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Editorial

Policing these days is becoming more complex and complicated. The technology, in particular the Information Technology driven globalized world is throwing up new challenges and problems before policing. In such a fast changing scenario, policing to be more effective has to be in sync with changing exigencies and expectations. The police must measure up to these expectations and exigencies to remain in driving seat.

For that Indian Police not only needs brain, brawn and modern gadgets & weapons, but also some sort of operational freedom with proper checks and balances. The conspicuous lack of it for long duration can lead to disastrous results.

Bihar is the most glaring example of the predicament that Indian Police has to operate. In 1950s, Bihar alongwith UP was the best administered state in India where police used to have upper hand. Now Bihar is not at all rated so as far as policing and law & order is concerned. The reason for this, among other things, is too obvious to mention.

However, it is heartening to note that the realization about this unsatisfactory state of policing has dawned upon all the stakeholders in effective and efficient policing. Many innovative measures have been introduced to ensure expected quality of policing.

If proper measures, in form of Police Reform and other related changes, are not effected, what happened in Bihar might be replicated at national level. The history might repeat itself at national as well as state level. And when history repeats itself, it crushes those with unprecedented ruthlessness who refused to heed its latent and manifest lesson.

Hence, the time is ticking fast for outright Police Reform which has not yet seen the light of day. Its fate hangs in balance, which is not in interest of nation. Any delay in effecting Police Reform would further complicate the matter. As it is a sort of vicious circle from which policing can be freed only with thorough and overhaul change. Till then, it is the proverbial game of cat and mouse.

Coming to articles in this issue, we have a score of articles which highlight inherent capability of Indian Police and its success stories in various fields. These also substantiate the fact that given the right atmosphere and motivation and resources, Indian Police can rise up to any situation. Whether it be bagging the award of Best Police Station in world or mastering any counter-insurgency and anti-terrorism operation, or controlling cyber crime, Indian Police is just matchless.

The article '**.… And First Prize Goes to India: A success story of Rajsthan Police'** by Dr. S.K. Kataria showcases the success story of Rajsthan Police and how one police station of Jaipur city – Shipra Path Police Station - was declared as world's number one ideal police station. It is a tribute to hidden potentiality of Indian Police that can be harnessed to its full potentiality, if provided with right leadership and motivation.

Shri A.P. Maheshwari, in his path-breaking article '**Operation Aman: A CRPF Initiative on Bridging Gap with People of J & K'** argues that counter-insurgency and anti-terrorism initiative can be successful only when peoples' heart are won over. While discussing 'Operation Aman' which is a CRPF initiative to win over the hearts of J&K people that have been poisoned by years of propaganda and venom spewing, he

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Editorial

asserts that winning people's support is a must for the success of any counter- insurgency or anti-terrorist drive.

'**Abuse of Child Domestic workers in India: Crisis and challenges'** by Ms. Debasree Lahiri deals with plight of child domestic workers in India. Despite many national and international laws, they are still being subjected to abuse and human rights violations. This burning issue merits urgent intervention by respective agencies of the State.

Dr. Deepti Shrivastav, in her well-researched article, **' Problem of Tuberculosis in Indian Prisons'** discusses the problem of Tuberculosis in Indian Prison. She put forward some innovative remedial measures which can tackle the problem of TB in Indian prisons.

'**Maritime Terrorism and port Security'** by Dr. Shikhar Sahai delves into nuances of maritime terrorism and port security. He discusses the actual and potential threat that maritime terrorism poses to our ports as well as to our strategic and trade interests.

Prof. Balraj Chawhan and Dr Mridul Shrivastav, in their article, '**Offender Management: A Challenge for the Prison Reform Initiatives in India',** discuss the nitty-gritty of offender management. They argue that better offender management would lead to better prison reform initiative in India, which is the need of hour.

Shri Sankar Sen, IPS (Retd.) in his innovative and timely article, **'Noble Cause Corruption'** analyses the various aspects of noble cause corruption. He does not seem to be approving frequent resorts to noble cause corruption. As he comments "….very often many acts of noble cause corruption can not be reasonably justified when they are individually considered. "…. Most instance of police fabricating evidence or excessively using force have not been done to save the life of anyone in danger."

The article **'Road Signs – A semiological Study'** by Shri P.S. Bawa,IPS (Retd) discusses the road signs and its semiological aspects. Shri Bawa asserts that road signs should be taken seriously by the road maintenance and law enforcement agencies. These should not be left to fend for itself.

Shri K.P. Singh, IPS, in his article, **'The Right to Information: Police Predicament'** deals with police predicament vis-à-vis Right to Information Act, 2005. He suggests that "Openness and transparency is the order of the day and police should also subject themselves to this order (arising out of the enactment and implementation of Right to Information Act, 2005)".

Shri Hasmukh Patel in the article titled as '**The constabulary Empowerment: Issues and Outcomes: A Case Study'** calls for the empowerment of constabulary, which accounts for 87 percent of total police force in India. Through the case study of Bhavnagar, Gujarat, he proves that "the image and efficiency of Indian Police can be improved only when our constabulary is empowered in real sense of the term."

Gopal K.N. Chowdhary
Editor

Promoting Good Practices and Standards

Abstracts & Key Words

….And First Prize Goes to India A Success Story of Rajasthan Police

Dr. S.K. Kataria

Key words

'Police Stations Visitors Week', Altus Global Alliance, Team Building, Leadership, Community Participation, Detention Condition, Accountability, Transparency, Civil Police Officer, Case Officer Scheme, Motivation, Physical Condition , Equal treatment of the public, Democratic Police Programme , Reform, Citizen's Welfare, Night Patroling, ISO Certificate, Community Liason Group.

Abstract

In India, the police is popularly perceived as power wielder with an enforcement role. Most of the Indian citizens try not to face police due to its notorious image. In such a situation, it is almost unbelievable that an Indian Police Station was declared world's number one police station in April, 2007 on five major criteria viz. Community Orientation, Physical Conditions, Equal Treatment of the Public, Transparency and Accountability and Detention Conditions. Altus Global Alliance, an international voluntary organization, organized "Police Stations Visitors Week" in 2006. A total of 471 police stations from 23 countries participated in this event and was declared the best. Before 2004, this police station was known as an ordinary and inefficient organization but under the leadership of Mr. Sunil Punia, SHO and other officers, the station witnessed sea change. Now this police station is full of infrastructure facilities which are provided by local community. A team of three dozen police employees is motivated, integrated and committed one. The behaviour of police personnels, their attitude, cleanliness of the station and other best practices make them ideal police station.

Operation Aman: A CRPF Initiative on Bridging Gap With People of J & K.

A.P. Maheshwari

Key Words

Operation Aman, Professional force, Insurgency, Clinical Exercise, Mandate, Ideological Propaganda, Partnership Benevolent Intervention, Cultural Differences, Enviorenmental Constraints.

Abstract

The CRPF was redesignated as the main Counter Insurgency force by the Group of Ministers after the Kargil war in 2001. As a consequence, the force was given an important role to play in tackling the problem of terrorism in the state of Jammu and Kashmir. Over 65 thousand force personnel have been deployed at the various hot-spots of the state to assist the state police. The force personnel have to face all the cultural, political and social resistance listed above and some more that are specific to the situation in a state like J & K, which has a volatile post-Independence history of resentment against Indian security forces and personnel. Through sustained propaganda, the adversaries have succeeded in creating a wedge between the people and the para-military forces. For too long this situation was allowed to drift, leading to active hostile positions being taken and maintained by security force personnel and the local people. This has the far-reaching consequence in terms of lack of actionable and reliable intelligence, absence of trust and alienation. All of these factors have, in fact, helped the adversaries in their aim of secessionism, and made the task of controlling the terror groups all the more difficult. The first and most obvious starting point was to

establish a working relationship with the local press persons who are not only aware of the local needs and problems, but also give certain directions to public debates. Although not a formal part of Operation Aman, this was the first step in the exercise. We used local Kashmiri media, both print and electronic, as the mediator between the forces and the people.

Abuse of Child Domestic Workers in India : Crisis and Challenges

Debasree Laheri

Key Words

Physical Abuse, Sexual Abuse, Invisibility, Social Security, Domestic Workers, ILO Convention, Vulverable and Exploited, Alternative Livelihood, Poverty, Injustice.

Abstract

Poverty and injustice and inequality are the main causes of child labour. Besides these, poor agricultural yield, lack of alternative livelihood sources, large family size, increasing demand for cheap labour, abject rural poverty and family, cultural sanction to pursue economic activities at a tender age have been identified as some of the reasons for increasing child domestic workers. Emerging vested interests that traffick children and exploit the vulnerability of their families and deep-rooted gender imbalances further fuels the problem. In this paper, an attempt has been made to analyse all forms of abuse of child domestic workers, to scrutinize the difficulties in protecting them from exploitation and maltreatment by the employers, to find out the legal frameworks available in international as well as national perspectives and finally to evaluate the condition of abused child domestic workers on Indian context. Employers often resort to physical or verbal abuses to intimidate and gain control over these child workers. Although systematic documentation of abuses inflicted is quite difficult to undertake, the most common forms of violence and abuse experienced by child domestics are as follows:

Physical abuse of a child is that which results in actual or potential harm from an interaction or lack of interaction, which is reasonably within the control of a parent or person in a position of responsibility power or trust. There may be single or repeated incidents. A result of having been made to work beyond their physical capacity, pushing, beating, kicking, slapping, pulling of heir, whipping, pinching, shaving of heir, denial of food, being hurt with broom and pots on different parts of the body, burning /scalding by pouring hot water.

Being in the confines of a home, a child who is employed as a domestic help is extremely vulnerable to sexual abuse of various kinds and they ordinarily do not have easy access to legal protection. Child sexual abuse is the involvement of a child in sexual activity that he or she does not fully comprehend is unable to give informed consent to, or for which the child is not developmentally prepared and cannot give consent or that violate the laws or social taboos of society. This may include but is not limited to the inducement or coercion of a child to engage in any unlawful sexual activity; the exploitative use of a child in prostitution or other unlawful sexual practices, the exploitative use of children in pornographic performances and materials, lewd innuendoes, perverse behavior, molestation, rape and attempted rape not only by the male members of the employer's household but also by the male visitors. In 60 cases of abuse of Asian maids investigated by Human Rights Watch in that country, one third involved rape or sexual assault.

Problem of Tuberculosis In Indian Prisons

Dr. Deepti Shrivastava

Key Words

Tuberculosis, MDR, Previous Illness, WHO, Mycobacterium, Tuberculosis, Correctional Administration, Community spread, MDR-TB Epidemic.

Abstract

Prisoners have many rights bestowed upon them by international treaties and covenants; they have a right to health care, and most certainly have a right not to indenture transmission of infection during incarceration. Inspite of the legislative measures adopted in favour of prisoners in our country after Independence and inspite of the human rights awareness, countless prisoners are dying in the Indian prisons, due to tuberculosis. Regarding problem of tuberculosis in prison, prisoners around the world have consistently higher rates of tuberculosis (TB) infection and disease than the general population. Indian prisons also have an alarming scenario; the poor health care status of prisoners is not surprising, given that poverty and miserable status are known to accelerate the spread of communicable disease like tuberculosis. Tuberculosis infection contracted in the community can initiate an epidemic when brought into the prison, while the reverse route of transmission is equally possible. World health organization suggests:

☐ Early diagnosis of TB (case-finding)

☐ Effective treatment of TB until cure

To diminish this problem Correctional Administration has to take enormous pains in this matter. They have to accept a challenge to prove their competence of cooperation. Only then we can cope up with this curse. Prison overcrowding has many negative effects upon inmates. Overcrowding of accommodation and the lack of resources to cope with it was the most commonly cited symptom of the crisis. Research has demonstrated that prison overcrowding creates higher rates of tuberculosis. TB is spread through the air. Immediate isolation can interrupt the transmission of Mycobacterium tuberculosis.

Maritime Terrorism and Port Security

Dr. Shikhar Sahai

Key Words

Terrorism, Piracy, Port, Maritime Chokepoint, Littoral Warfare, ISPS Code, IMO, Security Levels, Global maritme, Trade links, CSCAP, Atomic waste.

Abstract

Maritime Terrorism has emerged as a major threat in a globalized economy with serious strategic security implications. South Asia is located between maritime chokepoints and terrorist hubs are situated in its littorals. Sea Ports are vulnerable to terrorist attacks. The ISPS Code is a major step in global response to maritime terrorism but there is need for a multi-dimensional approach to meet new challenges. These aspects are highlighted in the present paper. A major weakness in the maritime trade is the containers in which goods are transported. With an average of a five percent inspection rate worldwide, containers can be easily be used to smuggle illegal goods, human beings or weapons. The fear that terrorists could exploit the container system first came to fruition on October 18, 2001 when port authorities in the Italian port of Gioia Tauro discovered a stowaway within a shipping container. The container was complete with a bed, heater, toilet facilities and water. In recent years, however, the focus shifted towards the use of a container as delivery vehicles for weapons of mass destruction. The fear was fuelled by Al Qaeda's fatwa (2003) to use WMD against the enemies of Islam. Since the early 1990s, the strategic literature on naval strategy discussed about concept of '*littoral warfare*'. Although the term 'littoral' is not new, it gained great significance in military literature primarily due to the fact that littoral

spaces are considered congested due to dense shipping activity, civilian air corridors and shallow water which can result in projection of power in the littorals, a potentially challenging exercise. Major General Mike Myatt, former Director of US Expeditionary Warfare, coined the term "*chaos in the littorals*". General Myatt's hypothesis is that most future conflicts would take place in the littoral i.e where the sea meets the land. He argued that littorals provide a home to most of the world population, wealth and industrial capacity and the nerve center of international relations through which people, goods, ideas and cultures pass.

Offender Management: A Challenge for the Prison Reform Initiative in India

Prof. Balraj Chauhan, Dr. Mridul Srivastava

Keywords

Integrated Offender Management, Correctional aspect of prison, Risk, Change through innovation, Criminogenic needs, Responsivity, Prison reforms, Cognitive skill programmes, Skill programme , Applied Life Skill, Violence Reduction.

Abstract

Emphasis of this paper on the principle of "What Works" led to the underlying philosophy behind IOM. The tools used to put this philosophy in place will continue to develop and improve as time goes on, but the philosophy itself will stay the same. IOM also recognizes that our decisions about interventions need to be built into our planning around security classifications, employment skills, at risk identification, literacy and numeracy, as well as offenders finding jobs and appropriate accommodation. In short, IOM is about everything we do. Teams of people who deal with offenders in all areas to the Department need to, brought together to create something practical from this research. There is a need to develop new ways of doing things, and new tools. There are now little bit better ways of looking at the offender, the offending, and the factors leading to that offending, as well as better intervention programmes to reform and rehabilitate them. It is important that the new processes and interventions are delivered exactly the way they are designed. The ideas for improvement can always be incorporated in IOM and these ideas must go through a formal change process for IOM to retain its integrity.

Noble Cause Corruption

Sankar Sen

Keywords

Philosopher-King, Republic, Testimonial Deception, Perjury, Dirty Harry Problem, Noble cause Deviance, Systemic Arrogance, Tragic Choices, Elegant Term, Testimonial Deception, Moral Justification, Process Corruption.

Abstract

Noble cause corruption implies faith in the concept that the end justifies the means. However, in the conflict of ends and means, the point to be borne in mind is that if the ends are important enough to justify the means. The conviction of a criminal is important but in a liberal democracy the police are expected to carry out anti-crime activities in a manner that advances the values of a liberal democratic society. Ends, therefore, have to be important enough to serve the justificatory function. Adoption of impermissible means may ultimately undermine the end. Again many means have some other consequences that perhaps may make their use appropriate. In post 9/11 world to curb terrorism draconian laws have been passed in many democratic countries, but enforcement and misuse of laws in many democratic countries including India shows that some ways of keeping a country secure for freedom may have the effect of diminishing as well as jeopardizing the other values of a democratic society. Some justify torture to fight terrorism. It has been argued that torture is justified in some rare cases.

Road Signs – A Semiological Study

P.S. Bawa

Key Words

Road Sign, Semiology, Flagrant Defiance, System of Discourse Icon, Social Conventios, Traffic Signs, Syntagmatic Relation, International Traffic Sign, Signifier and Signified, Obelisks Symbology.

Abstract

In a climate of total and flagrant defiance, it appears naïve to reflect on the importance and significance of road signs. But one must indulge in this exercise despite all the hazards. It might appear as surprising that there is a reason to this scheme and there is a purpose behind this design, an objective that is laudable in intention and practical in approach. It is laudable because it is meant to achieve results; it is practical because it is the only and the best way to communicate that can have an affect, if taken seriously both by the viewers and law enforcers. Signs are as old as civilization. These were the basic means of communication. These developed much before the alphabet. The non-linguistic sign helped people to communicate. Semiology or semiotics is a science of signs that studies the significance thereof. It is a study of signification that is contained in the sign. A sign is a composite of a signifier and the signified. Something (a signifier) that is meant to convey a message (a signified) is a sign. Philosophers like Charles Peirce, Ferdinand de Saussure, Claude Levi-Strauss, Jacques Lacan, Ronald Barthes, Umberto Eco, and Jonathan Culler have made studies in the symbology of literary works and cultural studies and, did not pay much attention to non-verbal signs, these being too obvious and mundane. Culler (103) says, 'Traffic signs, for example, generally do not involve the combination of more than one unit, or if they do (as in signs where the shape indicates the presence of a hazard and the device specifies the sort of hazard) the syntagmatic relation is very simple and uninteresting.' Similarly, says Gottdiener, 'An *icon* is a sign that conveys an idea by virtue of its very close reproduction of the actual object or event. International traffic signs, which must transcend particular languages to convey an idea directly, such as a circle with a bar across it to represent negation, are examples of icons. Yet in spite of low grade priority given to traffic signs in the study of semiotics, the insights into the system are extremely valuable to discern the meaning of the signs that ubiquitous. Sign is a 'system of discourse' (Culler; 103) It is used to 'make explicit meanings they seem to bear and reconstruct the system on which these meanings are based.' (Ibid. 101) Codes provide for 'economical notation for notations which are already defined'. (Ibid 100). Signs are ubiquitous in all disciplines. In language itself, signs like i.e., e.g., &, etc. convey a meaning; so in algebra geometry, and science such as $E = mc^2$, religious symbols like cross, political symbols like the sickle and a hammer, lotus, hand, et al. The cricket umpires have a language that indicates everything without making any verbal utterances. 'Every sign is endowed with a significance'. (Barthes; 111) It is 'ideas-in-form' (Ibid; 112).

The Right to Information Police Predicament

K.P. Singh

Key Words

Secrecy, Official Secret Act, Right to Information, File Notings, Case Diary, Public Document, Intelligence Agencies, Information Regime, Government Openness, Central Information Commission, Public Information Officer.

Abstract

Right to Information Act, 2005 is the backbone of the new Information Regime in which transparency and openness is the order of the day. Legislature is entrusted with the sacred constitutional duty to watch public interest and lay down policies for public welfare. Accordingly, the instrumentalities of the state are

required to implement the law ' as it is'. In a democracy, public interest is supreme. Where public interest outweighs the need for secrecy, openness is the rule. Police should become part of the new public order without hesitation. A paradigm shift is required in the approach of police to give up secretive tendencies and share information with public as per the provisions of the Act. It is, therefore, clear that police can protect the identity of the source of information as well as refuse to give information which can hamper the progress in investigation. But the exemption from disclosure of these information is not absolute and is subjected to the test of public interest. Second provison to section 8 provides that a public authority may allow access to information of exempted category, if public interest in disclosure outweighs the harm to the protected interests. Further, information, which can not be denied to the Parliament or a State Legislature, shall not be denied to any person. Appeal against the decision of the Public Information Officers, as the case may be, can be placed before the Central or State Information Commission. Chapters III, IV and V of the Act are devoted to provisions regarding constitution, term of office, condition of service,

removal, appeal, powers and functions of the Central and State Information Commissions. The Information Commission can impose a penalty of 250 rupees each day till application is received or information is furnished, subject to maximum amount of 25000 rupees. Keeping in view the specific requirements of intelligence and security organizations, such agencies notified by the state and central governments are kept out of purview of the RTI Act, 2005. *Preamble* to the Right to Information Act, 2005 declares that democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold governments and their instrumentalities accountable to the governed. It is truly reflected in proviso to section 24 of the Act which provides that information pertaining to the allegations of corruption and human rights violations can be sought.

The Constabulary Empowerment: Issues and Outcome: A Case Study
Hasmukh Patel

Key Words

Constabulary, Responsibility, Workforce, People, Barrier, Work culture, Officers, Mindset, Motivation, Capacity building Training, Village defence Police Officers, Constabulary empowerment.

Abstract

The police organisation consists of majority of constabulary whom, the founder of the Indian Police-the British colonial ruler-preferred not to give any work of responsibility. The same pattern continued after Independence too. They still form the majority of the organisation. The same culture of not trusting and not giving them any responsibility too continued. Presently they form 87 percent of the organisation.

Any police reform would be incomplete until problems in this segment are addressed. The poor country like ours cannot afford to spend on such a huge workforce unless it contributes effectively. Therefore, this issue needs urgent attention. In this paper the views of some of the corporate leaders about the role of the people are discussed. The barriers to the constabulary empowerment and solutions to the issue are discussed in details.

Various initiatives taken in Bhavnagar district in last two years in this area have been discussed.

….AND FIRST PRIZE GOES TO INDIA
A SUCCESS STORY OF RAJASTHAN POLICE

Dr. S.K. Kataria*

Key words

'Police Stations Visitors Week'

Altus Global Alliance

Team Building

Leadership

Community Participation

Detention Condition

Accountability

Transparency

Civil Police Officer

Case Officer Scheme

Motivation

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Not only in Rajasthan but all over India the image of police reflects its colonial character, which was developed for the interest of British rulers. Even after Independence the face of Indian police remained unchanged, and unfortunately it has become synonymous with cruel, inhumane, corrupt and inactive mechanism. In India, the police is popularly perceived as a power wielder with an enforcement role.

In such a situation, it is almost unbelievable that an Indian police station is declared world's number one or ideal police station. But it has happened and Shipra Path Police Station of Jaipur city is the winner of 'Police Stations Visitors Week', organized for the first time in 2006 by Altus Global Alliance.

General Profile

Established in March, 1996, the Shipra Path Police Station falls under administrative purview of Jaipur city (East) police district. This police station is located in outskirts area of Jaipur city in Asia's largest housing colony Maansarovar, which is developed by a government agency.

Almost half of the population and area of this colony comes under the purview of Shipra Path Police Station. A total of 2.7 lac population of this police station is living in about 45 sq. km. area. There are two dozen higher education institutions established in this area, and highly educated government servants and professionals are the owner of the houses, built by Rajasthan Housing Board. There are eight villages situated near the city area are also served by this police station. The forty percent of the population is Hindu and Hindu-Sindhi community with their roots in Pakistan, while Muslims are marginal at 2 per cent. Labourer and nomadic community accounts for a few thousands.

The building layout of this police station is according to the implemented standards for Rajasthan police, in the newly constructed police stations. There are 20 rooms in main police station building and 13 staff quarters flats, with a small temple in the premise of police station. There are two lawns and hundreds of trees and plants giving pleasant look to the station. Chairs, benches, sofa and

other facilities are in good condition. All the rooms are furnished with paint, polish, curtain, chicks, carpet, aluminium glass window with enough natural light and ventilation. A special kitchen or mess and toilet facilities for police personnel are in excellent condition. This police station is well equipped with jeep, wireless, armament, telephones (2) and other essential things. There are nine computers in this police station and all are in working condition. There is a fountain made with marble stone at the central area of the station near to specific place for public meeting. The boundary wall of the station is decorated with fancy lights. There is a ramp for disabled and old persons. Separate parking place are available for police and public. Waiting hall and entertainment facilities are available for visitors. At every corner of the station, one can easily spot 'dust bins'.

There are about 40 posts sanctioned viz. one S.H.O., 3 Sub Inspectors, 11 Assistant Sub Inspectors, 3 Head Constables and 20 Constables. There is a separate women cell headed by a lady assistant sub inspector.

Reforms Process

Before 2003, the Shipra Path Police Station was an ordinary police station, notorious for regular incidence of theft. During Tenth Five Year Plan (2002-07) revamping of police programme was initiated. But the sea-change came during two and half year tenure of Mr. Sunil Punia, S.H.O. of this police station. Mr. Punia joined this police station on first day of October, 2004. He was very disappointed with the negative and notorious image of police. He often thought- "Can we change the image of police? Can I make my police station an ideal one?" During this thought provoking process, he decided to take co-operation from his subordinates, superiors and public.

Meanwhile, Vidhayakpuri police station of Jaipur city got ISO : 9001–2001 certificate in November, 2005. Then in March, 2006, D.G.P. of Rajasthan, Mr. A.S. Gill gave instructions to popular and competent police stations to improve their standards upto the international level. In this regard, Mr. Punia started his efforts to receive ISO certificate.

