re-examined for effective usage.

- There should be an improved understanding of the importance of women in dealing with the domestic disputes and violence. There is a need to understand the fact that the violence against the women is a serious crime rather than a personal/private affair, and dealing with such crime should be viewed as a major function of women police. The responsibility to investigate the sexual crimes should be given to the women police personnel, particularly in the event of sexual crimes.

- The concerned police personnel should develop ability to be empathetic and patient to the women who comes to the police station for seeking help. While lodging a complaint, the women should be given an attentive listening and necessary measures in accordance with the provisions of the laws so that she gets justice.

- Searching of a woman should be done by a female police officer only.

- When women are in custody as accused or complainants, female police personnel should be deployed.

Conclusion

The crimes against women are rising in our country and the response that society has shown towards it has not been very much proactive. There is no denying the fact that law enforcing agencies, particularly the police has been playing its role, but its actions and involvement in curbing the crimes against women are to be focused on being more gender sensitive and responsive at personnel, institutional and community level. Similarly, the policing policy in our country should acknowledge the need of the important role of women officers in dealing with crime against women. The proposed suggestions with regard to the changes to be taken at these three levels by the police will ensure greater acceptance and involvement by the society, and encourage women to seek help from the police so that crimes against women can be checked, and even if they occur, are reported to the police.

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Interview of
Shri Rajan Gupta, D.G., BPR&D

Interview with Shri Rajan Gupta, IPS, DG, BPR&D by DSA is being reproduced as it contains many vital inputs, informations and insight into policing and internal security of the country.

DSA: BPR&D was established in 1970 as the apex body mandated to find solutions to multifarious police and policing problems. How do you view the evolution of the organisation since its inception and the significant role it has come to play in the arena of national security?

DG, BPR&D: The Bureau of Police Research and Development was set up in August 1970 with a view to undertake systematic studies of Police problems and is responsible for promoting the application of science and technology to Police work, improving and developing training programmes of the Police Forces at the Centre and the States. It also advises the Central Government in the matters of development and modernization of Police Forces. Training Directorate was set up in BPR&D in the year 1973 to review the process of training and identify future training needs of police personnel in the country. Responsibility for overseeing certain aspects of Correctional Administration work was entrusted to the BPR&D in 1995.

In the year 2008, the Central Government created National Police Mission Directorate under the administrative control of BPR&D to transform the Police Forces in the country into effective instrument for maintaining internal security and facing the challenges in future, by equipping them with the necessary material, intellectual and organizational resources. The National Police Mission also is a laudable initiative and can substantially change the pace of Police Reforms and Modernization.

As the then Union Home Minister in 2009 had stated that- "BPR&D has a mandate to promote excellence and best values in policing, invest in research & development, seek and secure appropriate technology for optimum performance and invest in human resource development & training. It has the challenging task of formulating a strategic vision for our police forces to meet future challenges and build the police as a professional service".

DSA: Rapid Industrialisation and urbanisation are transforming the Indian Society at an unprecedented pace. What are your guidelines for the central and state police forces to maintain harmony and peace in society?

DG, BPR&D: It is a fact that rapid industrialisation and urbanisation are transforming the Indian society at an unprecedented pace. Like other organisations BPR&D is also serious to resolve this problem.

We have approached 14th Finance Commission for additional resources for training and police infrastructure upgradation.

Due to rapid industrialisation the rivalry between the major All India Trade Unions affiliated to different political parties is a cause of perpetual tension and conflict. To reduce this type of tension and conflict many suggestions have been submitted that include:

Police Stations nearby industrial areas should be equipped with sufficient striking force to control labour unrest.

Senior Officers of adjoining areas should hold frequent cooperation meetings.

Constitution of Labour-Management Liaison Committee (LMLC) in each industrial area with participation of all stakeholders.

Urbanisation also results in increasing communal tensions. In this regard Bureau has suggested (a) to take steps to develop a culture of secularism, communal harmony in the society itself through education inputs starting from schools (b) to set up committees of police-public co-operation at District and Police Station level with a view to promote communal harmony, maintenance of law and order and police-public cooperation and to take measures to prevent commission of general crime against weaker sections of the society. We are sponsoring training programmes of State Police on crime against minorities, women, SC & ST and weaker sections of the society. We also fund

training programmes/workshops on gender sensitisation of male & female police personnel of States and CAPFs.