Mr. Punia also decided that he would identify the problems and expectations of each stakeholder and after identification team effort would be made to receive ISO certificate. Mr. Punia believes, that- **"To handle yourself use the mind and to handle others use your heart."** Because people can be changed through hearts only.

Physical Condition

Equal treatment of the public

Democratic Police Programme

Reform

Citizen's Welfare

Night Patroling

ISO Certificate

Community Liason Group

Abstract

In India, the police is popularly perceived as power wielder with an enforcement role. Most of the Indian citizens try not to face police due to its notorious image. In such a situation, it is almost unbelievable that an Indian Police Station was declared world's number one police station in April, 2007 on five major criteria viz. Community Orientation, Physical Conditions, Equal Treatment of the Public,

As a first step, 41 year-old Mr. Punia organized a meeting with his subordinates and sought their co-operation in the police reform process. He urged all his subordinates that it is a high time to change ourselves because the entire socio-economic as well as administrative systems are getting changed very rapidly. During the meeting, he invited free and frank suggestions, opinions and innovative ideas from his subordinates to change the face of police. The major problems and hurdles of police personnels were identified and categorized. Mr. Punia made a promise to all his subordinates that he would try his best to solve these identified problems through the support of his superiors and public participation. He also made a committment that his decisions and leadership would always remain objective and unbiased.

After holding the meeting with his subordinates, Mr. Punia came to know the basic problems of police personnels viz. mismanaged mess, non availability of furniture and stationary, long duty hours, non-co-operation by public and politico-administrative pressures, etc. He knew that without solving these problems the satisfaction level of his subordinates would not be raised. After a week of long thinking and table exercise he chalked out a plan of action. During this process, he remained neutral in all aspects and did not take a single decision under pressure of his superiors or political leaders. He followed the rule of law so that nobody could raise a question against his action. He knew that subordinates watch, follow and evaluate the behaviour of their leader.

In the next phase, Mr. Punia discussed his plan of action with his superiors viz. Circle officer (Dy. S.P.) and superintendent of police (Jaipur City, East). He requested for their approval and co-operation to accomplish the herculean task. The entire reform process of this police station is the result of a good team of superiors including, Mr. A.S. Gill, D.G.; Mr. O.P. Galhotra, I.G.; Mr. V.K. Singh, S.P.; Mr. Sanjay Shotriya, A.S.P. and Mr. Gyan Chand Yadav, Dy. S.P. who motivated and supported Mr. Punia and his subordinates.

During various informal meetings, Mr. Punia requested his superiors not to put undue pressure regarding disposal of various cases because such type of practice could derail the entire process of police reforms in his police station. After getting green signal from his superiors, Mr. Punia organized a meeting of Community Liaison Group (C.L.G.) of his police station. Mr. Punia expressed his mission

and plan of action in front of C.L.G. and invited their views and suggestions to make Shipra Path an ideal police station. C.L.G. members were of the view that increasing incidence of theft and rude behaviour of police personnel are the basic cause of negative image of police in the nearby society. As per the suggestion of C.L.G., Mr. Punia approached the sectorwise citizens welfare associations through their respective beat constables. Mr. Punia also gathered the informations and trends regarding all types of crimes in various parts of the localities. In order to make police public-friendly, Mr. Punia, himself or his representative started attending monthly meeting of citizens welfare associations. The police personnels made promise for safety of public and their assets, but at this stage hardly anybody believed the words of police.

At the onset of implementation phase of Mr. Punia's plan of action, the punch line (motto) of Rajasthan police "**Faith in Masses : Fear amongst Criminals**" (*Aamjan Mein Vishwas : Apradhiyo Mein Bhay*) was displayed on the police station. The conventional guard with a gun and heavy moustache was removed from the entrance of police station, instead a reception counter with a computer and a police personnel trained in public relations was opened. The basic facilities i.e.-chairs, table, sofa, cold water, fan, television, newspapers, first aid box were provided at this counter. All the necessary informations, telephone numbers, legal processes, rights of public and general guidelines were put on the walls of the reception room. All the police personnels of this police station started changing their attitude towards common man or visitor of the station. They became more polite and co-operative with public. The tendency of not registering F.I.R. was changed. Every visitor or applicant to police station was being treated properly. It is important to mention here that most of the police stations try not to register. F.I.Rs because it increases the numbers of crime in their respective area. In fact, the increasing number of crimes is not due to the failure of police only but the other social, economical, political, administrative and judicial factors are also responsible. Altus Global Alliance does not consider the increasing number of crimes during the assessment of performance of police. Two boxes—'complaint box' and 'suggestion box' have been placed at the entrance, if a visitor has any problem or grievance he many drop his complaint in the 'complaint box' and suggestions or good ideas can be put in to 'suggestion box'. Both the boxes are opened regularly and all the applications are recorded. The

Transparency and Accountability and Detention Conditions. Altus Global Alliance, an international voluntary organization, organized "Police Stations Visitors Week" in 2006. A total of 471 police stations from 23 countries participated in this event and was declared the best. Before 2004, this police station was known as an ordinary and inefficient organization but under the leadership of Mr. Sunil Punia, SHO and other of-

ficers, the station witnessed sea change. Now this police station is full of infrastructure facilities which are provided by local community. A team of three dozen police employees is motivated, integrated and committed one. The behaviour of police personnels, their attitude, cleanliness of the station and other best practices make them ideal police station.

S.H.O. with the help of C.L.G. ensures the proper action on each application found in these boxes. The law students studying in nearby colleges also provide legal advice to visitors. Almost every street wall of the service area of Shipra Path Police Station endorsed first hand information regarding the name of beat officer and his mobile number alongwith telephone numbers of police station.

Such type of efforts and reforms attracted the attention of public and media. The opinion of public about working of police was changed. The 'Visitors Register' available at reception counter is an authentic document of appreciation. At this stage, the public provided helping hands to police station. The basic amenities viz. lawns, plants, water cooler, desert cooler, chairs, sofa, tables, aluminium glass doors, chicks, carpet, marble fountain, first aid box, fancy lights, shelter, freeze and television sets available in this police station are donated by local peoples. There is a set process to accept public contribution in this police station. The construction of ramp and renovation of kitchen (mess) with a dining table is also provided by local community. Rainbow telecommunication company bears the responsibility of cleanliness and maintenance of entire premise of the station. Due to installation of 9 computers, 3

televisions, one water cooler, 5 desert coolers, 12 fans, 30 fancy lights, one freeze and other electric equipments, the consumption of electricity was expected to escalate, but because of a habit of control on misuse of electricity the electric bill remained unchanged.

The other efforts of Mr. Punia were related with human resource development. He started Yoga and meditation for police personnels to release their mental tension. Almost all his subordinates were sent to in-service training programmes conducted by police headquarters, police lines, police academy or other institutions. Since, Mr. Punia had identified the problems, needs, merits and demerits of each subordinate, he started to depute his subordinate according to his respective caliber. The scientific rule of division of work was followed. The entire internal administration of the station was divided in to six main sections viz.- Administration, Records, Maalkhana, Night patrolling, Communication and Other miscellaneous duties. Each section was supervised by a head constable, so most of the complaints regarding overlapping of duties and non-compliance of various activities were reduced by proper distribution of work. Every room was numbered and the name of the personnel sitting in it was displayed on the wall of the rooms, so that every visitor could find police personnel easily. Mr. Punia made it mandatory that tea or coffee will be

prepared at station's mess only and no tea will be brought from outside of this police station. During this reform process, all the police personnels decided voluntarily that they will not smoke in the station. As a new convention, the name of month's best employee was displayed on the notice board of the police station.

The system of night patrolling by police was strengthened to ensure public safety. Along with police personnel duty, community policing system was also initiated. Under the '**Civil Police Officer Scheme**' one or two guards were deployed in each sector (muhalla). These guards are trained and controlled by this police station and paid by local community (Rs. 15 per household per month). Basic informations of each household were stored in the police records. A special database record of domestic servants and tenants with their photographs was also created. The Shipra Path Police Station had developed a special format named- "**know your neighbour**". In this printed format, every household was requested to fill up house number, name of owner, address, telephone numbers, working place, vehicle model and number of his/her 8 neighbourers. (3 in front, 3 in backside and 2 in lateral). One copy of this format was submitted to police station and another was kept by householder himself. These exercises helped the police in controlling crimes and solving pending cases.

Meanwhile, an innovative scheme was launched by D.G. of Rajasthan Police, Mr. A.S. Gill. Under this "**Case Officer Scheme**" the popular or notorious cases were taken up. The case officer scheme ensures integrated efforts of police, prosecution agency and judiciary. The ultimate aim of this scheme is to ensure prompt and proper decision of the case, so that society may receive a good message. This police station has solved many popular cases under this scheme. It is needless to say that these efforts of the police have helped in changing their image. In this series of reforms, the next step was to manage '**Maalkhana**' (Store). Like other police stations, the Maalkhana of this station was full of unlabelled or mishandled material. The evidential material viz. clothes, armaments, documents, samples for forensic laboratory, etc. were collected and categorised in a scientific manner. Each sample or evidence was labeled with name, case number, F.I.R. number, date and year and other relevant details.

All the essential steps were taken to avoid destruction of the material by seepage, rodent and termite. Likewise, the other records available in various rooms in the station were categorised according to the subject. Each almirah and its rack was numbered and registers with their concerning files were put there. For example, the rack number one in the first room of the station having 10 files: I-Case Office Scheme File, II-Public Participation, III-C.L.G., IV-Household Survey, V-Hard Core Criminals, VI-Priorities of Police, VII-Mutual Settlements, VIII-Women Desk, IX-Domestic Servants, Drivers and Chowkidar File and X-Tenants Proforma. Records available in other rooms were categorised yearwise, casewise, crimewise or subjectwise whatever the feasibility. All the old records were stitched with a hard cover register and properly labelled.

So far as detention conditions are concerned, there are separate latrine and bathroom for men and women. Measures have been taken to avoid any type of accidents in the custody room. The rights of the person under police custody (detenee) are mentioned on the poster, put on the wall of the custody room. There is a separate room for investigation or interrogation. In this police station, third degree is not used but socio-psychological approach is being followed to extricate the facts from criminals. The minor cases are being settled down through mutual compromise (*Raazinama*). These types of case are also kept on the record of the police station.

This police station is full of informative posters, notice boards and pamplets i.e. punchline of Rajasthan police, priorities of police, salient features of an ideal police station, citizens charter, anticorruption

mechanism, right to information, duties of police, process to approach Ombudsman (*Lokaukt*), free legal aid process, policy of police quality, security measures for detenee, progress of Shipra Path Police Station, the identified spots of vehicle theft and prevention of violence against women. On the other hand, some motivating posters like eye donation, prohibition of dowry, child labour and traffic safety are also displayed on the walls of the station. The visitor's book is full of comments by senior level police officers, academicians, administrators, voluntary agencies' representatives, foreigners, I.I.T. professionals, media persons and common man. No doubt, this police station had gone through a dramatic change during 2005-06 due to commitment and team efforts.

Now comes 'Police Stations Visitors Week'. The Altus Global Alliance, an international voluntary body, organized this event from 29 October to 4 November, 2006. A total of 471 police stations from 23 countries participated in this event. The entire staff of Shipra Path Police Station was confident to compete at international level because they had fantastic physical infrastructure, public participation, transparency and commitment, motivation by superiors, a good image in local community and above all their confidence. It was enough to be declared as a model police station.

Altus chose two partner organizations in India to co-ordinate and implement the event in the country. A memorandum of understanding was signed between Altus and these partner organizations. Nine participating organizations were also chosen to visit the police stations. A kit (set of questions and assessment proforma) comprising 20 questions or criteria was provided to participating organizations to assess the police stations. The kit or its questions used during the police stations visitors week were based on the Likert Scale, in which the possible answers vary from 1 to 5. The scoring was done as follows:

1. Totally inadequate (20 points)
2. Inadequate (40 points)
3. Adequate (60 points)
4. More than adequate (80 points)
5. Excellent (100 points)

The questions were classified according to a scoring scale which was based on the calculation of percentiles 20, 40, 60 and 80 (resulting in 36, 52, 68 and 84, respectively) in a distribution of possible average scores varying from 20 to 100. As a result, the classification categories are:

Average Score	Category
Over 84	Excellent
Over 68 untill 84	More than adequate
Over 52 untill 68	Adequate
Over 36 untill 52	Inadequate
Untill 36	Totally inadequate

Finally, the average score in each observation area was the simple average of the four questions. The final score was the simple average of the five areas, Viz.- Community orientation, Physical conditions, Equal treatment of the public, Transparency and Accountability and Detention conditions.

Team leaders were provided with a short training that guided them in leading visitors around the station, writing the narrative report and providing the filled questionnaires to the organizers. The filled questionnaires and narrative reports were uploaded on a specially prepared secure website and scores automatically generated. Visits were verified through partner organizations and filled questionnaires were collected and checked with the uploaded scores. Visitors appointed by participating organizations interviewed and discussed the issues with public, observed everything in police station, made discussions with all staff members and their

superiors and checked all the records and equipments. They visited all the places of this police station too. Finally the team leader to Shipra Path Police Station remarked, "We had no difficulty in reaching police station as there were plenty of signboards on the way. On reaching there we were surprised at the cleanliness as it was more clean than a good house or a hotel and did not look like a government police station building. The filing system is flawlesly unbelievable. At our request, a three-year old record of a complaint was located within four minutes. There was a ramp for elder and handicapped people which is very rare in government offices. We had a wonderful experience on our visit. We were in the police station for 2 hours and 10 minutes and we failed to find any shortcomings or negative point."

Further, the report says, "A number of good practices could be traced in this police station. These include the overarching organization and streamlining of police station operation via the International Standards Organizations, ISO: 9001-2001, a systems quality management procedure adapted from the industry, mobile interactive office (beat bags), specially prepared information charts and posters, ongoing training of staff, selection of most efficient cop every month to motivate staff performance, services for women, referrals services for victims, detailed display of station performance vis-à-vis crime and prevention, number of community-police groups that have regular and recorded meetings. There were separate clean clothing for detainees, rules in cells and record of every item/procedure in the station. The confidence of the station police staff in their work can be gauged from the statement (in response to the state police chief that he would grant out of turn promotion to 150 best performing constables from the state with a total strength of 20,000 plus constables in 711 stations), the 30 constables in Shipra Path Police Station have told their seniors that they need to identify 120 more since 30 will be from their station itself."

After overall evaluation, the Shipra Path Police Station was declared the best police station of Rajasthan (10 competitors), then the best in the country (105 competitors) next it got top position in Asia (167 competitors).

Assessment of Shipra Path Police Station on Five Indicators

Indicators	Scores
Community Orientation	99.67
Physical Conditions	100.00
Equal Treatment of the Public	98.33
Transparency and Accountability	100.00
Detention Conditions	100.00
Average Overall Score	99.00

At the last stage, one police station was to be declared the best among five police stations each from five continents (Regions).

In final round, the assessment report was not only the criteria for selection. At this stage, an expert on police science visited regional topper police station. Mr. Richard Aborne, an American expert, visited Shipra Path Police Station. He was stunned to see such an excellent, clean and public friendly police station in a developing country. He submitted his report to the Altus. In first week of April, 2007, a five,

S. No.	Name of Police Station Region	Country
1.	Illupeju, Logos Africa	Nigeria
2.	Shipra Path, Jaipur Asia	India
3.	Kanashskiy, Govd Kanash Europe	Russia
4.	9th Police Station, Sao Paulo Latin America	Brazil
5.	Palmdale, Los Angeles North America	U.S.A.

member jury was constituted to judge the best police station of the world. Before taking final decision, every regional topper police station was asked to present the process and efforts of their reforms and best practices of the station.

Final Stage Competitors

Mr. Punia made presentation in front of the jury and representatives of four other top police stations. A question-answer session was also held. Mr. Punia gave satisfactory answers to all the queries raised by the jury and other police stations' heads.

Finally, came the day of April 5th, 2007. Shipra Path Police Station was declared world's best police station. The mayor of Hague conferred the award to Mr. Punia. The D.G. of Rajasthan Police granted out of turn promotion to 30 employees of Shipra Path Police Station. Next month the ISO: 900-2001 certificate was given to this station for maintaining international quality standards. In June, 2007 Mr. Punia was transferred to Vaishali Nagar Police Station in Jaipur city to extend the best practices. On the eve of 61st Independence Day, the Governor of Rajasthan Mr. A.R. Kidwai provided a '**Pistol**' to Mr. Punia as an honour of the best police officer. Mr. Ashok Chouhan, the successor of Mr. Punia says with determination, "to achieve a good image and best work performance may be a simple task sometimes, but the maintenance of the standard is always a tedious job. We assure you that we will keep the Indian Flag high." The police personnels of Shipra Path Police Station say loudly-*Chak de India*.

Police Station Visitors Week, 2006 in India: Some facts

Police Stations	105
States and Cities	⬜ Punjab : 65
	⬜ Andhra Pradesh : 10
	⬜ Chandigarh : 10
	⬜ Rajasthan : 10
	⬜ Meghalaya : 10

Team Leaders	106
Visitors Received by the Stations	396
Average Overall Score	69.15
Community Orientation	74.66
Physical Conditions	67.49
Equal Treatment of the Public	62.00
Transparency and Accountability	75.33
Detention Conditions	66.29
Partner Organizations	⬜ Aide et Action, India
	⬜ North-Eastern Institute of Development
Participating Organizations	⬜ Women Cell (Ludhiana, Jaalandhar)
	⬜ Commission Agents Association (Bathinda, Patiala), Punjab
	⬜ Local Self Bodies (Panchayat/ Municipal Councilors) (Amristsar, Hoshiarpur), Punjab
	⬜ Community Policing Resource Centre (Khanna, Patiala, Amritsar, Jalandhar Hoshiarpur), Punjab
	⬜ Social Care and Development Society, Chandigarh
	⬜ Resident Welfare Committee (Sector 36, 17, 39, 34, Mani

Majra), Chandigarh

- Market Welfare Committee (Industrial Area, Sector 11, 31), Chandigarh
- Community Liaisoning Groups (C.L.G.), Rajasthan
- North-Eastern Hill University (NEHU), Shillong

Altus Global Alliance and its Working

Altus Global Alliance is an international voluntary agency established in April, 2004. The headquarter of this organization is at Hague, Netherlands. This organization works in all continents with the help of its 6 member organizations and 2 associate member organizations. There are 300 representative or employees of Altus working all over the world. Altus places special emphasis on police accountability and the quality of police oversight, serving as a source of knowledge and innovation for government officials, human rights activists and citizens around the world, concerned about the effective and fair control of policing.

Altus had prepared a kit to promote police reforms under the aegis of Ford Foundation's 'Democratic Police Programme' in 2002. This kit was tested in 10 countries including India. The kit comprised structured questions and observation indicators for the assessment of functioning of police. After testing this kit in 10 countries, the feedback received by Altus and same was analysed in a meeting held at Saintiago, Chile in November, 2002. The kit was modified in 2004 and 2005. Again it was tested in few countries. The Altus management board approved this kit in 2006 and decided to organize 'Police Stations Visitors Week' first time in world history. Altus envisaged that Police

Stations Visitors Week would focus on sharing good practices, promoting international standards and building positive relationships between police agencies, NGOs and the community.

This kit was translated into 17 major languages in 2006. During Police Stations Visitors Week (29 October to 4 November, 2006) it was used to assess the working of police stations. A total of 471 police stations from 23 countries participated in this event, assisted 32 partner organizations, 44 participating organizations and 42 police agencies helped Altus to organize this international event. The kit developed by Altus put stress on five major area of working of police. These are:

- Community Orientation
- Physical Conditions
- Equal Treatment of the Public
- Transparency and Accountability
- Detention Conditions.

The assessment and evaluation of the participating police stations was done on the basis of observation, interaction, feedback, filling up of questionnaire, survey of records and opinion on experts. There were four levels of competition viz. state, country, region (continent) and the world. This event was started in October, 2006 and ended in April, 2007.

Participating Countries, 2006

1. Belgium	2. Benin
3. Brazil	4. Canada
5. Chile	6. Germany
7. Ghana	8. Hungary
9. India	10. Latvia
11. Liberia	12. Malaysia
13. Mexico	14. The Netherlands
15. Niger	16. Nigeria
17. Peru	18. Russia
19. South Africa	20. South Korea
21. Sri Lanka	22. United Kingdom
23. United States	

OPERATION AMAN
A CRPF INITIATIVE ON BRIDGING GAP
WITH PEOPLE OF J & K

A.P. MAHESHWARI*

Key Words

Operation

Aman

Professional force

Insurgency

Clinical Exercise

Mandate

Ideological Propaganda

Partnership

Benevolent Intervention

Cultural Differences

Enviorenmental

Constraints

*I.G (Operations) CRPF

Background & Objectives

The challenge of tackling terrorism/insurgency by a para-military force in any region is normally a complicated affair, due to a number of intrinsic factors that include hostile psychological reactions of the citizens to a newly introduced force, social, cultural and ethnic conflicts at the cutting edge, use of ideological propaganda by the adversaries and lack of optimal level of interaction between the locals and the force personnel. All these result into a gap of perceptions and lead to festering mistrust in the minds of both the force personnel and the local citizens. Although the situation is fraught with grave implications, the redeeming feature is the inherent commonality of purpose that is to establish normalcy and allow socio-economic activities to take place.

The CRPF was redesignated as the main Counter Insurgency force by the Group of Ministers after the Kargil war in 2001. As a consequence, the force was given an important role to play in tackling the problem of terrorism in the state of Jammu and Kashmir. Over 65 thousand force personnel have been deployed at the various hot-spots of the state to assist the state police. The force personnel have to face all the cultural, political and social resistance listed above, and some more that are specific to the situation in a state like J & K, which has a volatile post-Independence history of resentment against Indian security forces and personnel.

As a professional force, it was clear to the command since the early stage of its deployment that for achieving the stated goals, mere professional and clinical exercise of mandate will never yield optimal results. The idea of tackling terrorism in J & K includes, per se, countering propaganda, which is a part of tactics of the adversary, maintaining restraint in face of grave provocations, keeping the morale of the personnel high, presenting a humane and civil profile at all times in interactions with the local people and be fair and honest in all dealings.

It is obvious that a routine approach would never yield expected results. Secondly, whatever may be the environmental

constrains, unless a complete synergy with people is attained, the real multiplier effect of our endeavours may not be felt on the ground. It was, therefore, decided to tackle the environmental factors seriously and take proactive steps for turning around the negatives in our favour. This led to the identification of the opportunities for intervention, and the ideal tools to do it, finally culminated into what was codenamed 'Operation Aman'.

Identification of Problems

Alienation : Through sustained propaganda, the adversaries have succeeded in creating a wedge between the people and the para-military forces. For too long this situation was allowed to drift, leading to active hostile positions being taken and maintained by security force personnel and the local people. This has the far-reaching consequence in terms of lack of actionable and reliable intelligence, absence of trust and alienation. All of these factors have -in fact, helped the adversaries in their aim of secessionism, and made the task of controlling the terror groups all the more difficult.

Cultural differences : In India, all the regions, which are many, are in some ways culturally distinct. These diversities have always been the strength of the Nation, but have at times given a handle to the divisive tendencies. These cultural differences are easy to be exploited by the anti-national and anti-integrative forces. When security personnel from different regions are sent for Counter Insurgency duties, they too become a fodder of divisive propaganda and become intrinsic to the problem. Sensitive handling of cultural differences, therefore, becomes important in such situations.

Economic Hardships : As with all insurgency prone regions, J & K too is affected by great economic divides and outright poverty. Add to it the natural and climatic hardship of the region and you get a difficult economic scenario that would take time and sustained effort to turn around. With poverty are associated the usual mix of unemployment, illiteracy, hold of superstitious beliefs and venom spewing religious leaders. This heady mix is the cannon fodder for our adversaries. In a limited way, the forces have to take an account of these factors, initiating some steps to bring immediate relief.

Misunderstandings : The breakdown in normal democratic channels of communications for long periods of time at the local political level has created an atmosphere of mistrust. The situation lends itself to

Abstract

The CRPF was redesignated as the main Counter Insurgency force by the Group of Ministers after the Kargil war in 2001. As a consequence, the force was given an important role to play in tackling the problem of terrorism in the state of Jammu and Kashmir. Over 65 thousand force personnel have been deployed at the various hot-spots of the state to assist the state police. The force personnel have to face all the cultural, political and

social resistance listed above and some more that are specific to the situation in a state like J & K, which has a volatile post-Independence history of resentment against Indian security forces and personnel. Through sustained propaganda, the adversaries have succeeded in creating a wedge between the people and the para-military forces. For too long this situation was allowed to drift, leading to active hostile positions being taken and maintained by security force personnel and the

misunderstandings of motives, aims, *modus operandi* and procedures of the security forces. It is easy to provoke and incite the people against the security forces, when the people are inadequately briefed about the reasons behind most of the operations and actions of the forces.

Key Innovations

Reaching out: The first and most important innovation has been the recognition of the fact that the forces and specially, the leadership within the force will have to take the initiative to reach out the people through whatever means available.

The first and most obvious starting point was to establish a working relationship with the local press persons who are not only aware of the local needs and problems, but also give certain directions to public debates. Although not a formal part of Operation Aman, this was the first step in the exercise. We used local Kashmiri media, both print and electronic, as the mediator between the forces and the people. The initial hostility was evident even in the media interface, but it soon made way for a healthy understanding of the role and motives on both sides of this interface. The interface included both formal and regular briefings

and informal daily interactions at various levels, starting from the top leadership.

The next level of interaction was with the people directly, and this was slowly cultivated through organization of cultural programmes. At a more subtle level, the supervisory officers in the first instance, and progressively the Jawans were sensitized to the need of the best behaviour when interacting with the local people, despite facing initial provocations and hostilities. Here also the result in terms of better relations started flowing in slowly. The rapport has been easier to establish in smaller towns and villages than the bigger cities, where the people have been fed with sustained negative propaganda for a longer period.

Electronic media, which has gained a lot of importance in Kashmir valley, has also been extensively used to reach out to people.

Thus, under Ops Aman various cultural and media interventions were made as follows:

☐ Weekly programme "Shagoofey" on television for interaction with masses, particularly children.

☐ Cultural programmes on important occasions for better

public interface in an informal friendly environment.

- Broadcasting of "Hello Kashmir" programme on All India Radio/Radio Kashmir. This was aimed at interacting with CRPF Jawans posted in valley at various places and broadcasting messages for public too along with popular songs.

- "Phone In" programme on Radio Kashmir, in which both the force personnel and the local people participated where people could phone in at given time for resolving their problems and solutions were aired on Radio Kashmir. It led to accessibility with accountability and transparency.

- Musical jingles and drama spots were made and broadcast on Radio Kashmir

- A number of documentary films on local themes were made and telecasted on local television networks, including private channels and government - run Prasar Bharti.

Benevolent intervention : The hardships faced by the people of J & K are numerous and related to economic under-development, climatic and natural cause and long drawn insurgency. For lending a helping hand to the people in the region, a number of projects were undertaken, specifically to deal with the three specific problems listed above.

- Adoption of villages (Kamalkote and Sarai Bundi) for infrastructure development was a major task. These villages were ravaged by the J & K earthquake, and in the immediate aftermath of the quake, the force had to provide these two, along with many other villages, with food and essential commodities for several months.

- A number of all India study tours (code named "Ehsas') conducted for children from interior regions, disadvantaged groups and orphans of militancy. This also carried back home the feeling of National Integration.

- Promotion of sports and distribution of sports items to various schools and organizations remained on agenda. Sports have an universal language and appeal. The youth in Kashmir have a lot of flair and craving for various sports but the schools are often lacking in facilities. This is being supplemented by the force. Championship tournaments were organized in Table Tennis, Lawn Tennis, Squash, etc. "Run for peace" was organized in Srinagar where people from all walks participated.

local people. This has the far-reaching consequence in terms of lack of actionable and reliable intelligence, absence of trust and alienation. All of these factors have in fact, helped the adversaries in their aim of secessionism, and made the task of controlling the terror groups all the more difficult. The first and most obvious starting point was to establish a working relationship with the local press persons who are not only aware of the local needs and problems, but also give certain directions to public

debates. Although not a formal part of Operation Aman, this was the first step in the exercise. We used local Kashmiri media, both print and electronic, as the mediator between the forces and the people.

- Boost to local music was given by organizing stage shows of local artists. Musical instruments were also distributed (Relief and Rehabilitation centre run by an NGO 'Rahatghar' in Srinagar).

- Health and hygiene remained high on priority. Mobile and semi-static medical camps in huge numbers were organized especially in interiors. This has made an immediate and expected impact of spreading happiness and goodwill. Regular blood donation camps, eye camps and AIDS awareness drives also yielded great benefits.

- Economic project for widows of militancy also formed part of this mission. Sewing machines for institutions (Nehru Yuva Kendra, Badgam) helped many destitute women to stand on their own feet by developing economically relevant skills.

Culturally Non-intrusive: In all the programmes conducted/undertaken under Operation Aman, it has been consciously kept in mind that there should not be imposition of outside culture. All the programmes conducted have been in consonance with the local culture and ethos, and often, the intervention has been discreet and understated.

Respect and humility: It is important that while dealing with the people, position of superiority should not be displayed. Even in economic interventions, care has been taken to project utmost respect towards those who receive the aid. The aim has been to establish partnership rather than domination through Operation Aman. The supervisory officers used by the command in the Operation have been thoroughly sensitized regarding the need to be humble. Indeed, the message that is being sent through them is that the security forces are there to help the people get back on their foot and reclaim their rightful lives, rather than become dependent on the forces.

Partnership in mission : It is important that the mission gets strengthened through a more robust public participation, right from the planning stage. Care is being taken to involve the local people at all levels of planning and implementation of the projects under Ops Aman.

Constant and understated: The effectiveness of the project can only be ensured through its continuity and commitment towards its ideals. Single or random interventions of this nature will not have an impact, and Operation Aman is, therefore, getting sustained

support from the command. Another important aspect has been to avoid propaganda and moralizing through this project. The messages have been subtle, understated, and pegging on basic principles of humanity and partnership.

Progressive : The ideas and concepts projected through the programme are progressive, integrative and developmental. Thus, the study tours for the children highlight the diverse cultural ethos of the country, promote receptiveness towards new ideas and cultures, fostering integrative nationalism. While promoting sports and music, the projects aim at using the universal language of group activities and partnerships. The target groups are mostly the children, the disadvantaged and those living in remote regions having no access to modern means of communication and education.

Success Stories : Voices From J & K

That Operation Aman has made an impact is evident from latest statistics on levels of violence (specially against the security forces). But much more authentic are the loud voices of appreciation coming out of the valley in favour of the security forces. Here are some of them :

CRPF Helps Earthquake Victims

During the Earthquake (on 8.10.2005) our village Kamalkote in Uri was fully destroyed. CRPF jawans and officers quickly reached the location at Rawani and gave first aid to the victims and evacuated people to the hospital. They further walked on foot 10 Kms uphill to Kamalkote village and saved two children inside the damaged house. We are thankful to CRPF for providing food to hungry people of Kamalkote village for days. They also provided tents and logistic items to our village and repaired damaged houses. Finally, CRPF adopted our village and undertook construction of 9 schools and 4 community halls.

Hazi Mustafa, Headmaster,
Govt. Boys Highschool, Kamalkote

In earthquake our village fully collapsed. We cannot believe that again we are studying in School. We are very much thankful to CRPF.

Miss Sabika, 9th Std,
Govt. Girls High School, Bandi

CRPF has given employment to youngsters and orphans of this village. This is highly motivating for us.
Mr. Fida Hazzan Manaz, Student, Kamalkote

CRPF constructed Girls High School in Kamalkote that is why we are studying…. Otherwise there was no future for us.

Miss. Jaswada Iqbal,
Student, Kamalkote

B : Educational Tour Organised For Orphans And Destitute Children Of Kashmir

Miss Zamrood, Superintendant, Rahat Ghar (An NGO)

"During this wonderful trip of educational tour organized by CRPF we realized how much we are compromising with our lives. I am still shocked that across the border there are people responsible for making more and more children orphans in the beautiful valley of Kashmir. I pray to God to bless all success to CRPF for their peace keeping mission"

Ms Naghat and Ms. Ulfat of village Machipora.

Ms Naghat, 19 Years and Ms Ulfat, 15 years, daughters of Late Nazir Ahmed Quershi and Rezia Begam of Machipora, Handwara. Nazir Ahmed Quershi and his three sons were killed by militants during 1997. Nighat's ambition is to join the security force in the future. Nighat and her younger sister Ulfat are living in Rahat Ghar since

2002. They enjoyed the study tour organized by CRPF. "We had a good time together, and we learnt a lot about our country".

Master Hussain of Khurhama

Master Hussain, S/O late Ab Salam Khatana, resident of Khurhamn, Takipora was dropped at Rahat Ghar by some unknown person. He observed : "There is another world with different dresses, languages and faces looking differently from Kashmiris. We had travelled from Delhi to Jaipur and back in MHA Aircraft. This ride was organized on behalf of Union Home Minister when we called on him during study tour in Delhi. To me the plane looked like a big fish".

C : CRPF Wives Welfare Association Blesses Young Couple

Mrs. Mehbooba w/o Abdullah, resident of Saloora, Kupwara

Mrs Mehobboba lived in Rahat Ghar alongwith her sisters Nageena and Jabina because her father died due to paralysis. One of her brothers, is mentally challenged. She has seven brothers and sisters. Her mother has no source of livelihood. As Mehbooba was growing older, she was having a herculean task of marrying her without any resource. At this occasion regional centre of CRPF Wives' Welfare Association at Srinagar helped them in all possible manner to marry Mehbooba with Abdullah on 19th Sept. 2006. Mehbooba said, "CRPF personnel came as Angles. I

am enjoying my married life with my husband. We will ever be grateful to them."

Far Reaching Consequences

Benign acceptance and reduced hostility

The results of the project started flowing in along the expected lines, but faster than anticipated. There was marked decrease in levels of hostility faced by the force personnel in the areas where the project has been started. Other indicators of the impact have been the increasing number of requests of such programmes in contiguous areas, more enriching interactions with the press personnel and decreased level of violence in general and lesser number of attacks on security personnel in particular since 2006, when the 'Operation Aman' was first launched.

Closer rapport : Over the past one year, the project has become more meaningful, and has added many more layers and sub-texts. Human interaction, when it is a multi-dimensional and two-way process, tends to become complex and leads to lasting relationships. Such has been the experience with this project also. The various areas where the project was initially started have demanded more refined interventions. It is understandable. It proves that the initiative taken by CRPF in an integrated format has been well placed.

ABUSE OF CHILD DOMESTIC WORKERS IN INDIA : CRISIS AND CHALLENGES

Debasree Laheri*

Introduction

Child domestic work has been recognized as one of the most intolerable forms of child work and is a sector that has been identified by the International Labour Organisation as a priority sector for removing children from work. The situation of children in domestic work has been compared to new form of slavery in the recent ILO convention on the prohibition and elimination of the worst forms of child labour (ILO convention 182). Various studies, surveys and local observation projects estimate that the worldwide magnitude of this practice is enormous, representing 20 to 40 percent of all recorded instances of child labour. Children, who work as domestics outside the family home are amongst the most vulnerable and exploited. They begin work at an early age, shoulder excessive responsibilities such as caring for babies, handling fuel, stove, sharp tools among others, work for long hours with no rest period, with little or no remuneration, work conditions at the mercy of the employer and frequently suffering from gender and sexual violence. They are deprived of access to schooling, play and social activities and of the affection and support of their family and friends. What perhaps distinguishes child domestic work from other forms of labour is that even as it is extremely exploitative, it is among the most difficult to protect.

Children are cloistered within the four walls of the employer's houses, which gives room for all kinds of exploitation found in the unorganized sector, besides making them invisible to the external world. With no social security or legislative protection, their childhood transform into adulthood under the employer's strict observation and monitoring of the household tasks performed by them. The private confines of the employer's home deprive them of any physical, mental and economic growth.

Poverty and injustice and inequality are the main causes of child labour. Besides these, poor agricultural yield, lack of alternative livelihood sources, large family size, increasing demand for cheap labour, abject rural poverty and family, cultural sanction to pursue economic activities at a

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Abstract

Poverty and injustice and inequality are the main causes of child labour. Besides these, poor agricultural yield, lack of alternative livelihood sources, large family size, increasing demand for cheap labour, abject rural poverty and family, cultural sanction to pursue economic activities at a tender age have been identified as some of the reasons for increasing child domestic workers.

tender age have been identified as some of the reasons for increasing child domestic workers. Emerging vested interests that traffic children and exploit the vulnerability of their families and deep-rooted gender imbalances further fuels the problem.

In this paper, an attempt has been made to analyse all forms of abuse of child domestic workers, to scrutinize the difficulties in protecting them from exploitation and maltreatment by the employers, to find out the legal frameworks available in International as well as national perspectives, and finally to evaluate the condition of abused child domestic workers in the Indian context.

Forms of Abuse of Child Domestic Workers

Employers often resort to physical or verbal abuses to intimidate and gain control over these child workers. Although systematic documentation of abuses inflicted is quite difficult to undertake, the. most common forms of violence and abuse experienced by child domestics are as follows:

(i) Physical abuse **:** Physical abuse of a child is that which results in actual or potential harm from.an interaction or lack of interaction, which is reasonably within the control of a parent or person in a position of responsibility power or trust. There may be single or repeated incidents.[1] A result of having been made to work beyond their physical capacity, pushing, beating, kicking, slapping, pulling of heir, whipping, pinching, shaving of heir, denial of food, being hurt with broom and pots on different parts of the body, burning/scalding by pouring hot water.

(ii) Sexual abuse: Being in the confines of a home, a child who is employed as a domestic help is extremely vulnerable to sexual abuse of various kinds and they ordinarily do not have easy access to legal protection. Child sexual abuse is the involvement of a child in sexual activity that he or she does not fully comprehend and is unable to give informed consent to, or for which the child is not physically prepared and cannot give consent or that violate the laws or social taboos of society. This may include but is not limited to the inducement or coercion of a child to engage in any unlawful sexual activity; the exploitative use of a child in prostitution or other unlawful sexual practices, the exploitative use of children in pornographic performances and materials[2], lewd innuendoes, perverse behavior, molestation, rape and attempted rape,

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1 Save Ihe children UK. (2006); *Abuse Of Child Domestic Workers - A Research Study In West Bengal.* P-3.

2 Ibid. P-3.

not only by the male members of the employer's household but also by the male visitors. In 60 cases of abuse of Asian maids investigated by Human Rights Watch in that country, one third involved rape or sexual assault[3]. Adolescent girls in particular are at great risk of sexual abuse.

(iii) Emotional/psychological abuse: Emotional abuse includes the failure to provide a conducive, supportive environment, including the availability of primary attachment figure, so that the child can develop a stable and full range of emotional and social competencies commensurate with her or his personal potential, and in the context of the society in which the child dwells. There may also be some acts towards the child that cause or have a high probability of causing harm to the child's health or physical, mental, spiritual, moral or social development. These include restriction of movement, patterns of belittling, denigrating, making a scapegoat out of the child, threatening, scaring, discriminating, ridiculing or other non-physical forms of hostile or rejecting treatment.

*(iv) Neglect***:** Children, who are employed as domestic workers have no access to any medical help, nutritious food, education or any other support which is needed for an overall development.

(v) Verbal abuse: Calling names, insults, constant threats, finding faults, filthy language, obscene words, raised voices, shouting, screaming.

(vi) Economic Abuse: Domestic labour is relegated to the lowest status, least regulated and the least remunerated of all occupations. Either they are paid very meager sums, which in most cases, do not reach their hand or they are not paid at all.

While media reports are teeming with these stories, surveys conducted on the situation of child domestic workers reveal a low incidence, sometimes absence of violence and abuse towards them. A situational analysis in Indonesia reveals that verbal abuse is a common maltreatment, but no cases of physical and sexual abuse was reported (Balgbroubh 1995). Similarly, a survey in Bangladesh unveils cases of verbal and physical abuses; with girl domestic workers suffering more from verbal abuse, while the boy domestic workers are commonly subjected to physical abuse. In the same manner, a survey in Pakistan mentioned various types of "mishaps" and "harassment" to child domestic workers. A joint

Emerging vested interests that traffick children and exploit the vulnerability of their families and deep-rooted gender imbalances further fuels the problem. In this paper, an attempt has been made to analyse all forms of abuse of child domestic workers, to scrutinize the difficulties in protecting them from exploitation and maltreatment by the employers, to find out the legal frameworks available in International

[3] Rao, Dr. Dignmarti Bhaskara and Rao, Mr. Veeramachaneni Veenkaieswara, (Ed) (2000); *Status And Advancement Of Woman,* A.P.H. Publishing Corn, New Delhi, P-78

as well as national perspectives and finally to evaluate the condition of abused child domestic workers on Indian context. Employers often resort to physical or verbal abuses to intimidate and gain control over these child workers. Although systematic documentation of abuses inflicted is quite difficult to undertake, the most common forms of violence and abuse experienced by child domestics are as follows:

study carried out in 1999 by the Ministry of Social Welfare, SCF (UK) and UNICEF in Mali on the situation of girl domestic workers found that they are one of the most vulnerable groups of working children as they are separated from parental care and supervision are likely to be neglected, abused and exploited.'[3]

Indian Scenario

☐ Child domestic workers face all types of abuse - physical, emotional and sexual. Within each category of abuse also, these children are made to experience a wide variety of abusive situations. 68.3% of total child domestic workers have faced physical abuse. Nearly 86% have faced some form of emotional abuse.

☐ Sexual abuse of boys is also prevalent, contrary to the popular myth that it does not take place.

☐ In any of the abuse categories, the abuser is usually someone known to the child and is in a position of power and authority over the child.[4]

Impact Of Abuse On Child Domestic Workers

The child domestic workers are deeply engrained in the fabric of Indian society. No child is born as domestic worker but their social conditioning

from birth is such that basic survival becomes a major issue for them. They learn the basics of work from early childhood and begin their actual work life as early as five to six years.[5] The adverse effects of the abuses inflicted on these child domestic workers affect not only their physical health, but also their psychological health and development as well.

Psychologically, the discrimination and isolation that a child worker goes through are known to have negative effects on the child's self-esteem, sense of identity, ability to socialize and make friends. In case of actual abuse, verbal or physical, the effects may be even more acute.

In general, employers make little attempt to take on the "parent" role, other than in disciplinary matters, therefore, failing to offer the child encouragement for self-growth. Denying play, recreation, opportunities for socialisation and exploration of interests limits their normal childhood development. The isolation suffered by a child domestic worker tends to be greater in the urban areas than in the rural, largely due to distance from family. Many child domestic workers feel lonely and do not see their family and friends for years. As they watch the employer's children play, study, enjoy sweet ands go on outings, the sense of deprivation

[5] Save the children UK (1999); *Preventing Family Violence - A Manual For Action;* P.-18.

extends. They have no coping mechanisms and often experience a sense of rejection. These conditions, especially, when accompanied by verbal and physical abuse and harassment can at times result in personality disorders.[6]

Difficulties in Protecting Child Domestic Workers

(i)   The difficulty in protecting child domestic workers emerges from the fact that it is carried out within the confines of private homes. While traditionally these have been the homes of the landlords in rural India, in present times, it is in the homes of the burgeoning middle class and upper classes, a section of society that is extremely private and closed, be it in the case of domestic violence against women and children in their own homes or the violence against children employed in their homes.

(ii) The characteristic of invisibility that is commonly assigned to it despite its widespread existence is not because it is socially invisible as it is known to exist but because of its confinement in other people's homes, it is difficult to take it out in public and make it an issue for public debate and government agendas.

(iii) What makes it even more difficult to protect child domestic workers is that they are not recognized as "workers" by the civil society, government and legislation alike and it is frequently considered charitable to provide employment to children as domestics. Given the cultural and social acceptability that surrounds child domestic work and the fact that it occurs within private spaces makes interventions for protection of child domestic workers extremely complex.

(iv) Besides it, there is cultural acceptability attributed to domestic work. Very often parents believe that it promises better prospects for their children. This makes it a strong case for middlemen who lure the family often with advances, into sending their children to work as domestics in the home of the rich in the cities. The reality is that even as many of these children do work as domestics, many of them are trafficked into worse forms of labour including commercial sex work.

Physical abuse of a child is that which results in actual or potential harm from an interaction or lack of interaction, which is reasonably within the control of a parent or person in a position of responsibility power or trust. There may be single or repeated incidents. A result of having been made to work beyond their physical capacity, pushing, beating, kicking, slapping, pulling of heir, whipping,

[6]   Save the children UK (2005); *Child Domestic Work : A Violation of Human Rights - Issues, Causes And Consequences in West Bengal.* P-31.

pinching, shaving of heir, denial of food, being hurt with broom and pots on different parts of the body, burning /scalding by pouring hot water.

Being in the confines of a home, a child who is employed as a domestic help is extremely vulnerable to sexual abuse of various kinds and they ordinarily do not have easy access to legal protection. Child sexual abuse is the

(v) No official statistics exist on the problem. Statistics on child domestic workers must be an integral part of any plan of action on the issue.

(vi) Domestic labour is not addressed in a concise and clear manner in the legislation. Basic labour rights, access to social security, non-registration of labour contracts, excessive workdays, lack of support organizations and institutional support for redressing/reporting abuse, lack of collective bargaining–all lead to the vulnerability of the domestic labourers, a vulnerability most pronounced in the case of children.

(vii) Domestic service is difficult to classify. It is neither urban informal labour, nor industrial work. It is not non-remunerated family work. It has to do with economic difficulties of the families of origin.

(viii) The most important element of child domestic work that puts it in a tight spot is the social permissiveness and cultural complicity around it in many cases. Both employers and the families of the children involved

sincerely believe that they are doing good for the children.

(ix) Domestic work belongs to the informal labour market, is unregistered and does not show up clearly in employment statistics. The prevalence of under-age domestic workers in any setting is the most difficult to assess.[7]

International Instruments On Child Abuse

Due to lacunae in central and state legislation or inadequate legislations, the various conventions between nations essentially remain on paper with little or no relevance to the beneficiaries. One of the few documents in International law, which has received universal acceptance, amongst others are:

    International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966. Article 7 provides the states parties shall "recognize the right of everyone to the enjoyment of just and favourable conditions of work". Article 10 requires parties to protect "children and young persons...from economic and social exploitation".[8]

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[7] Save the children UK (2005); *Child Domestic work: A violation of Human Rights-Assessment of Situation In Delhi City.* P-22.

[8] Save the children UK (2005); *Child Domestic work: A Violation Of Human Rights- Report On The Legal Position Of Child Domestic Work In India.* P-16.

- The Convention on the Rights of the Child, 1989 especially provided for various safeguards, which can be extended as various rights of the working child.

- Article 3: All forms of slavery or practices similar to slavery, such as sale and trafficking of children, debt bondage and serfdom and forced or compulsory recruitment of children for use in armed conflict. Child domestics fall within the categories mentioned above, since the recommended elements of determining hazardous work (Recommen dation No 190 Para 3) also includes those relevant to domestic child labour: e.g., work which exposes children to physical, psychological or sexual abuse, work, for long hours or during night or work where the child is unreasonably confined to premises of the employer.

- The convention on the Medical Examination of young Persons (Non-Industrial Occupations), 1946.

- An interesting document to look at would be Convention 182 of the ILO, which seeks to ban the worst forms of child labour. India has not signed the Convention as yet[10].

Legal Control of Child Abuse in India

The Constitutional provisions for the protection and well, being of children as well as child domestic, workers are as follows:

- Article 15 affirms the right of the State to make special provision for women and children.

- Article 21 guarantees the right to life and personal liberty. The Indian Supreme Court has interpreted the right of liberty to include, among other things, the eight of free movement, the right to eat, sleep and work when one pleases, the right to be free from inhuman and degrading treatment, the right to integrity and dignity of the person, the right to the benefits of protective labour legislation, and the right to speedy justice. The practice of bonded labour violates all of these constitutionally mandated rights.

- Article 25 provides that no child below the age of 14 be employed in a factory or mine or engaged in any other hazardous employment;

involvement of a child in sexual activity that he or she does not fijlly comprehend is unable to give informed consent to, or for which the child is not developmentally prepared and cannot give consent or that violate the laws or social taboos of society.

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[10] lbid,P-21

[11] Section 319. Hurt: Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.

- Article 39 (e) provides that children of tender age should not be abused and they should not be forced by economic necessity to enter avocations unsuited to their age or strength.

- Article 39(f) requires children to be given, opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth be protected against exploitation and moral and material abandonment;

- Article 45 provides for free and compulsory education for all children until they complete the age of 14.

There are various provisions in the law that can be used to protect child domestic workers against violence and abuse and to punish offenders. Some of the provisions available within the Indian Penal Code (1PC) with reference to abuse of child domestic workers are:

Physical abuse

IPC   Sec.   319 :   Causing hurt

IPC   Sec.   320 :   Causing grievous hurt[12]

IPC   Sec.   323 :   Punishment for voluntarily causing hurt[13]

IPC   Sec.   325 :   Punishment for voluntarily causing grievous   hurt.

IPC   Sec.   324 :   Punishment   for   voluntarily causing hurt by dangerous weapons.[15]

IPC   Sec.   342:   Punishment   for   wrongful confinement.[16]

IPC   Sec.   352 :   Punishment for assault or criminal force otherwise than on grave provocation.[17]

Sexual abuse

IPC Sec 375, Child rape : A man is said to commit rape if he had sexual intercourse with a woman with or without consent, when he is under sixteen years of age.

Punishment: Imprisonment of either description for a minimum of seven years and may extend to life term.