DSA: Information technology is playing a critical role in almost all spheres of policing and security. How is BPR&D taking advantage of information technology to strengthen its operations and delivery systems?

DG, BPR&D: All the important publications of BPR&D like Data on Police Organizations, Indian Police Journal, and Model Police Manual are available on the BPR&D's website. It also has updated information relating to training calendar and nominations, events organised by BPR&D, status of projects and studies carried out by BPR&D and all other information relevant to our working.

We are planning to reduce the paper work by going for e-office. We also plan to have a Training Web-portal in place that would have all information related to training and would make the complete training process and data base more interactive, user-friendly and efficient.

DSA: Anti-national elements and enemies of India have graduated to using hi-tech gadgets and equipment, satellite communication and digital deception devices for anti-national and disruptive activities. What is BPR&D's road map for modernisation of police forces and proper utilisation of the allocated funds?

DG, BPR&D: "Police" and "law and order" is a State subject and it is primarily the responsibility of the State Governments to modernize and adequately equip their police forces for meeting the challenges to law and order and internal security. The Ministry of Home Affairs (MHA) has been supplementing their efforts and resources through Modernization of Police Force (MPF) Scheme which has been under implementation since 1969-70. Based on the assessed deficiency in infrastructure and other requirements of the State Police Forces in a study done by BPR&D in 2000, the annual allocation under MPF was substantially enhanced from 2000-01 onwards to counter the challenges of terrorism and militancy effectively. Areas of mobility, police buildings, police housing, weaponry, communication and other equipment, forensic set up, training, etc. are covered under the scheme. MPF Scheme has been further extended for a period of five years from 2012-13 to 2016-17. The sum of Rs 12,379.3 Cr is being allocated for Police Modernization. Operational details can not be shared.

Modernization Division of BPR&D also carried out a study on Impact Assessment of Security Related Expenditure (SRE) Scheme. Under the Scheme, Naxal affected States are reimbursed the expenditure incurred by them on Anti-Naxal operations. A study on proper utilization of funds under Special Infrastructure Scheme (SIS), which caters to strengthening/fortification of police stations in Naxal affected areas, is also being done.

BPR&D Organises presentations and demonstrations on the latest products and technologies to increase awareness and to bring knowledge sharing among the security forces. On MHA's requests, BPR&D evaluates and gives recommendations on various proposals of CAPFs related to new establishments and modernization. BPR&D is also closely associated as one of the technical members in Sub-groups for formulation of Specifications and Trial Directives of various security equipment. We update States/CAPFs on latest technology in the market through Power Point Presentations.

Taking feedback from State Police Forces on deficiencies and their requirements for the coming years under the MPF scheme is an important step in properly equipping our security forces. BPR&D is in the process of compiling data on this which will help in framing a better road map and proper utilization of funds.

Twenty Counter Insurgency and Anti-Terrorism Schools (CIAT) are already imparting specialised training for countering terrorism, insurgency and Left Wing Extremism to Police officers of the States.

DSA: Training of the personnel and upgradation of skills is an important and ongoing professional function in all security forces. How does your Training Division help the central and state police forces to stay motivated and fighting fit?

DG, BPR&D: Training division of BPR&D conducts training programmes for officers of state and central police forces on contemporary issues related to police and security from time to time. The skills are being upgraded through vertical interaction courses and management programmes for IPS and senior police officers to equip them with the latest managerial techniques. The skills of middle level police officers are being upgraded through anti-terrorism assistance courses in collaboration with US government, Developing Specialist Investigator

courses, and advance courses on Investigation and Detection of Crime in CDTSs and state police academies to equip them with the latest knowledge of advancement in forensic science and technology.

Courses for capacity building in counter terrorism and insurgency skills for police and security for cesare conducted in CIAT Schools. For capacity building in the area of Traffic Management and Coastal Policing, training division is in the process of establishing "National Institute for Traffic Management and Research" at Bhopal and "National Institute of Coastal Policing".

The training division has launched Training Intervention Schemes for capacity building and training of police and security forces.