IPC Sec. 377: Unnatural sexual offences : Whoever voluntarily has carnal intercourse against the order of nature shall be punished with imprisonment for life or for a term, which may extend to ten years and shall also be liable for fine.

The Juvenile Justice (**Care and Protection of Children) Act, 2000** also has certain provisions for punishment for offences against children:

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[12] Section 320. Grievous **Hurt**: The following kinds of hurt only are designated as "grievous"

Firstly :   Emasculation;

Secondly :   Permanent privation of the sight of either eye;

Thirdly :   Permanent privation of the hearing of either ear;

Fourthly :   Privation of any member or joint;

Fifthly :   Destruction or permanent impairing of the powers of any member or joint;

Sixthly :   Permanent disfiguration of the head or face;

Seventhly: Fracture or dislocation of a bone or tooth;

Eighthly :   Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.

Section 23: Punishment for cruelty to a child.[18]

The JJ Act provides protection to children in need of care and protection and those in conflict with the law. The children working as domestic help can be included in the definition of children in need of care and protection. These children are kept away from their homes; they are deprived of affection, parental guidance, and association with the children of their age. They suffer from inferiority complex, physical, economic, sexual exploitation and need some support and protection.

Besides the IPC and Juvenile Justice Act, 2000, sometimes there are state-specific Special and Local Laws that can also be used to seek legal action against abusers.

Position of Child Domestic Workers in India

In India, 20 per cent of all children working outside the family home are in the category child domestic labour. Child domestic workers are usually below 14 years of age and are engaged in household chores like cooking, cleaning, washing, caring for kids, aged and the infirm. According to the 1981 Census, while 17 percent of all domestic workers in India were under the age of 14, around 19 percent of them were between the age of 15 and 20 years. This amounts to 40 percent of all servants". Many suffer exploitation and abuse because working arrangements are largely informal and social protection non-existent.

The National Child Labour Policy was formulated in 1987 to look at the problem from a broader perspective. It envisaged non-formal education, vocational training, health care, nutrition and education for the working children. Subsequently, a high-powered body–the National Authority for the Elimination of Child Labour was constituted in 1994-95 to withdraw children working in hazardous occupations, and to rehabilitate them through special schools.

In India, the struggle of the House workers' Movement for justice and rights of domestic workers is embodied in the campaign for a Domestic Workers' Bill initiated in 1987. In 1981, the Domestic Workers Society was formed and problems of the child domestic workers in India were taken up. For children in domestic work, the movement advocates a reduction in working hours, and education for them. For traumatised children, it offers crisis intervention support. A bill known as the House Workers (Conditions of Service) Bill, 1990 was formulated, but has not been passed till today.

Some states have taken note of the situation of the abuse of child domestic workers and have made endeavours for improving the same. Tamil Nadu, through an amendment in the schedule, has added domestic labour as manual labour under the Tamil Nadu, Manual Workers (Regulation and Employment and Conditions of Work) Act. Karnataka is one of the first states in the country to fix wages for domestic workers to save child domestic workers from economic exploitation at the hand of employers[20].

In this context, the role of Save the Children, and other NGOs is worth mentioning. They have been working in the area of education, HIV/AIDS, children and work and child protection. The organisations initiated the National Child Domestic Workers Projects in August 2002, to understand the

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[13] Section 323. **Punishment for voluntarily causing hurt**: Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

[14] Section 325. Punishment for voluntarily causing grievous hurt: Whoever, except in the case provided lor by section 335, voluntarily caused grievous hurt, shall be punished with imprisonment of either description for a term, which may extend to seven years, and shall be liable to fine.

mechanisms and issues related the child below 18 years of age employed in private homes. This project is implemented jointly by save the children UK and Canada with field-based interventions in Maharastra, Jharkhand and West Bengal and national-level advocacy from New Delhi[21].

The Government has prohibited employment of children as domestic servants from lOth October, 2006 as per Child Labour (Prohibition and Regulation) Act, 1986 and order of Hon'ble Supreme Court, 1996. Employers engaging children in domestic work will be liable to fine up to twenty thousand rupees or imprisonment up to one year or both. The decision has been taken on the recommendations of the Technical Advisory Committee on Child Labour headed by the Director.

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[15] Section 324. Voluntarily causing hurt by dangerous weapons or means: Whoever, except in the case provided for by seclion 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or by means of any heated substance or by means of any poison or any corrosive substance, or by means of explosive substance or by means of any substance which ii is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description of a term which may extend to three years, or with fine, or with both.

[16] Section 342. Punishment for wrongful confinement: Whoever wrongfully confines any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees or with both.

[17] Section 352. Punishment for assault or criminal force, otherwise than on grave provocation: Whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person, shall he punished with imprisonment of either description which may extend to five hundred rupees or with both.

[18] Section 23. Punishment for cruelty to juvenile or child: Whoever, having the actual charge of, or control over, a juvenile or the child, assaults, abandons, exposes, or willfully neglects the juvenile or causes or procures him to be assaulted, abandoned, exposed or neglected in a manner likely to cause such juvenile or child unnecessary mental or physical suffering shall be punishable with imprisonment for a term which may extend to six months, or fine or with both.

[19] Save the children UK (2005), *Child Domestic Work: A Violation of Human Rights- Quantitative Analysis of the Situation In West Bengal.* P-10

[20] Save the Children UK (2005); Op.Cil. P-30

[21] Ibid. P-14

PROBLEM OF TUBERCULOSIS IN INDIAN PRISONS

Dr.Deepti Shrivastava*

"It is said that no one truly knows a nation until one has been inside the jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones."

Nelson Mandela

Prisons today are recognized as important, powerful and meaningful reformatory contributors to the life of prisoners. In other words, it is a system in civilized world which has been modernized, and the prisons have been turned into institutions where constructive moral, mental and vocational training is imparted to the prisoners for their new and changed life.

Correctional administration is based on premise that prisoners are sent to prison as punishment, and not for punishment. This means that denial of a person's right to liberty is imposed by suppression in a closed environment. Prisoners have inalienable rights conferred upon them by international treaties and covenants; they have a right to health care, and most certainly have a right not to contract diseases in prison. Prison jurisprudence recognizes that prisoners should not lose all their rights because of imprisonment. Yet, there is a loss of rights within custodial institutions, which continue to occur. Public health policies are meant to ensure the best possible living conditions for all members of society, so that everyone can be healthy**.** (*Tyagi- Madhu* 2007)

Inspite of the legislative measures adopted in favour of prisoners in our country after Independence and inspite of the human rights awareness, countless prisoners are dying in the Indian prisons, due to tuberculosis. *(Shrivastava, Deepti 2005.)* Prison is the clear reflection of societies. Most of the prisoners come from the vulnerable sectors of society. Poor, uneducated and unaware these groups already have an increased risk of diseases such as TB. In prison, these problems are augmented by poor living conditions and overcrowding. A climate of violence and humiliation in prison aggravates the situation, creating obstacles in accessing health care and promoting unhealthy behaviors. Prisoners are eventually released back into society, bringing with them the illness and

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Abstract

Prisoners have many rights bestowed upon them by international treaties and covenants; they have a right to health care, and most certainly have a right not to indenture transmission of infection during incarceration. Inspite of the legislative measures adopted in favour of prisoners in our country after Independence and inspite of the human

behaviors generated and worsened by their incarceration (*World Health Organization 2000).*

Objective

The objective of the present study is mainly to investigate the problems of tuberculosis among prisoners in Indian prison. The present study covers following five areas:
a. To identify the nature and extent of the problem.
b. To know causational factors working behind these problems.
c. To ascertain impact of these problems on prisoners.
d. To make clear normative provision.
e. To recommend remedial measures.

Methodology

Major challenge associated with this study was the search for relevant data from overseas sources. Initially, letters seeking information, advice and assistance were sent by the researcher to a large number of professional colleagues in different parts of the country. These letters yielded many encouraging and interested replies, but very little hard data. Secondly, arrangements were made for an extensive Internet survey especially for (International Perspective of Problem). Thirdly, a search was undertaken of the annual reports of various national and international government like Prison Statistics, NCRB, M.H.A., New Delhi, Bureau of Justice Statistics and WHO reports, International Centre of Prison Study, Kings College London, etc.

Nature and Extent of Problem

The recorded number of new cases of TB worldwide roughly correlates with economic conditions: the highest incidences are seen in those countries of Africa, Asia, and Latin America with the lowest gross national products. The World Health Organization (WHO) estimates that eight million people get TB every year, of which 95% live in developing countries. An estimated 3 million people die from TB every year (*Jeet, 2004*). And South East Asia accounts for approximately 40% – two out of five – cases of tuberculosis in the world. Within South-East Asia, more than 95% of cases are found in India, Indonesia, Bangladesh, Thailand, and Myanmar.(*WHO Report 1999*)

Regarding problem of tuberculosis in prison, prisoners around the world have consistently higher rates of tuberculosis (TB) infection and disease than the general population (*Maher D, Grzemska M, Coninx R, Reyes H, 1998*). In the US eleven and a half million people are released from prison each year. Released prisoners constituted 33% of all Americans with

TB in 1996. *(NCCHC, US Department of Justice, 2002.)* Between 1998 and 2001, the death rate from TB in Georgian prisons went down from 0.4% to 0.14%. Between 1995 and 2000, the number of deaths from TB in prisons in Azerbaijan went down from 496 to 199. Other than this, in Moldova in 2001, of those who died in prison the cause of death in 42% of these cases was TB. In Kazakhstan, the incidence of TB infection was reduced from 3,434 cases in 1999 to 2,908 cases in 2001. The mortality rate from TB over the same period was reduced from 345 to 174 cases. *(ICPS, 2007).*

The nature of the problem of tuberculosis in prisons is a complex interaction between infection, imprisonment and poverty. Dealing with it leads to thorny dilemmas about equity, human rights, punishment in society and the protection of the staff and the public at large.(*Task force on Communicable Disease Control in the Baltic Region, Programme Document, 2002).*

Indian prisons also have an alarming scenario. The researcher has conducted a study on death in judicial custody on behalf of BPR&D MHA, New Delhi. It shows that the poor health care status of prisoners is not surprising, given that poverty and miserable status are known to accelerate the spread of communicable disease like tuberculosis. Consequently, prisoners often present to medical attention within prisons with a higher prevalence of late stage disease complications, like communicable diseases (HIV, and TB).

Analysis of Table No.1 reveals that the supporters of died inmates have given quite favorable opinion towards medical examination at the time of admission. Data shows that in seven sampled states, out of total 392 cases in 45 cases, prisoner were not medically examined at the time of admission, while in remaining 347 cases died prisoners were medically examined at the time of admission.

Study also indicates that out of 392 cases a majority of died inmates have previous illness, while a significant number of inmates are examined at the time of admission. It

rights awareness, countless prisoners are dying in the Indian prisons, due to tuberculosis. Regarding problem of tuberculosis in prison, prisoners around the world have consistently higher rates of tuberculosis (TB) infection and disease than the general population. Indian prisons also have an alarming scenario; the poor health care status of prisoners is not surprising, given that poverty and miserable status are

Table No. 1
Medical Examination at the Time of Admission

Reply	C.G.	U.P.	M.P.	T.Nadu	Maha.	W.B.	Assam	Total	Mean
No	6	4	5	9	7	5	9	45	6.42
Yes	50	52	51	47	49	51	47	347	49.57
Total	56	56	56	56	56	56	56	392	55.99

Table NO.2
Identification of Previous Illness

Reply	C.G.	U.P.	M.P.	T.Nadu	Maha.	W.B.	Assam	Total	Mean
Yes	40	52	50	48	51	51	35	327	46.7
No	16	4	6	8	5	5	21	65	9.28
Total	56	56	56	56	56	56	56	392	55.98

is observed that while a maximum of 327 died inmates have previous illness.

A minimum of 65 died inmates have no previous illness. On the other hand, a significant number of mean 46.7 is indicating for previous illness and mean 9.28 was with no previous illness. [See table no.2.]

Further table no. 3 shows that sick prisoner reported highest number of tuberculosis, in comparison to other decease. Distribution of inmates disease-wise shows highest mean is

10.57 of T.B. patients followed by 9.71 mean of Septicemia patients, and 8.14 mean of prisoners suffering from liver disease.

A minimum of 5.71 mean have indicated for AIDS prisoners followed by 6.71 lungs infected prisoners. Cancer patients and Cardio-respiratory sufferers' mean is 7.57.

Accordingly, there can be no adequate control of tuberculosis within a country, without control of the disease inside the prisons. Prisons are an

Table No. 3
Disease Wise Distribution of Died Inmates

Decease	C.G.	U.P	M.P.	T.Nadu	Maha.	W.B.	Assam	Total	Mean
Tuberculosis	6	11	16	8	13	8	12	74	10.57
Cardio-respiratory Failure	10	3	10	10	12	5	3	53	7.57
Septicemia	7	15	3	8	19	2	14	68	9.71
Cancer	10	7	10	7	4	5	10	53	7.57
AIDS	10	3	10	11	2	2	2	40	5.714
Lungs Disease	7	7	5	9	4	12	3	47	6.714
Liver Disease	6	10	2	3	2	22	12	57	8.14
Total	56	56	56	56	56	56	56	392	55.98

known to accelerate the spread of communicable disease like tuberculosis. Tuberculosis infection contracted in the community can initiate an epidemic when brought into the prison, while the reverse route of transmission is equally possible. World health organization suggests:

☐ Early diagnosis of TB (case-finding)

☐ Effective treatment of TB until cure.

To diminish this problem

important source of both tuberculosis disease and tuberculosis transmission. Tuberculosis infection contracted in the community can initiate an epidemic when brought into the prison, while the reverse route of transmission is equally possible. The high turnover of prisoners can make tuberculosis transmission difficult to demonstrate, and difficult to investigate. Remand prisoners are often held in the most overcrowded conditions. This not only enhances transmission of tuberculosis, but it also makes the detection of cases and their treatment more difficult. All these are more important to prevent transmission, as control is extremely difficult in the midst of an epidemic. *(Levy H. Michael, 1999)*

Causational factors: TB is spread through the air. No voluntary actions are necessary to put persons at risk. Immediate isolation can interrupt the transmission of Mycobacterium tuberculosis. Prison conditions usually make the chances of infection greater as prisons are overcrowded. Prisoners have little access to light and air and food is inadequate**.** *(ICPS, 2007)* Therefore, prisoners have a higher risk of being infected with TB than the general population.

Factors contributing to the spread of TB in prisons:

☐ Lack of isolation facilities;
☐ Inadequate treatment of those

who are infectious;
☐ Late case detection;
☐ High turnover of prisoners;
☐ Overcrowding and poor ventilation. (*WHO and ICRC, 2000)*

Prison overcrowding has many negative effects upon inmates. Overcrowding of accommodation and the lack of resources to cope with it was the most commonly cited symptom of the crisis. Research has demonstrated that prison overcrowding creates higher rates of tuberculosis. TB is spread through the air. Immediate isolation can interrupt the transmission of Mycobacterium tuberculosis. In the prison if TB is not treated, then other individual with an active form of TB can infect a further of 10 to 15 people a year. Like open society Mycobacterium tuberculosis accounts for more adult deaths in prison than any other infectious agent. Prison conditions usually make the chances of infection greater as prisons are overcrowded. (*World Health Organization/WHO, International Committee of the Red Cross, 1998).* Findings indicate that inadequate medical staff and poor medical facilities are major instigators of increasing cases of tuberculosis.

Other than these prisoners who have suspected or confirmed pulmonary or laryngeal TB disease should be placed immediately in a TB isolation room that meets

Correctional Administration has to take enormous pains in this matter. They have to accept a challenge to prove their competence of co-operation. Only then we can cope up with this curse. Prison overcrowding has many negative effects upon inmates. Overcrowding of accommodation and the lack of resources to cope with it was the most commonly cited symptom of the crisis. Research has demonstrated that prison over-

crowding creates higher rates of tuberculosis. TB is spread through the air. Immediate isolation can interrupt the transmission of Mycobacterium tuberculosis.

recommended standards (*CDC, Guidelines 1994*). Keeping a suspected prisoner in a TB isolation room is very difficult in prison due to overcrowding. Lack of TB isolation procedures likewise elevates the chances of TB transmission.

Impact of these problems on prisoners

Prisoners are more likely to already be in a bad state of health when they enter prison, and the unfavorable conditions therein worsen the health situation. Hence, the need for health care and treatments will often be greater in a prison than in an outside community. However, providing even basic health care to prisoners has proved extremely difficult in India, as the

health system is chronically insufficient. Contracting any disease in prison is not part of a prisoner's sentence. This fact becomes even more significant when the disease is potentially fatal, as is the case with tuberculosis. *(Tyagi- Madhu 2007)*

Figure 1 shows that how the transmission of tuberculosis in prisons creates a health problem for both prisoners and the society into which they will go after release. Negative impact of TB transmission is not limited to this extent, even many other fatal infections deadly combine with this.

TB is the main cause of death among HIV positive inmates. Prisoners are at exceptional risk of infection with HIV, because of the
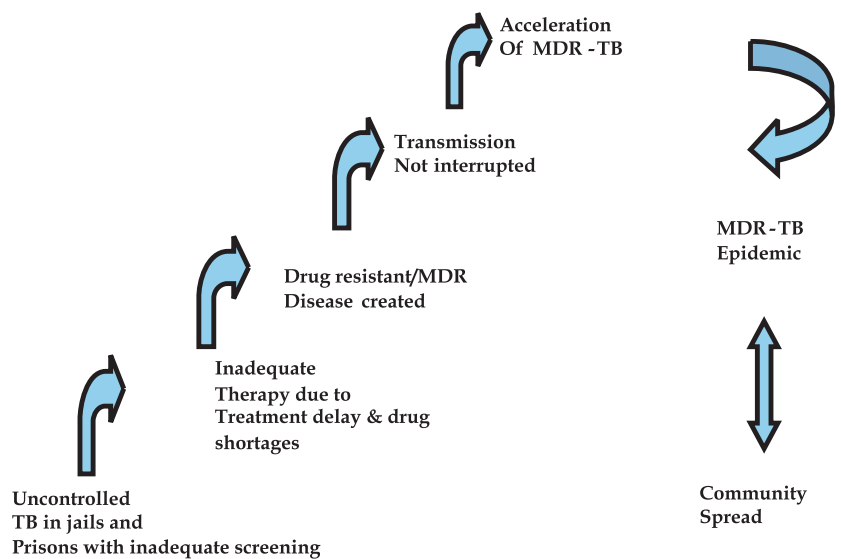

Fig.1: Development of Dual & Parallel TB Epidemics

Source : Michael E. Kimberling:Gorgas TB Initiative Tuberculosis Control in Prisons

connection between injection drug use and incarceration. Women prisoners who have practised prostitution, which is frequently associated with injection, drug use and contact with HIV-infected sex partners, are at additional risk of HIV infection. Study reveals the following issues associated with HIV infection in prisoners: epidemiology, prevalence, and transmission; the growing coincidence of tuberculosis; institutional issues including prison policies and practices, confidentiality, informed consent, and medical research; the extensive involvement of the legal system in the area of HIV in prisoners; and prevention and the role of educational programs. *(UNAIDS,) Prisons and AIDS: UNAIDS point of view 199713)*

Inspite of this, tuberculosis may be the single biggest cause of death among the world's prisoners. Reports of deaths from "tuberculosis" have been used to conceal other serious human rights abuses, such as malnutrition, murder and deaths from torture. Holger Sawert equated surveillance with accountability. *(Levy H. Michael, 1999)*

Normative Provisions: The Supreme Court of India, in its landmark judgment in Parmanand Katara vs. Union of India (1989) and others, ruled that the state has an obligation to preserve life whether he is an innocent person or a criminal liable to punishment under the law. With specific reference to health, the right to conditions, adequate for the health and well-being of all was already recognized in the Universal Declaration of Human Rights. The International Covenant on Economic, Social and Cultural Rights (ICESR) furthermore states that prisoners have a right to the highest attainable standard of physical and mental health. *(Tyagi- Madhu 2007)* Article 12 of ICESR recognizes the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. The Standard Minimum Rules for the Treatment of Prisoners, Article 22 provides that the medical services in prisons should be organized in close relationship to the

general health administration of the community or nation. The UN Basic Principles for the Treatment of Prisoners Principle 9 requires that Prisoners shall have access to the health care services available in the country without discrimination on the grounds of their legal situation.

The United Nations Principles of Medical Ethics Relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Principle I states that health personnel, particularly physicians, charged with the medical care of prisoners and detainees have a duty to provide them with protection of their physical and mental health, and treatment of disease of the same quality and standards as is afforded to those, who are not imprisoned or detained.

Remedial Measures: The transmission of tuberculosis in prisons elevates a public health risk for prisons staff and for inmates and the communities into which they are released. World health organization suggests:

1. Early diagnosis of TB (case-finding)
2. Effective treatment of TB untill cure.

Such a strategy should be accessible to all TB cases. However, where resources are limited, the strategy must prioritize the diagnosis and treatment of infectious cases (patients with smear-positive, pulmonary TB). This is because these cases transmit infection (drug-susceptible and drug-resistant) and, therefore, ultimately produce more morbidity and mortality.

Proper treatment when prisoner are released from prisons can contribute to the progress and spread of resistant tuberculosis in the general population. Effective procedures to avoid the transmission of infectious diseases among prisoners and through released prisoners to the

open society require a dedication by the whole society, health care, social services, judicial systems, media, NGOs, etc. Tuberculosis spreads among socially deprived, often homeless individuals. In addition, a growing number of socially marginalized persons like ex prisoners have made control measures against infections hard to implement.

The prison wherever it is located cannot exist in isolation. There has to be close co-ordination between control of tuberculosis in prisons and the community health and social services. General penal reform is an important part of the struggle against tuberculosis. (*Pille Lindkvist, 2000).*

Sooner or later, there will be great need of education and training for prisoner as well as prison staff. Released prisoners, who have tuberculosis, can be managed by after care support on release. Alarmingly adequate, it is not only tuberculosis that simulates serious health harms in prisons. Unfortunately, we are now facing the increasing threat of human right violation. Correctional administration have to take enormous pains in this regard, they have to accept a challenge to prove their competence of cooperation. Only then we can cope up with this curse.

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MARITIME TERRORISM AND PORT SECURITY

*Dr.*Shikhar Sahai*

Introduction

Maritime terrorism directed at International trade and energy supplies is not just within the realm of possibility, but a distinct threat that confronts the international community. While piracy has an old history, acts of maritime terrorism on a noticeable scale began with the Palestinian Liberation Front hijacking an Italian cruise ship *Achille Lauro* in 1985.This was followed by the attack on the US naval ship, *USS Cole* off the Port of Aden by Al Qaeda in October, 2000. Some acts of maritime terrorism of a tactical nature by suspected Al Qaeda elements in Singapore, Malaysia and Indonesia have also been thwarted. These attacks were reportedly planned against US naval ships, visiting the ports in these regions. The LTTE of Sri Lanka has also carried out strategic attacks on maritime targets in order to achieve its final objective of an independent Tamil State. A maritime attack of a strategic nature by a jihadi terrorist group was reported in October, 2002, when a boat containing explosives hit the French-flagged large crude carrier (VLCC) *Limburg* off

Yemen, killing and injuring some members of the crew and badly damaging the vessel. Hence, the threat of maritime terrorist has become an important component of counter-terrorism strategies. The Council for Security Cooperation in the Asia Pacific (CSCAP) Working Group has defined maritime terrorism as :

"…the undertaking of terrorist acts and activities within the maritime environment, using or against vessels or fixed platforms at sea or in port, or against any one of their passengers or personnel, against coastal facilities or settlements, including tourist resorts, port areas and port towns or cities."

Global Maritime Trade Links / Vulnerabilities

Decreasing trading barriers and reduced tariffs created an increasingly open and interdependent globalized economy. According to the United Nations Conference on Trade and Development (UNCTAD), an estimated 85% of the world's trade volume (7.1 billion tons of goods)

Key Words

Terrorism,

Piracy,

Port,

Maritime Choke point,

Littoral Warfare,

ISPS Code,

IMO,

Security Levels,

Global maritme

Trade links

CSCAP

Atomic waste

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Abstract

Maritime Terrorism has emerged as a major threat in a globalized economy with serious strategic security implications. South Asia is located between maritime chokepoints and terrorist hubs are situated in its littorals. Sea Ports are vulnerable to terrorist attacks. The ISPS Code is a major step in global response to maritime terrorism but there is need for a multi-dimensional approach to meet new challenges. These as-

was shipped by sea in 2006. Carried by at least 46,000 ships calling at over 4,000 ports worldwide, the maritime sector employs more then 1.3 million people (seafarers and port workers). The majority of consumer goods are shipped by as many as 15 million containers making over 230 million journeys per year. Catchphrases as "Just enough – Just in Time" have left lasting effects on the way trade is conducted in the 21st Century. As Michael Richardson explains:

"The global economy is built on integrated supply chains that feed components and other materials to users just before they are required and just in the right amounts. That way, inventory costs are kept low. If the supply chains are disrupted, it will have repercussions around the world, profoundly affecting business confidence." (*A Time Bomb for Global Trade: Maritime-Related Terrorism in an Age of Weapons of Mass Destruction,* Singapore, 2004)

Carried by a heterogeneous fleet of vessels, the maritime transport sector is one of the most vulnerable points in today's interdependent societies.

According to Akiva Lorenz, Merchant vessels, as with pleasure vessels, can serve, in principal, in four

ways to facilitate a maritime terrorist attack: (*Al Qaeda's Maritime Threat,* International Institute for Counter Terrorism, 2007).

The vessel can be used as a weapon against port, offshore facilities and other maritime vessels. Previous maritime terrorist attacks by Al Qaeda, such as the *USS Cole* and *MV Limburg*, tended to use small explosive loaded boats to attack their target. Maritime security experts tend to view a growing threat in the possible use of a Liquefied Natural Gas (LNG) tanker to attack port cities. In addition to the perceived danger through LNG and LPG carriers, maritime security experts also focus on certain extremely hazardous bulk shipments, such as atomic waste or ammonium nitrate.

A 'mother ship' can be used to launch an attack using either small explosive loaded boats or a different weapons system. Previously, this tactics was used by several other groups, such as the LTTE and the different Palestinian groups. The majority of such attacks that took place in Israel happened in the 1970s. An example of an attack launched from a mother ship was on the Tel Aviv Savoy Hotel by Fatah on March 5, 1975.

The vessel can be sunk in a narrow chokepoint in order to

disrupt infrastructure. Global and interdependent trade follows the shortest sea way often passing narrow and shallow waterways called chokepoints, in order to get their merchandise from "point A" to "point B". Six of the nine chokepoints in the world are located in geographical areas, where local terrorist groups with ties to Al Qaeda possess maritime capabilities. A successful closure of the Strait of Hormuz by attacking and sinking of a tanker, thereby disrupting the sea-lane, could stop all traffic through this specific chokepoint. As a result, the world economy would experience a sudden shortfall of 90% of Saudi crude oil and all of Kuwaiti and Iraqi crude oil, which is typically shipped through the Strait of Hormuz.

Ships can be used to either smuggle weapons / terrorist operatives into another county or to launder illicit funds for the terrorist organizations. The ability to freely transport personnel and/or weapons around the world is one of the most important factors for international terrorist.

A major weakness in the maritime trade is the containers in which goods are transported. With an average of a five percent inspection rate worldwide, containers can be easily be used to smuggle illegal goods, human beings or weapons. The fear that terrorists could exploit the container system first came to fruition on October 18, 2001 when port authorities in the Italian port of Gioia Tauro discovered a stowaway within a shipping container. The container was complete with a bed, heater, toilet facilities and water. In recent years, however, the focus shifted towards the use of a container as delivery vehicles for weapons of mass destruction. The fear was fuelled by Al Qaeda's fatwa (2003) to use WMD against the enemies of Islam.

Since the early 1990s, the strategic literature on naval strategy discussed about concept of '*littoral warfare*'. Although the term 'littoral' is not new, it gained great significance in military literature primarily due to the fact that littoral spaces are considered congested due to dense shipping activity, civilian air corridors and shallow water which can result in projection of power in the littorals, a potentially challenging exercise. Major General Mike Myatt, former Director of US Expeditionary Warfare, coined the term "*chaos in the littorals*". General Myatt's hypothesis is that most future conflicts would take place in the littoral i.e where the sea meets the land. He argued that littorals provide a home to most of the world population, wealth and industrial capacity and the nerve center of international relations through which people, goods, ideas and cultures pass. (See Vijay

pects are highlighted in the present paper. A major weakness in the maritime trade is the containers in which goods are transported. With an average of a five percent inspection rate worldwide, containers can be easily be used to smuggle illegal goods, human beings or weapons. The fear that terrorists could exploit the container system first came to fruition on October 18, 2001 when port authorities in the Italian port of Gioia Tauro discovered a

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The exposure of an extensive and long-running *Nuclear Black Market* based in Pakistan in 2004, which peddled weapons technology to Libya, Iran, North Korea and perhaps other places, has amplified fears that countries or criminal organizations will pass Weapons of Mass Destruction (WMD) related materials to terrorists, who may use them to attack the U.S., its allies or friendly countries. North Korea and Iran are primary sources of proliferation concern. According to the Lloyds List, the U.S. and Norwegian intelligence agencies have identified some 15 to 23 freighters, flying the flags of Yemen, Somalia, and the Pacific island of Tonga, believed to sail in the Mediterranean Sea, and in the Indian and Pacific oceans, as owned or controlled by the Al Qaeda network. (*Maritime Terrorism: A New Challenge for NATO,* Institute for Analysis of Global Security, 2005).

Threat Perception in Indian Ocean South Asia

The Indian Ocean is home to many chokepoints, such as the Straits of Hormuz, Straits of Malacca, Lombok and the Sunda Straits. Any disruption in traffic flow through these points can have disastrous consequences. The disruption of energy flows, in particular, is a considerable security concern for littoral states, as a majority of their energy lifelines are sea-based. Since energy is critical in influencing the geo-political strategies of a nation, any turbulence in its supply has serious security consequences. Given the spiralling demand for energy from India, China and Japan, it is inevitable that these countries are sensitive to the security of the sea lines of communication (SLOCs) and chokepoints of the region. The Indian Ocean is home to important SLOCs and maritime chokepoints. A large volume of international long haul maritime cargo from the Persian Gulf, Africa and Europe transits through this ocean. Some of the primary items transported are energy products – mainly oil and gas.

The importance of energy to the "demand heartland" (India, China and Japan) is extensive. These countries view SLOCs as their very lifelines. At current levels of consumption, the oil import dependence of India is expected to reach 82.2 percent by 2010 and 91.6 percent by 2020. In the case of China, it will be 61 percent and 76.9 percent, while for rest of South Asia it will be 95.1 percent and 96.1 percent

respectively. For India, with nearly 89 percent of its oil imports arriving by sea, it is imperative that the SLOCs should be secure. This security angle is enhanced many fold, since most of the oil originates in West Asia, and the SLOCs pass through areas under the influence of India's adversary, Pakistan. Added to this is the political turbulence of areas in West Asia that often holds hostage the supply of oil from the region. In the past, supplies from this region have been disrupted on at least seven different occasions, all of which were due to political causes and were not market driven. (See P.K.Ghosh, *Maritime Security Challenges in South Asia and the Indian Ocean,* Paper prepared for Conference on Maritime Security in Asia, January 18-20, 2004, Honolulu, Hawaii).

The sea is the main route for illegal arms coming from various countries. The land borders also provide alternative routes. The LTTE gun trade route passes through the Bay of Bengal and Andaman sea. Arms originating from Cambodia are loaded into small fishing trawlers in the southern Thai Port of Ranong. These vessels then transfer the consignment to larger vessels for onward passage to Sri Lanka . Small boats to Cox Bazar transport a part of the consignment. Several vessels engaged in gun running have been captured in the region. In 1996, the Bangladesh authorities seized 600 rifles from a fishing trawler originating in Thailand. In 1997, the royal Thai Navy seized an arms shipment for the People's Liberation army (Manipur) following a chase in the Andaman Sea off the port of Ranong.

Maritime counter-terrorism experts like B.Raman now look on the Bay of Bengal and the Indian Ocean region as highly vulnerable, if not the most vulnerable, to such catastrophic acts of maritime terrorism. Among factors influencing their perceptions are: (*Taming Terror on the High Seas,* Asia Times Online, June 9, 2005).

First, the presence of terrorist or insurgent organizations with proven or suspected capabilities for maritime operations in this region .

Second, the wide networking of Al-Qaeda across this region - either through its own members or through surrogate jihadi terrorist organizations.

Third, the long-known reputation of this area as the world's leading producer and supplier of heroin from the Golden Triangle and the Golden Crescent, and its recent emergence as a producer and supplier of synthetic drugs.

Fourth, the continuing availability in this region - in Pakistan as well as

the term 'littoral' is not new, it gained great significance in military literature primarily due to the fact that littoral spaces are considered congested due to dense shipping activity, civilian air corridors and shallow water which can result in projection of power in the littorals, a potentially challenging exercise. Major General Mike Myatt, former Director of US Expeditionary Warfare, coined the term "*chaos in the littorals*". General Myatt's hypothesis is that

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in Thailand, Laos and Cambodia - of large quantities of arms and ammunitions to anyone with the means to pay for them and with the capability for their clandestine transport to areas of intended use.

Fifth, the presence of terrorist organizations, such as the LTTE, with a commercial shipping capability that can be diverted for the clandestine transport of narcotics and arms and ammunition in this region .

Sixth, the presence of transnational mafia groups in this region, such as the one headed by Indian Dawood Ibrahim, with vast financial resources, a capability for clandestine shipping and a willingness to place their resources and shipping at the disposal of Al-Qaeda and other jihadi terrorist organizations, operating across the region.

Seventh, the long-known (to India), but only recently admitted role of Pakistan as the region's leading supermarket for nuclear weapons-capable material and equipment and the nexus of some of its scientists, enjoying the protection of its army, with Al-Qaeda and other jihadi terrorist organizations.

Eighth, the presence in this region of tempting chokepoints, such as the often mentioned Malacca Strait, through which approximately half of the world's

oil and a third of its trade passes. There is a large volume of container traffic originating in this rapidly developing region. It has been estimated that 48% of the global container traffic passes through this region.

Ninth, the reputation of this area as one of the most piracy-prone in the world.

Tenth, the presence of a large number of uninhabited islands in the region, which serve as sanctuaries and operational bases for today's pirates and could similarly serve the terrorists of tomorrow.

The Indian state has borne the burnt of cross border terrorism for decades and has witnessed sponsored terrorism in Punjab, Kashmir and the North east. The response to such terrorist activities has been varied based on the political perceptions of local situation in each region. Most of these terrorist activities have been over land in the Border States. It is only after the Bombay blasts in 1993 that the maritime dimensions of this act gained prominence. The seas were used to land explosives along the western coast by the Dawood gang. This is what led to launching " Op Swan" by the Indian Navy and the Coast Guard along the western coast of India, particularly along the sensitive

Maharashtra and Gujarat coast. Ships, aircrafts, helicopters and hired trawlers carried out patrol to prevent landing of explosives. It is also during the period that a major maritime piracy case was solved with the capture of a pirated vessel Alandra Rainbow, renamed Mega Ram in a combined CG/Navy operation in the Arabian Sea which brought in world wide acclaim and recognition to the maritime forces of India. On 13th February 2007, a Coast Guard ship "Ramadevi" caught one suspicious vessel " Sri Rama Jayam" in Palk Bay with 05 persons on board having 01 AK-56 Rifle, 05 grenades, detonators, suicidal belt, chemical white powder, satellite phone and other material. The vessel was brought at Chennai Port and case was registered. One of the people on board was a suspected LTTE member.

Port security and ISPS Code

Vulneability of Port Facility

Sea Ports provide suitable environment for the terrorist and anti-national elements because of its size, access to land and water, proximity to metropolitan areas and key transport nodes and importance for international commerce. Tremendous flow of goods transiting through them makes it very easy to smuggle people, drugs, weapons and other illicit materials. Terrorists could, therefore, can easily target the maritime infrastructure or use them in support of their operations.

ISPS Code

ISPS Code i.e. International Shipping and Port Facility Security Code provides a framework through which ships and port facilities can co-operate to detect and deter threats to international ship and port facility security. It is basically designed to protect ports and international shipping against terrorism.

The International Maritime Organization (IMO) diplomatic conference on December, 2002 adopted these new regulations to enhance maritime security through amendments to SOLAS (Safety of life at sea – Chapter 5 and 11).

The ISPS Code, which came into effect on 1st July 2004, contains detailed security related requirements for Government, Port authorities, and shipping companies in a mandatory section (Part "A") together with series of guidelines about how to meet this requirement in a non-mandatory section (Part "B").

The agencies which are responsible for implementation of the code are:

- Contracting Governments
- Government agencies
- Shipping Industries
- Port Industries
- Local Administration

An IMO country is covered by the ISPS Code and it is essential that the particular country meets the requirement of the code. Countries or Ports not complying the ISPS code could possibly face a situation wherein ships could by-pass such a country or the Port due to security threat. The Govt. of India has given its consensus as regarding implementation of the provisions of ISPS Code, and has decided that Indian Register of Shipping would help in the implementation of ISPS Code in the major Ports.

Security Provisions in ISPS Code

As far as the sea port proper is concerned, the requirement of the Code mainly includes:

- Port facility security assessment (PFSA)
- Port facility security plan (PFSP)

- Security levels
- Port facility security officer (PFSO)
- Training and drill

Levels of Security

There are three designated levels of security under ISPS – *normal* (Level 1), *increased* (Level 2) and *high* (Level 3)

Security level 1

It means the level at which appropriate measures shall be maintained at all times to cover the followings :

a) Ensuring the performance of all port facility security duties

b) Controlling access to the port facility

c) Monitoring of the port facility, including anchoring and berthing areas

d) Monitoring restricted areas to ensure that only authorized persons have access

e) Supervising the handling of cargo

f) Supervising the handling of ship's store and

g) Ensuring that security communication is readily available.

Security level 2

This means the level in which appropriate additional protective measures shall be maintained for a period of time as a result of heightened security risk. The PFSP should establish the additional security measures to be applied, which may include :

a) Assigning additional personnel to guard access points and patrol perimeter barriers

b) Limiting the number of access points to the port facility, and identifying those to be closed and the means of adequately securing them

c) Providing for means of impeding movement through the remaining access points, e.g. security barriers

d) Increasing the frequency of searches of persons, personal materials, and vehicles

e) Denying access to visitors who are unable to provide a verifiable justification for seeking access to the port facility and

f) Using patrol vessels to enhance water-side security

Security Level 3

This means the level for which further specific protective measures, specified in the port facility security plan shall be maintained for a limited period of time, when a security incident is probable or iminent although it may not be possible to identify the specific target.

The PFSP should detail the security measures which could be taken by the port facility, in close co-operation with those responding and the ships at the port facility which may include :

a) suspension of access to all, or part, of the port facility

b) granting access only to those responding to the security incident or threat thereof

c) suspension of pedestrian or vehicular movement within all, or part, of the port facility

d) increased security patrols within the port facility if appropriate

e) suspension of port operations within all, or part, of the port facility

f) direction of vessel movements relating to all, or part, of the port facility, and

g) evacuation of all, or part, of the port facility

The security measures, which are required to be taken at different levels of security, have to be clearly mentioned in the port facility security plan prepared by PFSO.

Meeting Security Chalenges

In his paper on Port Security published in *Sentinel (CISF Journal-2002)*, Vasudeva Rao identifies some important challenges facing Port Security.

Sea Shore Security

a) At present, the major security problem concerning to Port security is intrusion by criminals / anti-social elements / terrorists / militants, etc through the breakwaters / sea front. The present day criminals are well equipped with fiber speed boats and their actions are swift and quick with the added advantage of latest communication equipments like mobile phone and powerful VHP sets. Criminals may prefer the monsoon period when the sea is rough or the time when the tides are high.

b) There is a need for a paradigm shift in the philosophy of port security in that its world view has to be wider to cover the larger maritime system. Port security needs to concern itself more and more with what is appending in its neighbourhood-both on and off shore. This calls for consistent and close analysis of movements of pirates, terrorists, criminal gangs on the sea lanes located close to major ports. Problems of shipping liners in their voyages need to be appreciated in the dynamic context of international trade operations and not merely static security needs of a berthed ship at port.

c) Anchorage security continues to be grey area of responsibility with each agency holding the other accountable for security. Navy and Coast Guard claim they have longer-range defence and coastal responsibilities. Port say they have no resources to take care of anchorage security. Police demands infrastructure from ports for intervention in need.

d) This is giving opportunity to criminal elements to board ships and extort money from crew or indulge in thefts. Some also carry on smuggling and other illegal activities from fishing harbours and adjacent locations. Atleast 20 merchant vessels are now said to be linked to Osama Bin Laden. Some ships were used in carrying explosives for attack on US embassies in Africa a few years ago.

e) Port security in India is insular and land-based. Keeping in view the growing complexities of off-shore operations of ports, increased intrusions of fishermen and boats into waters close to or within breakwaters, instances of intimidation and extortion on ships while berthed at outer harbour or while on way from anchorage to inner harbour waters, there is an urgent need to establish a full-fledged marine wing of port security duly equipped to handle marine threat perceptions.

In fact, Director General, CISF conducted a meeting of IGs, DIGs and Port Commandants on 28 November, 2006 to discuss various dimensions and challenges facing Port security. It was felt that CISF personnel posted in Ports should be better trained in undertaking security measures from the sea front side that should eventually crystallize into setting up of a full fledged Marine Wing. CISF provides security to 11 of the 12 Major Ports (except Mumbai Port) in India.

Ship – Port Security Interface

The present system of deployment of private security guards on ships berthed at ports is unsatisfactory as they

are neither professionally trained nor seriously interested in their jobs. Their backgrounds are also not verified. The international Maritime Organisation (IMO), which confirmed the recent spurt in incidents of crime on ships, called for appointment of a security officer on every ship. A sound communication system in case of distress and equipping security personnel and crew with arms are other recommendations made by it.

The port security and ship security need to be integrated properly, so that timely response is available in case of an emergency. It is necessary to improve communication between ship and port security authorities.

Area Surveillance

Traditionally, cities have sprung around ports in India. Density of population, poverty, poor civic infrastructure and unemployment contributed to the growth of slums in and around port areas. They later became breeding grounds of crime and disorder.

Fishing harbour located along side ports often pose serious security threats to vital installations of port and defense on account of unbridled activities of thousands of fishermen, mechanized boat workers, sellers and buyers of fish in stalls located there. A number of them indulge in quarrels and other questionable activities. It is necessary to segregate fishing harbour from main port area by relocation of former for effective enforcement of access control measures for prevention of entry of unauthorized boats or fishermen into harbour waters, but this may be difficult to implement due to political considerations. A more feasible way would be to evolve a system of identification of authorized fishing trawlers.

Approaches to port need to be effectively guarded by police in close concert with port security. This is specially necessary for ports of strategic significance as terrorists take sanctuary in nearby shelters before their attacks.

Port Security Law

The present port laws in India do not have any deterrent provisions against violation of port security. A comprehensive port security law on the lines of Maritime Transportation Security Act of 2002 passed by U.S. has to be enacted for strengthening security of ports in the country.

The American law provides the framework for a national port security system, assessment of vulnerable infrastructure, contingency response to terrorist strikes, setting up of port security committees for better inter-agency co-ordination, more full-proof access control, funding for security infrastructure improvement, better R&D for cargo inspection, security training, education and certification creation of maritime intelligence system; improvement in reporting of crew and passengers, sea-marshals for protection of vessels and port properties, supply chain security evaluation of national distress and response system, etc.

Most of the attention paid to security in the aftermath of terrorist attacks of September 11, 2001 has gone to airports and land borders. Sea ports have remained in the periphery of discussions. The rapidly changing security scenario, ship related terrorist incidents and revised perceptions of security analysts compel one's attention to the gaping security holes that exist in port security.

Container Scanning

Random sample scanning system of containers has been operationalized in a limited manner by the Customs at Jawaharlal Nehru Port, and it is planned by them to install container scanning system at Cochin, Chennai, Tuticorin, Mumbai and Kandla Ports.

It is felt that scanning system as of now is limited for customs purposes only and not really from security angle

because container dwells for sizeable period of time in port premises before it is subjected to custom scanning. There is need to strengthen the security scanning system in ports by dedicated container security scanning system to ensure better and prompt coverage. For this purpose, new scanning techniques available may be brought in depending on the security threats.

Strategic Security Significance

Some of the Indian ports have strategic naval and coastguard facilities co-located with them. This imposes a special responsibility on port authorities to ensure their commercial activities do not jeopardize the defence interests of the country. For the enemy country, the situation is of double advantage in that a single attempt at sabotage or attack can simultaneously target two common objects. This constraint can be best overcome, if navy provides the overall security umbrella in partnership with port security agency. It is important for naval authorities to appreciate the commercial ports problems and interact with them in a spirit of wider perspective. All port security problems can not be brushed aside as of no consequences till war clouds gather. By regular dialogue with port and other agencies, navy and coast guard only gain by way of inputs, on various modus operandi adopted in proxy war by the enemy country.

Multi-Layered Approach

From an Indian perspective, it is obvious that the various maritime challenges must be addressed on a multi-layered basis. In view of the above, Cdr.P.K.Ghosh recommends the following measure: the establishment of Joint Maritime Centers (JMCs) and "Oil Spill Response Centers." Interlinked joint maritime centers comprising regional navies and coastguards should be formed at important ports near strategic chokepoints to enable rapid and coordinated responses to smuggling, piracy, humanitarian disasters, illegal migration, environmental incidents, and search-and-rescue operations, since these are crucial areas that require cooperation. The centers may also provide a venue for intelligence sharing. These centers can join with "oil spill response centers" to combat the hazards of oil spills. Oil spills are an ever-increasing problem with serious consequences for marine ecological systems. For example, in the Malacca Straits alone there were five oil spills totaling 3.5 million tons of oil in 1994. Hence, regional navies and coast guards need to structure "spill response centers" with mandatory power to inspect oil tankers, as Turkey, Italy, and France implemented in some of their ports. These response centers could be amalgamated with the JMCs for better coordination and management. Regional states should also develop marine technology and a joint strategy to ensure the safety of ports and harbors. They should also pursue coordinated efforts on utilization and management of marine resources, both animal and mineral, in their respective Exclusive Economic Zones, or EEZs.

Concluding Observations

Transnational threats, including narco-terrorism, gun running, sea piracy, immigration control and assistance during natural disasters, have spawned a multitude of additional "out of area" operational roles for regional navies, and have dramatically increased the maritime security challenges of the South Asian region. Countering these threats and challenges requires consistent co-operation between the states affected and the associated maritime agencies.

The agreement reached between the Malaysian, Indonesian and Singaporean navies on the conduct of joint anti-piracy patrols in the Malacca Straits is an example of progress in increasing maritime co-operation. India has also been asked to help in this task. The establishment of joint maritime centers (JMCs) at important ports and near ocean choke points would prove to be a milestone towards this type of maritime

cooperation. The sea may bring together like-minded countries that, in turn, may influence the region's strategic perceptions. Indeed, to quote the old saying: "The sea unites while the land divides."

The post-September 11 international co-operation against terrorism has led to the mushrooming of joint counter-terrorism working groups involving India and other countries.

In land-based terrorism, the police are the weapon of first resort and the army the weapon of last resort, except in border areas, where one faces the problem of cross-border infiltration of terrorists. In maritime counter-terrorism in the high seas, the Navy, including the Coast Guard, has to be the weapon of first resort, aided by others such as the Air Force, the coastal police, CISF and the intelligence agencies. As Raman sums up, there is an urgent need for a comprehensive approach to maritime counter-terrorism covering the various dimensions of it, such as intelligence collection, analysis, assessment and dissemination; the need to strengthen the capability for the collection of technical intelligence relating to maritime terrorism through monitoring stations on the coast and the islands as well as sea-based monitoring platforms; port security; strengthening coastal patrolling in the vicinity of sensitive establishments, such as nuclear installations, oil refineries and off-shore oil platforms; intensive naval patrolling in the high seas; monitoring developments in coastal maritime communities; a rapid action capability to deal with a maritime situation, if preventive measures fail; a crisis management capability; and regional and international co-operation.

OFFENDER MANAGEMENT: A CHALLENGE FOR PRISON REFORM INITIATIVE IN INDIA

Prof. Balraj Chauhan* and Dr. Mridul Srivastava*

We continuously heard about the development work that has been taking place over the past few years in the direction of correctional aspects of prisons and wonder what it actually means. Integrated Offender Management (IOM) is a systematic approach to managing offenders throughout their whole sentence. All the hard work has been put into research and development, which will give a real opportunity to achieve results. Through IOM everything has to do with offenders, from the moment they are convicted untill their sentence and reintegration into the community, and it will work effectively to bring corrections. IOM promotes integration and cooperation among the different groups and services that includes the departments dealing with the prison, social welfare, justice system, etc. IOM is not an add-on to what we already do for correction, but this is a revolutionary change. By implementing the principles of IOM, anyone who has anything to do with an offender, no matter what their job is, will be contributing to the success of IOM. Every time someone handles a piece of information relating to an offender, even if they never see them in person, their role in IOM is crucial.

Why things have to change

Trends show that both offending and imprisonment will continue to rise, even if re-offending reduces. This is because of longer sentences, changes in bail laws, the potential impact of sentencing review, and an increased number of first time offenders committing serious offences. The approach for correction, which has been adopted by the prisons, is not solving the purpose and these are becoming meaningless day by day. There is no separate plan for each and every convict from his entrance into the jail, retention and after release. Everything has a cost. Even success pays and the failure also takes its cost. So when we make plans for the reformation, treatment and rehabilitation of convicts, it has some cost to the justice sector-welfare, health, implementation, and victim costs, including loss of quality of life.