DSA: Leading experts around the world think that training programmes for police and security forces must now include psychological stress management modules in addition to the mandatory physical, professional and combat trainings. What are your views on this?

DG, BPR&D: The job of police and security personnel is highly demanding both physically and mentally. We often see complaint reported by public of misbehaviour by police. A module on "psychological stress management" is an essential component in almost all the courses of the police training academies.

DSA: Exponential growth in the number of private and commercial vehicles, indifferent attitude towards road safety etc. have made travel on road a nightmare for most commuters. How can BPR&D help in making driving safe and a pleasure for all stakeholders?

DG, BPR&D: BPR&D, being the nodal agency for research and development on various Policing issues, is constantly engaged in dealing with road safety management in an endeavour to define a definitive way forward in reducing the burden of road traffic injuries and deaths in the near future.

Some of the efforts taken in this direction are:

- BPR&D has taken up a research study on "Stricter laws for drunken driving and Standard Operating Procedure for the Traffic Management". The study is being carried out by the Indian Institute of Road Traffic Education, Delhi.

- BPR&D conducted a national level three day Workshop on "Strengthening Traffic Management Systems for Improving Road Safety" in New Delhi on 5, 6 & 7 December, 2012. Recommendations and proceedings of the conference were circulated to all the States and UTs.

- A research study was conducted on "Study of Pattern of Fine Collection Against Traffic Related Offences and the Amount of Funds Generated" in 2010 which helped in identifying training, use of modem tools and systems, estimation of social loss due to road accidents and investment in the field of road safety as focus areas.

DSA: Crime against women and their safety and dignity have become national ignominy compromising age old Indian values. What can BPR&D do to salvage the situation and ensure safety, security and dignity of women in India?

DG, BPR&D: Our role in women's safety extends to-

- Sponsoring training programmes on gender sensitisation

- New projects under Micro Mission no. 7 by consultations

- Organising workshops on women's safety, empowerment and preventives on crime against women.

Recently, National Police Mission under BPR&D has created a new micro mission on "Gender Crimes & Gender Related Issues". The Micro Mission is working on strategies for prevention, investigation and prosecution of crime against women. It is also proposed to undertake a performance audit of all women police stations so as to assess their functioning and suggest improvements, if any in co-operation with states.

BPR&D organizes National Conference for Women in Police every two years. Sixth conference was held recently at Guwahati in collaboration with Assam Police. This conference deliberated on strengthening women policing and increase their role in professional performance.

DSA: As head of BPR&D, what is your vision for the organisation and what thoughts and ideas will you like to share with the people of India and DSA readers around the world?

DG, BPR&D: BPR&D plans to embark on creating more specialised centres for training in subjects which are the need of the hour like Counter-Terrorism (for Investigating Officers of the police stations), Coastal and Riverine policing, Vehicular traffic management and Road Safety, specialised skills for specialised jobs apart from general skills for each police officer, schools for mountains, deserts and jungle operations, specialised training centres for horses, camel and dog squads, Cyber Forensics, Cyber Investigation and Cyber Security, etc.

For SAARC, it is our determination to provide more and more training inputs and updated police knowledge to SAARC countries.

It is also our endeavour to update knowledge of our best police officers in specialised police operations in coordination with FBI, ATA programmes of USA and thus make Indian Police as one of the best in the world.

All our efforts are directed towards fulfilling our vision of promoting excellence in Police by investing in research & development, proper training, fostering scientific temperament, modernization and promoting best values and practices in Policing at par with advanced countries.

The modernization of Police Forces and training of Police personnel is a continuous process. We would continue· to invest in research and developing relevant policies and practices for the betterment of police services.

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What is Good Police Performance
by J.S. Pandey, Published by SVP National Police Academy, Hyderbad

Badrish Pandit*

THE study by Shri J.S. Pandey, former DGP Uttarakhand focuses on the issue of judging Police performance in India at the two different levels- the qualitative versus quantitative indicators and Colonial versus Democratic indicators. The author has endeavored to judge Police performance in India not merely by the officially adhered process of laying undue stress upon the Crime statistical figures, but from the perspective of ethical issues and client satisfaction as alternates, which are far more important than reduction in crime figures and increase in detection, prosecution or conviction figures. By advocating issue of ethics and client satisfaction in police performance evaluation, there is an obvious effort at delinking police performance from the routine crime-statistics model, currently in vogue.