Principles of IOM

There are three main things which influence offending after intervention:

Keywords

Integrated Offender Management

Cerrectional aspect of Prison

Risk

Change through innovation

Criminogenic needs

Responsivity

Prison reforms

Cogritive skill programmes

Skill programme

Applied Life Skill

Violence Reduction

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Abstract

Emphasis of this paper on the principle of "What Works" led to the underlying philosophy behind IOM. The tools used to put this philosophy in place will continue to develop and improve as time goes on, but the philosophy itself will stay the same. IOM also recognizes that our decisions about interventions need to be built into our planning around security classifications, employment skills, at risk identification,

- Risk
- Criminogenic needs
- Responsivity

Risk principle

The risk principle says that successful interventions target high risk offenders. Interventions are actually more likely to succeed where offenders also make the best possible use of our scarce resources. The state has to develop some sophisticated tools for assessing offender's risk. The RoC- risk of conviction- measures an offender's future risk of imprisonment. The RoI - risk of imprisonment- assesses their future risk of imprisonment.

Criminogenic needs principle

Each offender has a range of needs. Some of those needs will be linked to their offending. These needs are called criminogenic needs. There is a need to develop a tool to measure criminogenic needs - the Criminogenic Needs Inventory (CNI). Criminogenic needs include those relating to alcohol and drug abuse, criminal associates, and violent tendencies. Some could be more significant to an offender's behaviour than others. For example, imagine we have two people with a gambling problem. One gambles away his house, loses his marriage, loses his friends and his job. He goes bankrupt. Another loses a lot but

finances his habit by borrowing from loan-sharks. When he cannot meet their demands for repayment, he starts stealing from his employer. Both people could benefit from treatment for their gambling problem. Only one, however, has a criminogenic need because only one links gambling to offending.

Responsivity principle

Interventions that match the learning style of the individual offender tend to work best in reducing offending. Part of assessment will try to work out what is going to work for each offender. Effective treatment is intensive, delivered to groups, and relatively long. It makes offenders take responsivity for their offending, and challenges anti-social attitudes and behaviour. Interventions, which work best, resolve around offence itself. It gives offenders a clear understanding of what they did and the choices they made. Responsivity also refers to the offender's ability to benefit from an intervention. This includes their motivation to change, and their ability to change. There is no point in putting offenders through interventions, when they will not or cannot benefit from them. IOM will enable us to stop doing that.

We have to also assess how responsive each offender is likely to be to intervention, and their motivation to change. Sometimes,
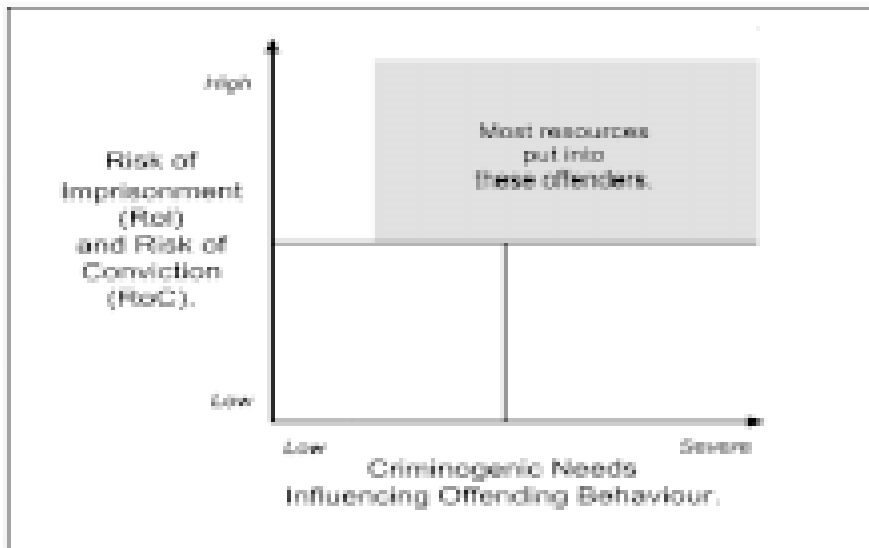
this has to be worked on before anything else can be done. For example, someone could need to manage their drug and alcohol addiction before they can do anything else. However, some offenders may not be ready to address the causes of their offending behaviour. Those offenders will receive services to increase motivation and encourage them to take advantage of their services.

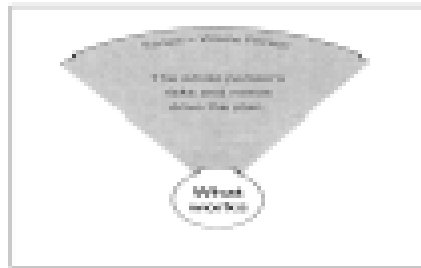**Turning principle into practice**

Emphasis of this paper on the principle of "What Works" led to the underlying philosophy behind IOM. The tools used to put this philosophy in place will continue to develop and improve as time goes on, but the philosophy itself will stay the same. IOM also recognizes that our decisions about interventions need to be built into our planning around security classifications, employment skills, risk identification, literacy and numeracy, as well as offenders finding jobs and appropriate accommodation. In short, IOM is about everything we do. Teams of people who deal with offenders in all areas of the Department need to be brought together to create something practical from this research. There is a need to develop new ways of doing things, and new tools. There are now little bit better ways of looking at the offender, the offending, and the factors leading to that offending, as well as better intervention programmes to reform and rehabilitate them. It is important that the new processes and interventions are delivered exactly the way they are designed. The ideas for improvement can always be incorporated in IOM and these ideas must go through a formal change process for IOM to retain its integrity.

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Scope - risks and needs drive the plan

We need to get an accurate picture of all the risks and needs that should be managed during an offender's sentence. It will determine which interventions to use for a particular offender. Each Offender is different. This means offender with high risk needs individual solutions to target the factors that lead to their offending. We must plan in context. There will be other issues to manage. In prison, these will include security risk, inmate employment, and health and protection issues. In the community, these will include family relationships, associates and employment, income, etc. In both, we must also focus on reintegration-housing, employment, income, etc. IOM integrates all of this.

Rules drive decisions-rules drive decisions about what happens to offenders

We are more effective when we target our services at offenders using facts about that particular category of offenders.
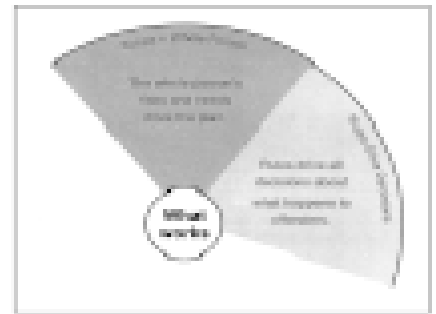
Rules drive our decisions about what happens to individual offenders. What happens to each offender will be decided by the facts about that offender, and the IOM response to those facts. This makes us more consistent, and means that one person or one team's subjective judgment will not affect what happens to an offender. This is a major change from how things have happened in past.

Categories- put people with similar offending needs into categories

We can group offenders with similar management objectives into certain categories, and then, in turn, target services at these categories.
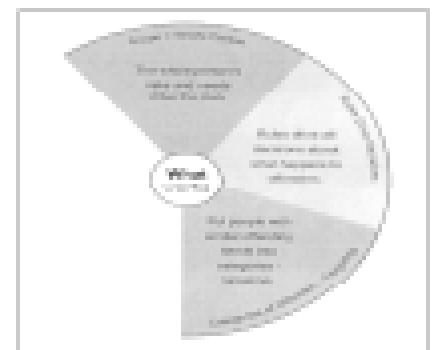
For example, offenders with a low risk of re-offending will have a sentence plan without expensive interventions. They donot need it, and research shows that intervention with this particular group should be focused on reintegration.

Plan for entire sentence- entire length of sentence planned until completed

Each individual needs a plan which covers the whole of their sentence. There is no point in working with someone intensively for the first two years out of a 10 year prison sentence, and then doing nothing for the next eight years.

This means that each offender's plan must cover the entire time from when they are convicted until their sentence is completed. It must also cover the sequence in which needed interventions will be offered to the offender. For example, it is best to deal with someone's drug and alcohol problems before we look at improving their literacy and numeracy. An offender's sentence plan must cover all contact they have with all parts of the Department.

Integrated services- integrated, consistent services across the whole Department

The whole department must follow the same plan for each offender. This means the different parts - public prisons service, community probation service, and psychological service- must all treat each offender consistently. Furthermore, the way staff within the same service treat offenders must also be consistent. For example, a corrections officer's interaction with an inmate must be consistent regardless of the unit or site the inmate is at. This new level of integration will make us more effective in reformation and rehabilitation.

What IOM is

With IOM, each offender has to go through four processes when they receive a sentence:

Induction

Induction means that whenever offenders come into contact with the prison department, they are informed about what will happen to him. They are also offered the chance to change. Induction includes any rules and routines they
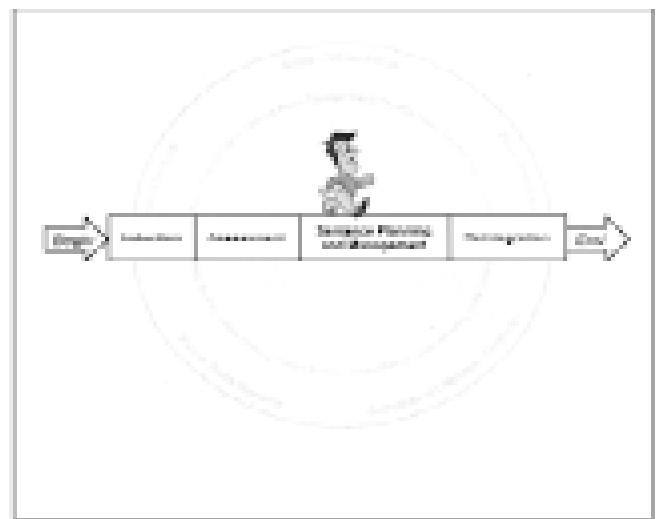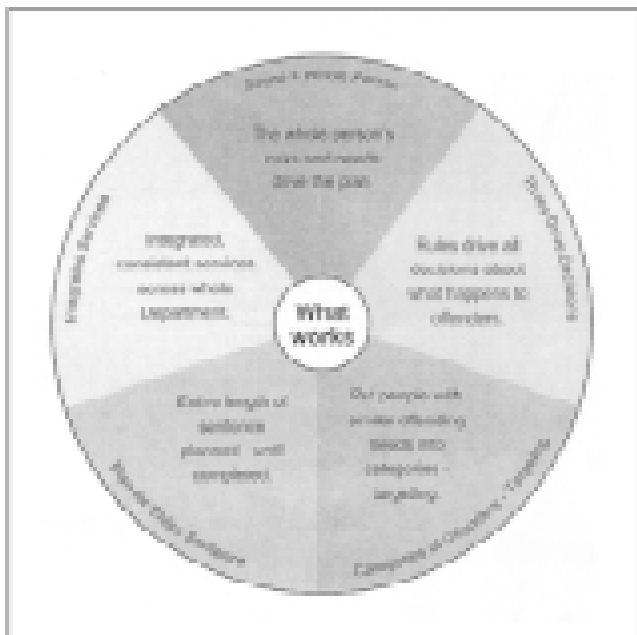
must follow, and what will happen to them during the course of their contact with correctional services. This process can be quite short in some situations. Induction into actual sentences is a more involved process.

Assessment

We need to assess the whole person at the start of a sentence to identify what has contributed to the offending - and which of those factors we can change.We also need to assess whether the offender is ready and willing to change and to take responsibility for their actions. We also need to assess the risk of imprisonment, of future convictions, of factors which could be potentially harmful during their sentence, and so on. We also need to assess levels of literacy and numeracy, whether or not an inmate is at risk in some way, security classification, and suitability for inmate employment. To ensure the objectivity of these assessments, special tools need to be develop.

Sentence planning and management

Some staff must be trained as sentence planners. Sentence planning means working out what will happen to individual offenders during the course of their sentences untill they are reintegrated into the community. Every offender with a high risk of re-offending will be assessed and have individual sentence plan developed. This plan will be monitored throughout the sentence. It may include specific interventions, but for many offenders this might not be part of the plan. A sentence plan could include any of the followings:

- Therapeutic programmes
- Basic literacy and numeracy skills, including employment skills.
- Cognitive skills programmes, including straight thinking
- Alcohol and substance abuse programmes.
- Violence prevention programmes.

- Individual treatment by psychologists
- Work training and experience
- Reintegrative programmes
- Structured individual programmes to teach skills and address factors in offending.

Sentence management means recording each offender's progress against their individual objectives, and arranging changes to the plan where this is required. Keeping accurate records is absolutely critical for every sentence completed by every offender. This is information we can use to work out what works for that person and what does not, and improve the tools we use in future.

The computer system is needed to develop these records, and assist staff to monitor each sentence.

Reintegration

Reintegration is the final phase of the sentence plan. It is planned for and carried out for inmates in prison and community based sentences plan, and its management for the offenders to reintegrate into the society.

System Development to achieve the goal of offender management

More detailed plans regarding service delivery models and implementation plans for specific areas concerning assessment, intervention, offender management, staff training, and evaluation will be forthcoming, once developed together with providers for an effective correction system.

Principles underlying rehabilitation framework

The way in which the correctional system responds may increase offender's resistance to change the offending behaviour or increase offender determination to change offending behaviour. This needs to be an

interdisciplinary endeavour that involves members of the judiciary, mental health professionals, Prison Administration and correctional staff. A rehabilitation framework should have the dual goals of offender risk management and increase offender capabilities. Offence specific and offence related programmes have a rehabilitative goal of risk management (i.e. rehabilitating of offenders to avoid harm to the community). Thus, offence specific programmes that address criminogenic needs include sexual, violence, and drug and alcohol related offending. Offence related programmes that address these areas are also related to offending in some instances such as problem solving, family support, harm from drug use, and accommodation, education, employment and supporting pre and post release for prisoners and community based support for offenders to the expansion of community correctional services, bridging the gap and the development of the community transitional units. At the same time, interventions that need non-criminogenic needs such as anxiety, low self-esteem and psychological distress are also required to motivate offenders to change offending behaviour. Such interventions have a rehabilitative goal of enhancing capabilities (i.e. improving quality of life and so reducing the likelihood of offenders harming themselves and others). In addition, a consistent system of sentence management is required to underpin the framework. Again a multidisciplinary and multiagency approach is required.

Principles of System Development in Offender Management

1. *Classify risk:* The higher the risk classification, the greater the likelihood of re-offending. More intensive programs target higher risk offenders (offence-specific programs) while minimal intervention target lower risk offenders (offence related programs).

2. *Meet Criminogenic needs:* Characteristics associated with a reduction in re-offending are targeted through offence specific and offence related programs to manage offender's risk. Non-criminogenic needs will also be addressed to enhance offender capabilities.

3. *Matching learning styles:* Effective programs meet the need of offenders. Active and participatory learning techniques provide a match between the learning style of offenders and staff. Standardized risk and need assessments and interventions should be applied in an individualized way to the offender.

4. *Increase Motivation :* Lack of motivation can be a criminogenic need and should be the target of intervention rather than used to exclude offenders from programs.

5. *Deliver "Smart" punishment :* Punishment alone, without developing pro-social skills to address offending behaviour, is ineffective.

6. *Emphasize Community :* Programs based in the community are more effective because new skills leaned can be immediately applied. However, Prison based programs can also be effective if adequate reintegration into the community occur.

7. *Use effective treatment methods :* The most effective programs address a variety of problem areas (Multimodal methods), are skills-oriented (teach coping skills) and use cognitive behavioral methods (address thoughts, feelings and behaviour)

8. *Encourage Responsibility taking :* Offenders demonstrate accountability for behaviour and increase victim's awareness.

9. *Use sound methodology :* A scientific, rational and empirical approach to research, development and service delivery is used.

10. *Maintain program integrity :* The stated aims are linked to the methods being used and adequate resources and trained staff availability. Program monitoring and evaluation systematically occurs.

11. *Apply professional discretion :* In addition to standardized methods, decision makers must also respond to moral, ethical, economic and legal considerations i.e. make normative judgements.

12. *Adequate programme development and implementation:* Effective consultation and organizational cultural change is crucial.

The process of matching offenders to programs should focus on three principles-classifying risk, meeting criminogenic need and matching learning styles. The need assessment determines the problem areas to be addressed and the risk assessment of the level of intervention intensity required. Matching learning styles of offenders means that programs need to be developed for offenders, who tend to be concrete thinkers and with low verbal skills. Most importantly, a correctional environment conducive to program delivery is required in order to increase motivation to change offending behaviour.

Assessment

Assessment is a dynamic process that evaluates the offender throughout sentence and determines the timing, focus, format and content of intervention.

The offender management plan may include :
a. *An assessment of risk level*
b. *Offence-specific and offence related needs*
c. *Readiness to change in terms of motivation to engage in programs*
d. *Risk of self harm*
e. *Any special needs, and*
f. *An initial exit plan for prisoners focused on needs upon release.*

Cognitive skills programs

Cognitive skills programs teach problem-solving, self-control, moral reasoning and social skills. They are foundational programs and so are necessary pre-requisites to moderate and high intensity programs. Therefore, this program should be completed early in sentence. This will also assist offenders on longer sentences, resolving potential conflict situations in prison. Cognitive skills programs need to be available at the beginning of the sentence. Cognitive skills programs address anger management, conflict resolution, problem solving, stress management, victim awareness or empathy, and so on. This will provide the opportunity for consistent preparation of offenders for offence specific programs and allow ongoing monitoring and evaluation.

Staff training

Staff training and support is required in values and principles, for offender management, risk and need assessment, and groupwork. Correctional staff in prison providing cognitive skills programmes, offence-specific programs and the offender management system should initially be targeted. And training in these areas:

- Values and principles
- Offender management
- Risk and need assessment
- Offence-specific programs

Evaluation

The offence specific programs require evaluation in the following format :

1. *Process evaluation*

This form of evaluation determines whether the strategy or offence-specific program is running in accordance with the aims, method, procedures and design.

2. *Outcome or impact evaluation*

This form of evaluation demonstrates the effectiveness of offence-specific programs in reducing offending behaviour. The quality and quantity performance measures include data about: (a) how much was done (b) how well it was done (c) how much efforts were required and (d) what were the results. This form of evaluation can be assisted by external research and evaluation organizations.

3. *Program standards and accreditation*

One central agency working in the area of prison should provide standards and specification regarding assessment, intervention and management of offenders to ensure a consistent service system approach.

Allocating corrections resources

More than anything, clarity is required in this regard. The nature of corrections also demands that any correctional agency hoping to promote it will need to build new capacity, from *the bottom up,* and will need to construct new systems to manage that capacity and the *flow of information it requires.* That is because information from the local level will be required for monitoring and revising deployment plans at individual, agent, regional, and State levels-and this information should be expected to change rapidly. This necessitates planning and overseeing a State's responses to variations in its corrections investments-variations more complex, changeable, and subtle than 'caseload' or 'offender needs'. It is recommended to abolish felony probation and creating a new form of confinement, one merging features of prisons with varying degrees of liberty and obligations of the offender in the community. This new penal measure, *"Community Confinement and Control" (CCC),* may be designed to ensure substantially more supervision and control of behavior, and also substantially more treatment, employment, and other socialization programs than conventional probation and even "intensive" probation ever had—but for shorter periods.

Correction life skills program

The correction life skills program consists of three principal components - academics, violence reduction, and applied life skills.

Academics
- Reading and writing skills
- Formal Education System (At least Middle Level)
- Language expression

Violence Reduction
- Moral Recognition
- Anger management
- Conflict resolution training

Applied Life Skills
- Credit and banking
- Job search
- Motor vehicle regulations
- Legal responsibilities (e.g., restitution)
- Family responsibilities (e.g., child support)
- Health issues
- Social services
- Educational services
- Cultural differences
- Government and law

NOBLE CAUSE CORRUPTION

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'Noble cause corruption' entered the literature with Edwin Delattre's influential book "Character and Cops: Ethics in Policing", first published in 1989. It has now become a standard phrase for characterising behaviour in which, in order to achieve apparently legitimate objectives, the police exceed their authority and powers. The concept has classical origin. In Plato's "Republic"[1], the philosopher-King justifies the use of noble lies in order to advance the good of the city. But whereas for Plato, the noble cause does not justify anything more than the use of lies, and other forms of deception, police often engaged in "noble cause justification indulge in misuse of force and other forms of flagrant abuse of human rights". And again for Plato, noble lies are meant for achieving positive goods, and not merely to avoid significant evils[2].

Testimonial deception

One popular and common form of noble cause corruption is testimonial deception, for ensuring conviction of someone believed to be guilty of criminal activity. Such deceptions can take various forms - fabrication of material evidence, selective presentation of evidence and improper collusion in the presentation of evidence, etc. Very often such deceptions amount to perjury. According to Jeremy Booth, "noble cause corruption is an elegant term for securing conviction on evidence that has been improved by the police. It is a euphemism for perjury"[3].

At first blush, noble cause corruption differs in many ways from what is generally referred as corruption. Noble corruption in policing is defined as corruption committed in the name of good ends, corruption that happens when police officers care too much about their own work and corruption committed in order to get the bad guys off the streets[4].

Police corruption has been traditionally defined as misuse of authority by an officer for personal gain and accepting money or money's worth to provide a service that the police are duty-bound to provide. Many police officers feel that

corruption for personal gain is much more serious than engaging in corrupt behaviour that tends to benefit the society at large.

Dirty Harry problem

The notion of noble cause corruption receives classic expression in Dirty Harry film and its chief protagonist anti-hero Inspector Harry. In this detective film, Harry Callaghan is trying to achieve a good end. He is trying to find out a girl whose life is in imminent danger. In order to save the girl, he is inflicting pain and torture upon the kidnapper, who is refusing to reveal her whereabouts. The image of Harry Callaghan inflicting pain upon a psychopath is emotionally compelling. But in most of the instances, police either fabricates evidence or uses excessive force not for saving the life of the victim nor are they proved to be the only means of conviction. Such high-handed methods not only violate the right of the suspect, but also affect the moral fibre of the policemen indulging in such methods. They view their dirty acts not as means to the achievement of good ends but as ends in themselves.

Habitual actions

It is also a fact that corrupt acts, including acts of noble cause corruption, are habitual action. They are not one-off immoral action committed for good ends. Very often the motivating force is the habit, disposition on the part of the police officers to commit such acts. There is no attempt to perform a rational calculation of the morality of ends and means on a case-by-case basis. The person who performs it is either deceiving himself or simply mistaken when he judges that the act should have been morally performed. So, the motive has a moral deficiency. "However, there can be some acts of noble cause corruption, which can be morally justified from an all-things-considered standpoint. In such cases it was not an act of corruption and therefore, not an act of noble cause corruption[5]".

Thus, very often many acts of noble cause corruption cannot be morally justified when they are individually considered. The officer has acted on his habit and not, taken pains to rationally examine if the means adopted really justify the ends in a particular case. It is for this reason noble cause corruption has become problematic in policing. Most instances of police fabricating evidence or excessively using force have not been done to save the life of anyone in danger.

Ends and means

Noble cause corruption implies faith in the concept that the end

Abstract

Noble cause corruption implies faith in the concept that the end justifies the means. However, in the conflict of ends and means, the point to be borne in mind is that if the ends are important enough to justify the means. The conviction of a criminal is important but in a liberal democracy the police are expected to carry out anti crime activities in a manner that advances the values of a liberal demo-

cratic society. Ends, therefore, have to be important enough to serve the justificatory function. Adoption of impermissible means may ultimately undermine the end. Again many means have some other consequences that perhaps may make their use appropriate. In post 9/11 world to curb terrorism draconian laws have been passed in many democratic countries, but enforcement and misuse of laws in many

justifies the means. However, in the conflict of ends and means, the point to be borne in mind is that if the ends are important enough to justify the means. The conviction of a criminal is important but in a liberal democracy the police are expected to carry out anti-crime activities in a manner that advances the values of a liberal democratic society. "Achievement of an intermediate end of conviction should not undermine the more important end of a social order reflective of democratic values. In a democratic society the police have to ensure that larger values constitutive of a liberal polity are upheld"[6]. Ends, therefore, have to be important enough to serve the justificatory function. Adoption of impermissible means may ultimately undermine the end. Again many means have some other consequences that perhaps may make their use appropriate. In post 9/11 world to curb terrorism, draconian laws have been passed in many democratic countries, but enforcement and misuse of laws in many democratic countries, including India shows that some ways of keeping a country secure for freedom may have the effect of diminishing as well as jeopardizing the other values of a democratic society. Some justify torture to fight terrorism. It has been argued that torture is justified in some rare cases. In America, the most significant exponent of this position is Alan

Dreshweitz, a leading criminal defence lawyer, who has argued that in cases of 'ticking bomb urgency' torture warrants. In practice, however, attempts to use torture sparingly have led to widespread abuse. Once a degree of torture is permitted, it gives the licence to the interrogators to use it systematically and abusively. The argument that enemies deserve no justice will lead to deterioration of justice for all.

Again the issue of proportionality of the means has to be kept in the view. Otherwise, legitimate means will be judged inappropriate, if the aims are not considered of sufficient importance to sustain their use. In many states in America, police have launched elaborate operations to lure into custody those who have skipped charges. Alleged offenders are induced by the prospect of lottery or other prizes to go to a location when they can be arrested. Employment of such tactics constitutes "inappropriate-overkill"[7]. Along with the principle of proportionality one has to keep in mind "the principle of least restrictive alternative". Even if the use of force is justified to realize a certain end, there is a need to adopt least restrictive tactics.

Sometimes in the name of realizing a desirable end officers

may indulge in methods, which are grossly disproportionate and defeat the end. I know of a case where for controlling communal tension at the time of Puja festival the Superintendent of Police, besides taking the usual precautionary measures like deployment of force at sensitive points, adopted some unorthodox methods. These include beating up any person without any reason found loitering on the streets. People coming from station or returning from work were also beaten up. Due to indiscriminate beating, the anger of rival communities turned against the government and the growing tension between the communities subsided. This was what the SP wanted. He reasoned that when the anger turned against the government it could be handled or defused, but it would be difficult to control communal riots erupting in different villages and towns of the district. SP's action of beating up innocent people naturally came in for sharp condemnation. This is a clear instance of "inappropriate overkill"[8].

Noble cause deviance

Some thinkers are of the view that noble cause corruption should not be seen as corruption at all, but should be viewed as some form of deviance. Some call it "Process Deviance". In the report of Royal Commission on New South Wales Police Services (1998) Justice J. Wood[9] appropriately says, "the approach taken by the commission embraces those forms of corruption sometime referred to as noble cause corruption. This is a kind of corruption whereby unnecessary physical force is applied, police powers are abused, evidence is fabricated and confession obtained by improper means. This would be justified by the police on the basis of procuring the conviction of the persons suspected of criminal or anti-social conduct in order to exercise control over sections of the community... the ambiguous status of process corruption is illustrated by a totally inappropriate term "noble corruption". There is nothing noble about framing suspects".

Systemic arrogance

It is often seen that corruption, and particularly noble cause corruption, occurs in a climate of arrogance which generates a belief that police officers know what is best for the society, and have the right to use power and influence to punish anyone posing, according to their perception, threats to public order and public safety. But arrogance indeed has no place in policing and an agency with a culture of arrogance will only foster allegations of organisational

democratic countries including India shows that some ways of keeping a country secure for freedom may have the effect of diminishing as well as jeopardizing the other values of a democratic society. Some justify torture to fight terrorism. It has been argued that torture is justified in some rare cases.

tolerance for noble cause corruption. Again supervisory cowardice has the effect of encouraging organisational tolerance of noble cause corruption. Unless senior officers take a resolute stand against various forms of misconduct of the subordinates, illegal practices and patterns will continue.

Tragic choices - opting for lesser evil

Sometimes holders of public offices have to make some tragic choices. They have to choose between a large-scale public failure and important moral obligations. They have to perforce opt for the lesser evil. It is reported that during the second world war, British authorities chose not to warn the people of Coventry of an impending air raid because it would have alerted the Germans to the fact that the Britishers have broken the Enigma Code, thus, compromising an important strategic advantage[10].

Dirty hands

Writers like Michael Walzer hold the view that political leaders, police, and military personnel have to engage in some form of noble cause corruption, which is a definitive feature of their roles. They have "dirty hands" as they have to perform actions, which infringe on the principles of morality. But some of the steps they are forced to take may be morally justified, though they involve use of apparently questionable methods. According to Walzer, politicians get their hands dirty and in his influential article on the topic offers examples. He gives the example of a political leader who must order the torture of a terrorist chief with a view to discovering the whereabouts of a bomb likely to kill innocent people. But this is an exceptional situation which does not occur routinely. This is an unusual emergency when moral principles can be infringed for the sake of greater public good.

The Colombian drug baron, Pablo Escobar was shot dead in his hideout in 1993. There is evidence to suggest that he was executed. Escobar terrorised the entire nation and the hunt for him continued for three years and cost both the US and Colombian government millions of dollars and hundreds of lives. It was indeed an all-out war and the Colombian government was fighting for its very survival. It was an emergency and the methods used by the Colombian government cannot be replicated in other non-emergency situations. Then exceptional cases do not show that dirty methods are an invariable feature of military or police leadership[11].

Delattre has taken the view that in such hard and difficult cases, where there is conflict between ends and means, responsibility for any such decision should rest with the person with greater authority in the police department. Some procedural constraints should be placed on such decision-making. The people who are paid more and have greater expertise must take greater responsibility. But in fast moving and difficult policing work this kind of referral may not always be possible[12]. In police work, important decisions affecting life and liberties of people have often to be taken by street patrolling officers and men down the line. They have to be vested with enormous discretion. "The command and control system of police organisation is paradoxical. It seems to regulate in minute ways the behaviour of the individuals who are required by the nature of their work to make instant and complex decisions in unpredictable circumstances. Police organisations allow enormous discretion in practice while at the same time maintain a top-down- command system. The formal and informal structure of authority in police are not congruent"[13].

There is a great need for training of police officers and men in humane and ethical policing. The police have to develop sensitivity for those who are policed, both suspects and victims. In policing mechanical application of rules do not always help, officers have to use their discretion and discretion is not licence. Though grounded on rules, discretion is a form of judgement rather than mere rule -following[14].

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ROAD SIGNS – A SEMIOLOGICAL STUDY

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On the face of it, traffic road signs might appear as unnecessary appendages to the roads, not seen, often ignored even if seen, and devoid of any meaning for the people in general. The only ones, if ever taken note of, are the information signs pertaining to one's destination and that too if one is on a new route. The rest of these just have no worth, and no significance. These are mere icons fixed on iron posts, and since mute, so ignorable. The inanimate has no place in the scheme of things where even the animate (in the form of police) get a short shrift as is evident from the indifferent attitude of drivers in general and bus drivers in particular, who defy all rules, flout all directives, and exhibit a brazen behavior, often outlawed by the superior courts that have decreed that they stick to the lane, not overtake and indulge in parallel driving race, stop at appointed spots to pick up passengers and not wherever they will.

Even if made conscious, the viewer may feel that the there is a jumble of signs that are confusing. These have multiple symbols, often look alike with a menagerie of caricatures. These are so many that it is difficult to recall or establish a communication for a proper response. It is a mad world where these obelisks are just standing tall oblivious of their recognition by others. So it appears there is a disorder on the roads and the system has indulged in irrelevances of sorts, more as ornamental than having a function to boot, not cut out for a purpose but just be there, perhaps for the sake of it. All this betrays a complete ignorance on the rationale of the road signs that have been an integral part of the road network.

In a climate of total and flagrant defiance, it appears naïve to reflect on the importance and significance of road signs. But one must indulge in this exercise despite all the hazards. It might appear as surprising that there is a reason to this scheme and there is a purpose behind this design, an objective that is laudable in intention and practical in approach. It is laudable because it is meant to achieve results; it is practical because it is the only and the best way to communicate that can have an affect, if taken seriously both by the viewers and law enforcers.

Signs as language

Signs are as old as civilization. These were the basic means of communication. These developed much before the alphabet. The non-linguistic sign helped people to communicate. Semiology or semiotics is a science of signs that studies the significance thereof. It is a study of signification that is contained in the sign. A sign is a composite of a signifier and the signified. Something (a signifier) that is meant to convey a message (a signified) is a sign. Philosophers like Charles Peirce, Ferdinand de Saussure, Claude Levi-Strauss, Jacques Lacan, Ronald Barthes, Umberto Eco, and Jonathan Culler have made studies in the symbology of literary works and cultural studies and, did not pay much attention to non-verbal signs, these being too obvious and mundane. Culler (103) says, "Traffic signs, for example, generally do not involve the combination of more than one unit, or if they do (as in signs where the shape indicates the presence of a hazard and the device specifies the sort of hazard) the syntagmatic relation is very simple and uninteresting." Similarly, says Gottdiener, "An *icon* is a sign that conveys an idea by virtue of its very close reproduction of the actual object or event. International traffic signs, which must transcend particular languages to convey an idea directly, such as a circle with a bar across it to represent negation, are examples of icons… Icons are weakly motivated or unmotivated – that is, their meaning is only weakly fixed by social conventions.' (p.12). Yet in spite of low grade priority given to traffic signs in the study of semiotics, the insights into the system are extremely valuable to discern the meaning of the signs that are ubiquitous.

Sign is a 'system of discourse' (Culler; 103) It is used to 'make explicit meanings they seem to bear and reconstruct the system on which these meanings are based.' (Ibid. 101) Codes provide for 'economical notation for notations which are already defined'. (Ibid 100). Signs are ubiquitous in all disciplines. In language itself, signs like i.e., e.g., &, etc. convey a meaning; so in algebra geometry, and science such as $E= mc^2$, religious symbols like cross, political symbols like the sickle and a hammer, lotus, hand, et al. The cricket umpires have a language that indicates everything without making any verbal utterances. 'Every sign is endowed with a significance'. (Barthes; 111) It is 'ideas-in-form' (Ibid; 112). It is a conversion of speech into sign and vice versa. These 'impose a meaning at one stroke' (Barthes; 111)

Traffic sign is, thus, an explicit code that has an implicit meaning of prohibitions, warning, and guidance.

Abstract

In a climate of total and flagrant defiance, it appears naïve to reflect on the importance and significance of road signs. But one must indulge in this exercise despite all the hazards. It might appear as surprising that there is a reason to this scheme and there is a purpose behind this design, an objective that is laudable in intention and practical in approach. It is laudable because it is meant to

achieve results; it is practical because it is the only and the best way to communicate that can have an affect, if taken seriously both by the viewers and law enforcers. Signs are as old as civilization. These were the basic means of communication. These developed much before the alphabet. The non-linguistic sign helped people to communicate. Semiology or semiotics is a science of signs that studies the sig-

These are 'easy and unambiguous communication', to use the expression of Barthes (Ibid. 100). These enforce observance, i.e., compliance 'as in observing rules, codes, regulations, and practices' (Cavallaro; 133) 'This may well be what Jacques Lacan has in mind when he speculates that the world of inanimate objects is not passive but actually looks back at the perceiver… The inanimate world watches us to the extent there is inevitably someone or something that expects us to see things in certain ways'. (Ibid; 134)

Traffic sign is 'an object that demonstrates relation' in a context (Culler; 128). The interesting question to be posed is how geometrical shapes like circles, triangles, diamond, and rectangles are connected with traffic. This requires a semiological investigation as the relation between the signifier (sign) and the signified (meaning) is arbitrary first and becomes conventional later on with usage. Thus, all signs have a function to perform. They have a meaning.

Need for traffic signs

The need for road signs emanates from three sources. One, roads are used by a diverse section of people who may be illiterate or know only one language. Two, all public spaces must be governed by a set of rules so that order is maintained and it is not free for all, and that there are no clashes in the form of accidents, or expressions of rage, and the roads are used to the optimum capacity without obstruction and with safety, and that one avoids interfering with the movement of others. Since the roads belong to the government, it lays down rules for the users. Three, since roads are meant for movement, it is necessary to have messages that are non-verbal as there is no time for the user to stop and read, if he can, the instructions. In static situations, one can use language or languages that people understand, have time to read, and refer back. But in the case of traffic that is fast moving and has the potential of causing damage because of speed, size, and impact, this method is not feasible. Since illiterates cannot read language and those on the move cannot converse but must understand various moves, it is imperative that a non-verbal language is devised so that all can identify, recognize, and behave in a uniform manner. The message of one person must cut across to others. The purpose is to standardize behavior so as to expect predictable movement on the roads. This is possible only if the users understand the language of the road and converse in that. Therefore, there have to be certain directions that govern all users on

the one hand, and a method of doing so on the other; it is in means of finding a method of conversing with the others.

There would be chaos, if there were no agreed norms that every one abides by. But how to convey the norms and remind the users constantly till these are accepted as such and followed unconsciously and automatically? In this connection, road signs have an important contribution. These are the vocabulary used by all. As a tool of communication, these are medium through which people respond to a common meaning. There is neither subjectivity nor any flexibility. It is a play of total objectivity. It is beyond any scope of interpretation. It means what it stands for, nothing more and nothing less. It is, to that extent, a public language devoid of a private meaning. It has to be interpreted by all in the same way. Signs are codes for people who do not share the same language and who are on the move. So, these are the most suited form of communication. Sign is an agent of communications.

Mode

In traffic signs, use has been made of color schemes, geometrical shapes, and pictograms. In all conventional codes, red means 'stop', green means 'go', and amber stands for 'caution'. The colors here are signifiers and their

meanings are the signifieds. The scheme is arbitrary but has been accepted all over. Hence, the meaning is unchangeable. The same scheme is used in traffic light signals. Vehicles are not supposed to move at the red sign; they can move only when it is green. They must try to stop at the amber. That is why amber sign follows the green. But the conversion from the red to the green is straight. These are basic signals that control the movement of traffic on the roads. These have to be followed meticulously; otherwise there is a danger, a hazard of an accident or a jumble of vehicles, a situation of chaos.

Not only are the signs communicative, they speak of various things. They carry messages that have particular meanings. There are, thus, prohibitions, warnings, and guidance. The geometrical signifiers are circles, diamond, triangles, squares, and rectangles. In combination with color scheme, diagonal lines across the circle and pictograms, these signs signify various prohibitions, permissions, cautions, directions, and guidance in the form of information about the road condition, destination, etc. Similarly, straight lines, arrows, curves, T-points, Y-shape, and pictograms like bicycle, heavy vehicle, slow moving vehicle, boat, zebra marking, railway engine, telephone, petrol pump, hospital, first aid, restaurant, animal, etc. are used to describe all that is intended. By

nificance thereof. It is a study of signification that is contained in the sign. A sign is a composite of a signifier and the signified. Something (a signifier) that is meant to convey a message (a signified) is a sign. Philosophers like Charles Peirce, Ferdinand de Saussure, Claude Levi-Strauss, Jacques Lacan, Ronald Barthes, Umberto Eco, and Jonathan Culler have made studies in the symbology of literary works and cultural stud-

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juxtaposition and placement, these signs are capable of conveying all information – mandatory, cautionary, and informative.

There are three types of messages:

State to Driver

(1) Orders

The signs in **circles** are in the form of orders that are mandatory and must be obeyed by all. They have the backing of law. Any violation of such a law may invite punitive action. Included in this category are directions like 'stop', 'give way to traffic on your right', various prohibitions like 'no entry', one way traffic, no turning on indicated direction, ban on blowing of horn, especially in front of schools or hospitals, restriction on plying of certain category of vehicles, especially the slow moving, on the main roads, etc. Similarly, there are limits on extremities like indication of speed limits, weight and height of a vehicle, width of the road, etc. Equally important are directions for cycles to move to cycle track or vehicles to blow horns at strategic spots.

(2) Cautions

The second category of signs is in the nature of warnings, depicted

in the shape of a **triangle**. There is only one mandatory sign in this category. It is that of an inverted triangle, connoting 'give way to traffic on your right'. All the rest are flat triangles with pictograms inside trying to convey the massage. This is evidence of the paternalistic approach of the state where it, like a parent, warns of the condition of the road that one is to come across like curves, ziz-zag, cuts in the central verge, shape of intersection, roundabout, sharp slopes (ascents or descents), speed breakers, potholes, barrier, a railway level crossing, with or without a barrier, or the likelihood of an animal on the road. The object of these cautionary signs is to alert the driver of the approaching road condition and the likely items that are to follow, so that he is not taken unaware and thus, can adjust the speed. All these signs are designed to inform him of the general scene of the approaching road.

(3) Information

The third category of signs pertains to **rectangles** that indicate positive strokes. These are only information depicting the approaching telephone booth, petrol pump, first aid post, hospital, restaurant, rest spot, or parking areas. These also include the destination signs, along with the direction and the distance involved.

Driver to Others

This is a unique category of signs in the shape of **squares.** These are panels marked on the body of the vehicle carrying dangerous or hazardous goods like explosives, compressed, flammable, or poisonous gas, flammable liquid, poison, etc. The spots for fixing of signs on vehicles, their dimensions, and graphics are contained in rule 134, Motor Vehicle Rules, 1989. These are known as 'Emergency information panels'. These are for the guidance of other drivers, who should be careful while overtaking these vehicles, and for others in case of accidents so that the handling bodies are aware of the nature of the cargo, and the way to handle it in case of an accident.

Driver to Driver

Since road is an open space and permits wide movement and a lot of freedom in a way, it is necessary that the drivers convey their intentions while on the move. All drivers are expected to articulate their moves for the benefit of others, e.g., changing lane, stopping due to a contingency like a punctured wheel or any other reason, overtaking the vehicle in front, etc. This is necessary in order to alert the vehicles in the rear, so that a sudden move by the vehicle in front does not result in a clash. Whereas earlier the drivers would do so with arm signals, now there are suitable devices available in the vehicle to do so. These are the indicators to express direction, light signals, emergency blinkers, flashlight for permission to overtake, and the horn. No longer does he have to weave his right arm anticlockwise to indicate left turn, he can do so by the use of a light signal indicating his intention.

Road to drivers

Roads do need repairs when damaged, regular maintenance to prevent damage, and filling up of sites for resurface when dug up by other public utilities for works underneath. Then there may be potholes, loose stones, sites damaged by road accidents thus, narrowing the width of the road, or a fallen tree that could not be removed quickly. There may be road rollers and asphalt pavers left at the spot after the day's work. There may be any type of imperfection on the road. The road being in a state of injury and in the process for treatment must inform others of her state, so that the people are warned of the hazards inherent in the situation. It has, thus, to speak out loud and clear that all is not well with it and therefore, the users must take care. It speaks out its condition and cautions others. This too is done by the use of signs; for instance, 'labor at work', 'road work ahead' (triangular signs), use of bollards,

sign that conveys an idea by virtue of its very close reproduction of the actual object or event. International traffic signs, which must transcend particular languages to convey an idea directly, such as a circle with a bar across it to represent negation, are examples of icons… Icons are weakly motivated or un-motivated – that is, their meaning is only weakly fixed by social conven-tions.' (p.12). Yet in spite of low grade priority given

to traffic signs in the study of semiotics, the insights into the system are extremely valuable to discern the meaning of the signs that ubiquitous. Sign is a 'system of discourse' (Culler; 103) It is used to 'make explicit meanings they seem to bear and reconstruct the system on which these meanings are based.' (Ibid. 101) Codes provide for 'economical notation for notations which are already defined'. (Ibid 100). Signs are ubiquitous in all disci-

traffic cones, barricades, blinking lights, reflectors, and warning signs, supported by the mandatory ones. The site then displays a series of forms, all relevant to the theme, thus compelling the driver to take heed of both for his own security and prevent inconvenience and risk to others.

Identity in anonymity

People try to conceal their identity by use of inappropriate and cunning devices like oblong registration plates, small letters and digits, innovative letterings, indecipherable alphabets and numerals. Such devices are resorted to by the owners to hoodwink the law enforcement agency, so that they are not caught while committing any violation while driving or to conduct a nefarious operation, as it is difficult to note down the registration number of such a vehicle, these being vision twisters.

Thus, in order to fix the identity of the owner of a vehicle, the registration code of the vehicle is prescribed. The manner in which letters and numerals of the number are to be written is given. The shape of the registration plate and place to be fixed are mentioned. There can be no deviation from the pattern and the place. The object is to rule out individual identities. But at the same time, it permits the fixation of identity of owner that is transparent in record though opaque otherwise. Nothing can be hidden. The identity gets known to

trace owner of the defaulting vehicle. This too is task of sign language. There is no need to implant name of owner and his address. All is known with the most economical device of the signs. In fact, the signs capsule the whole information about the owner of the vehicle. This helps in the subsequent operations depending upon the requirement like tracing a defaulter, seeking insurance or compensation, or tracking criminals.

Uses of Signs

1. Universal mode of communication

Sign is a universal language. Whereas all cannot read all languages, and any direction pertaining to movement on the road has to have a quick grasp, sign is the most convenient method of communication. All states have a road network, but they have different languages, unknown to the drivers. Moreover, the person driving or using the road may be illiterate, but he would be able to get the message once he is conversant with the meaning contained in the sign. That is why signs are reflective of an easy meaning. Signs have a uniform character wherein the shape, the color, and the pictogram play a significant role in bringing about a uniformity of behavior. The traffic signs have an international uniformity and it is thus, easier to understand the various directions, while driving in an

alien land. Moreover, there is no chance of any ambiguity in interpretation. The meaning is fixed, essentially by the fiat of law. The sign system is, thus, structured like a language.

2. A tool of communicative action

The signs cater to easy communication between the state and the individual, and individual and individual without any direct contact. The only link is the sign; no words, no language, no text. The sign is the text as every sign has a message. The process is visual rather than auditory, except in case of a horn or a siren used by police, ambulance, or fire service. Every sign has a meaning. Implicit in its existence is a message that speaks out to the viewer. It has a legal connotation, based upon law. Since the Motor Vehicles Act is not within recall of all, sign is the best way to communicate. Signs capture the articulation of law, its content and purpose. There is, thus, a direct relationship between a sign and law. Every sign has a meaning. It shouts for being heard. It is a means of homogenizing the conduct of people (Cavarello, 134). It is a source of coordinated action.

3. Establish presence of the government

It is interesting to note that through the signs, an invisible entity of law, the state is conveying orders all the time. An authoritative entity conveys orders; a paternal entity warns of hazards, dangers, and general condition of the road, wherever necessary; and a helpful entity transmits required information required by the person and known to the state. It is a transparent transaction. Signs are to be taken in that spirit. There is nothing on the road that communicates more than the signs, the signals, and the markings. In this way, the government makes its presence felt and in this manner the law is conveyed to people, thus, reminding them of the obligation. Signs are a system of relation between road user and the state. Traffic sign system is a technology of power of the state.

4. An occasion for easy intervention

Since norms and standards have been prescribed, the enforcement agency can take suitable action for any infraction of the code. No one can say 'I did not know'. And he cannot say 'I did not see' as they are prominently displayed and too ubiquitous to be missed. Every driver is expected to know the meaning of signs as these are the basic test material at the time of qualifying for the driving license, besides the skill to drive. He too cannot say 'I was not

plines. In language itself, signs like i.e., e.g., &, etc. convey a meaning; so in algebra geometry, and science such as $E = mc^2$, religious symbols like cross, political symbols like the sickle and a hammer, lotus, hand, et al. The cricket umpires have a language that indicates everything without making any verbal utterances. 'Every sign is endowed with a significance'. (Barthes; 111) It is 'ideas-in-form' (Ibid; 112).

informed' as all the messages are loud and clear; these are expressive and, therefore, as good as understood. There is no excuse. In fact, traffic is the only law that is inscribed on the roads through the medium of signs. No other law has this facility. In no other branch of administration are laws proclaimed so directly as in traffic. This is due to the fact that that since everyone is a road user, it is essential to convey the message to all.

5. An opportunity for Police

One of the important functions of police is maintenance of law and order; in other words, maintenance of order through law. Traffic law is the best device that can prevent disorder on the one hand and create halo of power of the state on the other. Both shall have an impact on the general crime situation. The strategy is to make the presence of the state felt by all. Police should, thus, not only make people aware of the utility, power, obligation of road signs, but also enforce compliance through a vigil on this count. Violation of road sign is to be considered as an affront to the authority of the state where it is mandatory, an act of indecency towards road users where it is a matter of warning or guidance, and an act of irresponsible behaviour where, despite warnings, the road user ignores signs and bumps into a problem.

6. Projection of a benevolent image of power

Traffic signs display the dignity of power without being oppressive and offensive. The sign system is a technology of power that is very mild compared to the oppressive and visible instruments of power like the baton, a firearm, a stick, a tear gas shell, or even a water canon. It is a silent presence of power, constantly reminding the viewers the existence of a legal code and the authority to back it up by seeking compliance. This is a positive power that compels the individual to police himself as he is being

reminded of the requirements of law constantly thorough the sign system. It is a reminder of the intentions of law and the need to adhere by its tenets. And when people go by the rules of the game, the law enforcement agency does not have to display its power by making obvious display of the agency's prowess. It is all dignified compliance with the rigidities of law. And all is smooth thereafter.

7. A mode of universalizing behaviour

People using the roads come from various backgrounds characterized by educational level, remoteness from urban spaces, individual temperaments, social conventions, etc. But a proper use of roads is possible if behaviour of all is uniform and not individuated. For smooth and safe flow, it is essential that there are no variations in the behaviour of people so far as the norms of movement are concerned. It is here that the individual traits are kept aside and uniform principles are adhered to.