The average police functionary in India is under constant pressure by Media, Police Leadership and society as their performance or lack of it is judged purely in terms of the rise and fall in crime statistics. The pressure to manage crime statistics results into the unethical practices like non-registration of cases, burking of crime, use of third degree and framing of innocents.

The author has made a sincere effort to press his case for evolving an effective police management system, focused on ethical or value based and quality policing.

Performance appraisal for Policemen at individual level follows the strait jacketed ACR based approach, while the appraisal at the organizational level i.e. Police station, district or State Police is judged in terms of isolated incidents of crime or public disorder or on the basis of crime, arrest, prosecution and conviction rates.

Author Intro:
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The study seeks to make a break with the past by advocating a multi-dimensional approach towards assessing police performance, to delineate how a proper evaluation requires a new and fresh re-think on goals of the policing and the means allowed to achieve them in a democratic set up through constantly devising , implementing and evaluating various strategies centered upon proactively solving the crime and the disorder. It seeks to evolve a culture where mistakes are a source of learning rather than an excuse for punishment for failure to produce results.

The USP of the concept lies in attempt at improving the system for better performance of the organization as a whole rather than individual officer, whose innate potential and motivation it seeks to harness by creating congenial environs of openness, integrity and trust built into the system.

This survey follows a multi-dimensional approach by taking into account the following concerns –

● How police in India has measured its performance at various levels?

● What has been the experience of other countries in this regard?

● How to develop a performance measurement system which can do justice to broad spectrum of activities which police undertake?

● In addition, how a force can judge performance of its units at district and Police Station level, and how the entire force's performance can be assessed by the government?

The method chosen for the study was a thorough scrutiny of reports and returns produced by police departments of States, reports of various commissions and committees set up by State and Central Governments with regard to Police reforms, media representation of police work, scholarly works on policing undertaken both in India and abroad. The study, at its outset, brings home the universal observation that has been prevalent since beginning of modern policing, that crime and detection figures cannot measure police performance, primarily because many factors affecting crime and detection are beyond the boundaries of police organization.

The means that are used by Police to achieve twin objectives of less crime and more detection are no less important. The legitimacy of these means is an important end in itself. The framework for ensuring the

legitimacy of the means adopted by the Police for achieving the ends of the prevention of the crime and maintenance of order is enshrined in our laws (in the sense that Police activities must be lawful), and guided by the ethics of human rights stipulating respect for civil rights and dignity of all citizens with whom Police comes into contact.

A review of experiences abroad with reference to UK, US and Australia has been done in laying down the performance criteria for the Police. Considering the diversity of Police work in India and abroad, and efforts to make Police accountable to these various expectations, the study seeks to evaluate separately the details of various dimensions of the Police work viz responding to petitions and calls for service, prevention of crime, management of crime and law enforcement, maintenance of public order, counter terrorism, organized crime and information and resource management.

The subject matter of this study also encompasses the assessment of Police conduct, its compliance with due process and role of Police leadership at apex and lower echelons.

The study does not confine to mere assessment of the police performance indicators but in its conclusion recommends a qualitative analysis of the police performance, so as to inculcate a culture of integrity in Police department as a whole, and obviate the pressure for outcomes like reduced crimes, detection pressures leading to all kinds of Police misconducts. It also makes a case for impressing upon the politicians, general public and civilian bureaucracy of the limitations of police effectiveness on account of the means of humanitarian and lawful interventions placed at their disposal, so that they have a kind of compatible expectations about Police performance and not to expect Police to fulfill an impossible mandate of the prevention of all crimes and disorder without oppressive social control, denial of liberty and over policing. The study suggests that overemphasis on use of crime and criminal statistics approach severely impact ethical standards in the whole Police set up, giving rise to organizational misconduct (rather than just individual deviance) which blunts the effectiveness of police leadership, viewed as being complicit in the wrong doings of field officers. The study advocates a localized approach to assessing the Police performance, encouraging discretionary powers to local officers and high degree of professional autonomy.

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