Traffic sign system is one of the best methods of universalizing behaviour as it relates to commandments and guidance that must be understood and practiased by all. It is 'a precise system of command. All the activity of the disciplined individual must be punctuated and sustained by injunctions whose efficacy rests on brevity and clarity; the order does not need to be explained or formulated; it must trigger off the required behaviour and that is enough' (Foucault; p.166).

Since 'the chief function of the disciplinary power is to 'train'' (ibid. 170), it is the bounden duty of the law enforcement agency to ensure compliance by all of the traffic signs. One of the reasons for road rage is the annoyance emanating from bad behaviour and disobedience of norms. Bad mannerism, in terms of violation of traffic rules, is an irritant and, when objected to, the defaulter takes offence on his person and reacts

violently. Thus, making drivers adhere to signs would reduce chances of such clashes by normalizing behaviour and disciplining the users.

Conclusion

Road signs are to be taken seriously by the road maintenance and law enforcement agencies. These should not be left to their own to fend for themselves for a meaning. It must be appreciated and acknowledged that road sign is a simulacrum of law. It is law in a capsule of sign. Secondly, freedom of movement on roads can only be guaranteed if signs are respected and obeyed. So it is the duty of police in general, and traffic police in particular, to ensure compliance. If the agency is dormant on this score, the sign is dead. If it is in action, the sign comes alive with a meaning, an order, and a commandment. The amplification of sign is dependent upon law enforcement. Power is concealed beneath the aesthetic of the sign.

A society that abides by the symbols is a society that no longer produces killers on roads, or inconvenient bore and the ignoramus creating derision and road rage. Traffic sign is a law. One must read a law in the sign.

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THE RIGHT TO INFORMATION POLICE PREDICAMENT

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Introduction

Government openness is a sure technique to minimize administrative faults. As light is a guarantee against theft, governmental openness is a guarantee against administrative misconduct. Justice Krishna Iyer observed, "Government which revels in secrecy not only acts against democratic decency but busies itself with its own burial"[1]. Justice K.K. Mathew in Indira Gandhi v. Raj Narain[2] case noted that in a government, where all the agents of the public must be responsible for their conduct, their can be but few secrets. The people have a right to know everything that is done in a public way, by their public functionaries. Justice K.K. Mathew again noted that the secrecy system has become much less a means by which government protects national security than a means by which the government safeguards its reputation, dissembles its purpose, buries its mistakes, manipulates its citizens, maximizes its power and corrupts itself. The Official Secret Act[3], 1923 makes all disclosures and use of official information a criminal offence unless expressly authorized. The harshness of the Official Secret Act, 1923 is mitigated to a limited extent by the courts. The courts have rejected the concept of conclusive right of the government to withhold a document. Indian Constitution does not specifically provide for the right to information as a fundamental right, though the constitutional philosophy amply supports it. Without guaranteeing right to information to public, it would be difficult to put the ideals pronounced in the Preamble to the Constitution into practice.

The right to information flows out of freedom of speech and expression. In S P Gupta Vs. GOI[4], the court held that the 'right to know' is implicit in the right of free speech and expression guaranteed under the Constitution in Article 19)1)(a). In Indian Express vs. UOI[5] the Supreme Court held that the right to free speech and expression includes right to know. Right to reply was recognized by the court in LIC vs. Mamubhai Shah[6] and recognized right to information as heart of freedom of speech and

expression. It will not be out of place to mention that the Supreme Court of India has been consistently of the view that the 'right to know' is a right inherent in the Right to Freedom of Speech and Expression. Such an observation was made as early as in 1974 in State of Uttar Pradesh vs. Raj Narain.[7] The view of the court remains unchanged even in 2004 while deciding Peoples' Union of Civil Liberties Vs. Union of India[8].

In this backdrop, it can be argued that the provisions of the Official Secrets Act, 1923 suffer from the stigma of unconstitutionality. In fact, in a democracy the citizen's right to know is assumed rather than guaranteed. The right is derived from the government's accountability and answerability to the people. There is a burden on the government to justify secrecy. The Freedom of Information Act, 2002 was enacted to guarantee right to information to the people for the first time in India. The Act was repealed by the Right to Information Act, 2005[9] (RTI Act).

Police is one of the important instruments of the State. Discharging of police functions involves handling of human beings at every step. Policemen are often accused of corruption and violations of human rights of individual in their custody. Since 'power corrupts and absolute power corrupts absolutely', the power available to police may be used not only for public good but also for private gains and corrupt motives by the men in khaki. It is, therefore, very important that policemen have due regards towards the fundamental rights as guaranteed to the individual by the Constitution, especially the right to life, personal liberty and dignity. Policing in a society governed by Rule of Law should be transparent and open to public enquiry, in order to make the police accountable to the people. It would, therefore, be timely to review the police practices and rules which promote secrecy and non-disclosure of information.

Salient features of Right to Information Act, 2005

The RTI Act, 2005 provides for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority. For this purpose, section 3 of the Act declares that all citizens shall have the right to information, subject to the provisions of the Act. The public authorities, including the police, are under obligation to

Abstract

Right to Information Act, 2005 is the backbone of the new Information Regime in which transparency and openness is the order of the day. Legislature is entrusted with the sacred constitutional duty to watch public interest and lay down policies for public welfare. Accordingly, the instrumentalities of the state are required to implement the law ' as it is' . In a democracy, public interest is supreme.

> Where public interest outweighs the need for secrecy, openness is the rule. Police should become part of the new public order without hesitation. A paradigm shift is required in the approach of police to give up secretive tendencies and share information with public as per the provisions of the Act. It is, therefore, clear that police can protect the identity of the source of information as well as refuse to give information

maintain all its records duly catalogued and indexed. The authorities are required to publish important details like particulars of its organization, functions and duties; procedure followed in the decision making process; the rules, regulations, instructions, manuals and records held by it; statement of the categories of documents that are held by it; directory of officers and employees, the names, designation and other particulars of the Public Information Officers and several other types of general information within 120 days from the enactment of the Act.[10] The Act provides for designation of Public Information Officer at sub division, district and state level.[11] Section 7, 10 and 11 of the Act prescribe the procedure for disposal of the requests seeking information from public authorities. Sometimes revelation of information in actual practice is likely to conflict with other public interest, including efficient operations of the Governments, optimum use of the limited fiscal resources and the preservation of confidentiality of sensitive information. To harmonize the conflicting interests while preserving the supremacy of democratic ideals, section 8 of the Act provides for categories of public documents exempted from disclosure to public on demand. So far as police functioning is concerned, it is exclusively provided that there shall be no obligation to give any citizen information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;[12] and information which would impede the process of investigation or apprehension or prosecution of offenders.[13]

It is, therefore, clear that police can protect the identity of the source of information as well as refuse to give information which can hamper the progress in investigation. But the exemption from disclosure of these information is not absolute and is subjected to the test of public interest. Second provison to section 8 provides that a public authority may allow access to information of exempted category, if public interest in disclosure outweighs the harm to the protected interests. Further, information, which can not be denied to the Parliament or a State Legislature, shall not be denied to any person.[14]

Appeal against the decision of the Public Information Officers, as the case may be, can be placed before the Central or State Information Commission. Chapters III, IV and V of the Act are devoted to provisions regarding constitution,

term of office, condition of service, removal, appeal, powers and functions of the Central and State Information Commissions. The Information Commission can impose a penalty of 250 rupees each day till application is received or information is furnished, subject to maximum amount of 25000 rupees[15].

Keeping in view the specific requirements of intelligence and security organizations, such agencies notified by the state and central governments are kept out of purview of the RTI Act, 2005.[16] Preamble to the Right to Information Act, 2005 declares that democracy requires an informed citizenry and transparency of information, which are vital to its functioning and also to contain corruption and to hold governments and their instrumentalities accountable to the governed. It is truly reflected in proviso to section 24 of the Act, which provides that information pertaining to the allegations of corruption and human rights violations can be sought, even from the Intelligence and Security Agencies notified under section 24 of the Act.

The jurisdiction of courts in respect of any order made under the RTI Act is barred as per section 23 of the Act. The provisions of the RTI Act, 2005 shall have overriding effect, notwithstanding any thing inconsistent therewith contained in the Official Secrets Act, 1923[17] and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act[18].

Police predicament

Police is a law enforcement agency and they are required to bring the offenders of laws to justice as per the provisions of the Criminal Procedure Code. The police service is a civil service and the policemen are governed by the 'Civil Services Conduct Rules' as well as by the Police Rules of the respective States. Several restrictions have been imposed on the policemen in these rules to maintain secrecy of information of which they are the custodian. The mindset of the policemen is tuned to these rules and regulation, and it continues to be so. It would be imperative to study these laws, rules and regulations which expect the policemen to be secretive. Civil Service Conduct Rules impose restrictions on civil servant not to make unauthorized communication of information.

No member of the service shall except in accordance with any general or special order of the Government or in performance in good faith of the duties assigned to him communicate directly or

which can hamper the progress in investigation. But the exemption from disclosure of these information is not absolute and is subjected to the test of public interest. Second provison to section 8 provides that a public authority may allow access to information of exempted category, if public interest in disclosure outweighs the harm to the protected interests. Further, information, which can not be denied to the Parliament or

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indirectly an official document or part thereof or information to any Government Servant or any other person to whom he is not authorized to communicate such document or information.[19]

Violation of the conduct rules attracts departmental penalties. In the State Police Rules also specific provisions have been made to restrict the disclosure of information or supply of documents in custody of police. Relevant provision of Punjab Police Rules reads as under:

No document or record belonging to or in custody of police, and no copy of extract from such document, shall be furnished to any private individual or to any government for his private use, except under the authority of an express provision of law or by order of court or by a general or special order issued by the competent authority.[20]

Unauthorized and wrong communication, etc. of information by a public servant is punishable under the Official Secrets Act, 1923.[21] The provisions of section 5 of the Act provides following:

If any person having in his possession any article, note, document or information which has been entrusted to him in confidence by any person holding office under

Government or which he has obtained or which he has access owing to his position as a person who holds or has held office under government, willfully communicates such article, note, document or information to any person other than a person to whom he is authorized to communicate it shall be guilty of an offence under this section and the punishment is upto 3 years.

It is understood that public servants are bound by the departmental rules and the laws not to disclose information to any unauthorized person. The persons who are authorized to seek information from them are normally their senior officers who can call for the record/document from the office as a matter of routine. This system suited the British who wanted that the lower level Indian functionaries in the offices should be kept under constant threat not to make the official records public. This was, perhaps, the most effective way to keep the natives ignorant about the functioning of the British Rule. Unfortunately, the Official Secret Act, 1923 and the other rules made by the British, which prescribe secrecy, are still in force.

Under these circumstances, it is not easy to change the mindset of public servants and a paradigm shift is required in their approach to guarantee the right to information to

the people. Another biggest hurdle between the people's right to know is the bureaucratic barrier. The bureaucracy considers that they are the representatives of the President and the Governor and are not servants of the public. Therefore, the bureaucracy hides, keeps silence and maintains secrecy for the convenience of the government that be.

Besides departmental and service rules, the policemen have to follow the laws governing their functioning. During investigation, police prepare record of crime and criminal, including the case file. Every investigating police officer is required to maintain case diary as per provisions of section 172 Cr.P.C. The case diaries can be used, not as evidence in the case, but as an aid by the court in inquiry or trial.[22] The accused or his agent is not entitled to inspect or call for such diaries. But if the case diaries are used by the police officer, who made them to refresh his memory or if the court uses them for the purpose of contradicting such police officer, the defence has the right to inspect and call for that portion of the case diaries for the purpose of contradiction.[23] However, the case diaries cannot be used as evidence.[24] In other words, the case diary is a privileged document of the police and it is not available to general public, including

the accused party, for scrutiny under normal circumstances. It is agreeable that the Right to Fair Trial is the fundamental right of a person and is included in the Right to Life as elaborated in Article 21. An accused is entitled to each and every document which he may require to prove his innocence. Although police may always claim privilege over case diaries, yet the RTI Act, 2005 has made the matter justiceable. Thus, the protection of section 172 Cr.P.C., *qua* non disclosure of case diaries has been partially injured by the provisions of RTI Act, 2005.

Section 74 of the Indian Evidence Act (IEA) 1872 states that documents forming the acts or records of the acts (i) of the Sovereign authority, (ii) of official bodies and tribunals, and (iii) of public officers, legislative, judicial and executive, of any part of India or of the commonwealth, or of a foreign country are public documents. The Public Record Act, 1993 defines public document in detail. The Public Record Rules[25], 1997 defines classified records and private records in Section 2. Section 76 of the IEA, 1872 authorizes any person to have a certified copy of a public document, which he has right to inspect, in custody of a public officer. Thus, the key, which enables any person to get the copy of a public document under the IEA, 1872 is right to inspect that document. Right to inspect a public

Commission can impose a penalty of 250 rupees each day till application is received or information is furnished, subject to maximum amount of 25000 rupees. Keeping in view the specific requirements of intelligence and security organizations, such agencies notified by the state and central governments are kept out of purview of the RTI Act, 2005. *Preamble* to the Right to Information Act, 2005 declares that de-

mocracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold governments and their instrumentalities accountable to the governed. It is truly reflected in proviso to section 24 of the Act which provides that information pertaining to the allegations of corruption and human rights violations can be sought.

document has been elaborated in laws as well as in rules and regulations as a matter of public policy. At the same time, in order to protect public interest, restrictions have also been prescribed in various laws on disclosure of information contained in public documents. The provisions of Section 76 of the IEA 1972, stand compromised now to the extent that any person can demand copy of a public document from the state authorities, except the documents listed in the exempted category of documents under section 8 of RTI Act, 2005. Therefore, the condition of availability of right to inspect a document no longer remains a pre-condition to get copy of a public document under the IEA, 1872.

The police are custodian of privileged, confidential and unpublished official police records. It includes file notings, policy documents, annual confidential reports and personal records of officials, etc. They are also required to maintain records pertaining to crime and criminals, including preparation of dossiers of criminals. Some records kept in a police station, including the record of surveillance and dossiers of criminals, are confidential records and thus, immune from public scrutiny.[26] This immunity is no more absolute now. It is subject to review by the Public Information Officer and if public interest, in opinion of the Public

Information Officer, outweighs the need for secrecy, he can make the document public. In a way, it imposes responsibility on the Station House Officer to act judiciously and exercise his duties and discretion in building police record with utmost care and responsibility. There are many instances when, under the garb of confidentiality, policemen have harmed the reputation of innocent people by building false police record.

As per section 123 of the IEA, 1872 no one shall be permitted to give any evidence derived from unpublished official records relating to any affair of the state, except with the permission of the head of the department concerned, who shall give or withhold such permission as he thinks fit. Section 124 IEA provides that no public officer shall be compelled to disclose communications made to him in official confidence, when he considers that the public interest would suffer by the disclosure. In Tukaram vs. King Emperor[27] the court observed that the only ground sufficient to justify non-production of an official document marked confidential is that the production would not be in the public interest. For example, where disclosure would be injurious to national defence or to good diplomatic relations or where the practice of keeping a class of document secret is necessary for the proper

functioning of the public service. Subject to this reservation, the maxim *salus populi est suprema lex*, which means the regard for public welfare is highest law, is the basis of the provisions contained in section 123 IEA.[28] The issue was decided by a seven judge bench of Supreme Court in SP Gupta vs. UOI.[29] This case was related to transfer of a High Court Judge. The correspondence between the Law Minister and the Chief Justice of India and that between the Chief Justice of the High Court and the State Government was required to be produced. It was held that though the "advice" was protected from judicial scrutiny by virtue of Article 74 of the Constitution, the material on the basis of which the advice was formulated was not protected.

It is, therefore, clear that every communication which proceeds from one officer of the state to another officer of the state is not necessarily related to the affairs of the state. It is only such documents, which relate to the affairs of the state the disclosure of which would be detrimental to the public interest that came within the category of unpublished official record relating to affairs of state, are entitled to protection under section 123 IEA.[30]

Confidentiality of Annual Confidential Report (ACR), empanelment procedure, proceedings of Departmental Promotion Committees (DPC)and personal service records of civil servants is another issue which needs clarification. Transparency and fair-play demand that the public servant should have the right to be informed and represented against any matter which, is going to affect his career prospects adversely. Any departmental rules or instructions prescribing secrecy in these matters are hit by the RTI Act 2005. Section 8(1)(j) of the Act exempts disclosure of personal information, which has no relationship to any public activity or interest or which would cause unwarranted invasion of the privacy of the individual unless the

Public Information Officer justifies the disclosure of such information in public interest. The spirit behind this provision is to protect personal secrets from public eye. But if these personal secrets affect the individual himself adversely for whose benefit they are intended to be kept secret, then, the Principles of Natural Justice demand that they should be disclosed to the affected party on demand. As per a news item in the Tribune[31], the Tripura State Information Commission has ended the regime of secrecy surrounding the appraisal and the promotion process in government. The Tripura Information Commissioners have recognized that the very nature of ACRs and DPC recommendations requires them to be made public. They have argued that the service records of a public servant are maintained for his/her services for the public administration, in public interest, and, therefore, cannot be described as personal information. The Tripura Information Commission's decision is a major step in the direction of ending secrecy in the government.

The police enquire into large number of public complaints regarding inaction on part of police, malicious prosecution and false implication, etc. The enquiry reports of such complaints do not form part of the investigation proceedings and police officers in the hierarchy dispose of these complaints by passing administrative orders on them, if needed. At times, these reports and orders are called for scrutiny by the courts at the request of the affected party. Police officers generally refuse to provide action taken report on these matters to the complainant on the pretext that the enquiry proceedings were internal proceedings and, therefore, meant only for the consumption of the departmental senior officers. Character verification by local police is mandatory before issuing passport, driving licence and arms licence to an individual. Police verification is also must before offering government job to a person. If a person is denied these privileges and offers on the basis of an adverse police report, he

should have the right to seek the reasons behind such denial. Such reasons cannot be hidden in the name of secrecy. The RTI Act, 2005 now brings these reports and orders open to public scrutiny.

The security and intelligence agencies of the states and the centre are exempted from operation of the RTI Act, 2005. The security and intelligence agencies deal with sensitive matters concerning internal security and external affairs. Procedure laid down in the Manual of Departmental Security Instructions, circulated by the Ministry of Home Affairs from time to time, governs the classification of records maintained by the departments as top secret, secret, confidential and restricted[32]. Collection of strategic information, undertaking under cover operations and running of national and trans-border operatives are some of the important functions of these agencies, which should not concern the general public. Neither is it desirable that common man should have interest in these activities. But when the extended area of operation of these agencies fumes of corruption and violation of human rights of individuals, it becomes a matter of concern for the humanity at large. And, rightly so, a citizen has been given the right to seek information under the RTI Act, 2005 from the security and intelligence agencies on these matters of public importance and interest. In a democracy, no agency of state can be granted absolute immunity from public scrutiny. Another area of concern which, perhaps, lost sight of the legislature is the role of intelligence agencies in security vetting of individuals for appointment on sensitive assignments, and also in reporting on some other such matters. It is an area of operation of these agencies, which has the potential of affecting an individual's prospects adversely. Man is not infallible and, certainly, individuals are required to be protected against the mischief, evil designs, motive and negligence of the some of the unprincipled operatives working for these agencies.

The Central Information Commission had interpreted the RTI Act, 2005 to include a citizen's right to get copies/inspections of file notings containing advices and opinions, given by civil servants involved in the process of decision making. Government, on the contrary, wanted to amend the RTI Act, 2005 to the effect that the right to have access to file noting was never included in the Act and that it is now willing to confer a limited right to have access to file notings with regard to social sector expenditure and projects only and not with regards to other areas of governance. For the time being, under various pressures, Government has agreed not to insist on bringing this amendment. But the issue needs to be settled once and for all. The activists working in the field of Right to Information argue that information, as defined under the RTI Act, 2005 includes opinions and advices and is, therefore, broad enough to cover file notings. File notings are not only important to understand the fairness of the decision, but also the decision making process. If file notings are not made available to public under right to information, any unfair influence or collateral considerations in decision making will not be known. Governments are expected to act fairly and rationally. It necessarily follows that all actions must be supported by reasons. Decisions ought to be in the public interest and not suffer the vice of arbitrariness. On the other hand, the apprehensions of the civil servants who are interested in maintaining the secrecy of file notings also appear to have some merit. They argue that civil servants have been advising the political executive since it is part of their duty. The prospect of a public gaze on their advice would deter them from taking strong positions on various issues for fear of victimization. If bureaucratic notings are to be made public, officials would tend to be non-committal; or at times they would merely place alternative view points before the decision making authority for its direction. It is obvious that civil servants are uncomfortable with the idea of public disclosure of file notings.

The RTI Act is a law of new generation and there may be some reservation about its provisions in the beginning, but this is how law has evolved through the ages. Just as judicial review has been a deterrent against arbitrary decision making, the prospects of transparency and public gaze will certainly compel decision-making authorities to record relevant reasons and to ensure that decisions are fair and appear to be fair.[33] Public interest in transparency should override the relative discomfort of civil servants against public disclosure.

Thus, the Right to Information Act, 2005 has left no ambiguity on the issue of disclosure of public documents. The provisions of RTI Act, 2005 have over riding effect on any other law which prescribes secrecy of public documents. Public documents can be kept out of bound for a common man only as per the reasons justified in the RTI Act, 2005 only. The policemen too have to understand and learn to respect the norms of the new information regime.

Conclusions

The Right to Information Act, 2005 is a new legislation, designed to start a new administrative culture in modern India. The Chief Information Commissioner of India, Shri Wajahat Habibullah put the spirit behind the Act in correct perspective by saying that the Right to Information Act was no surrender by the Government to the people. He said the Act had opened a single-window system where the public could access information that would help them in their daily life.[34] Wajahat Habibullah, at the first anniversary of RTI Act, in an interview to the Indian Express posted online on 15.10.2006 said as follows:

"The commission is about to complete a year. Many people feel that it has been a damp squib but I would like to believe that there is a great confidence in the commission. The confidence has also increased over a period of time in the first few months, before the Act came into force. In the beginning we started getting 10 appeals and by May we received 700 appeals. In June, alone we had around 500 appeals. Now we have 4000 appeals and complaints taken together.

It clearly shows two things:
(i) public is opening up to its right to information and
(ii) the mindset of the executive is yet to adopt the Act in letter and spirit."

Policemen must understand that they are an instrument of law given to protect public life, liberty and property. They have no option but to implement the law of the land 'as it is'. The policemen are required to change their age old mentality of secrecy and come forward to help people discover realities in the field of governance. Nobody can deny that it is the responsibility of all citizens, including the police, to support any endeavour for checking corruption and violation of human rights and to ensure justice, equity and fairplay to all. The RTI Act seeks to concretize the same.

It is the legislature which has been given the constitutional duty to frame policies for public welfare and watch public interest. Therefore, the law enacted by the legislature is certainly superior to the notion of public interest being reared by the police by maintaining secrecy in their functioning. Openness and transparency is the order of the day and police should also subject themselves to this order without hesitation. The police should have no predicament in implementing this law in letter and spirit. Mutual faith is the first ingredient for the success of a relationship. Secrecy always leads to bitter suspicions. The same applies to the relationship between Public and Government, especially Public and Police which claims, in a democracy, to be of Public and for the Public. To restore this faith, the Government has tried to bring RTI Act 2005, which can definitely be used by police in the most positive manner to salvage their public image.

Reference

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2. AIR 1975 SC 2299

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4. AIR 1982 SC 149

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6. (1992) 3 SCC 171

7. (1974) 4 SCC 428

8. (2004) 2 SCC 476

9. Act No. 22 of 2005.

10. Section 4, RTI Act, No. 22 of 2005

11. Section 5, Ibid

12. Section 8(g), Ibid

13. Section 8(h), Ibid

14. Proviso to section 8, Ibid

15. Section 20, Ibid.

16. Section 24, Ibid.

17. Act No. 19 of 1923.

18. Section 22 of the RTI Act, 2005

19. Rule 9 of the All India Services (Conduct) Rules, 1968.

20. Para 11.63 of Punjab Police Rules 1934

21. Section 5 of Act No. 19 of 1923

22. Section 172(2) Code of Criminal Procedure, 1973.

23. Section 172(3) Criminal Procedure Code, 1973

24. A.N. Mogam Thaka AIR 1967, Manipur 11.

25. Published in the Gazette of India, Extras, PE II, Sec (i) dated 18th January 1997 at 734

26. Para 23.31 of Punjab Police Rules, 1934-

    Surveillance records confidential

    - All records connected with police surveillance are confidential; nothing contained in them may be communicated to any person nor may inspection be allowed or copies given, save as provided in Police Rules. The rights of district and illaqa Magistrates to examine such records are governed by rules 1.15 and 1.21, and the rules regarding their production in court are contained in Chapter XXVII.

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THE CONSTABULARY EMPOWERMENT ISSUES AND OUTCOME: A CASE STUDY

Hasmukh Patel*

Background

The British established the police organization in India with the aim of maintaining and expanding empire. Its structure has practically remained unchanged, though the country became independent nation and has undergone tremendous changes at all levels. It has failed to fulfill the needs and aspirations of the people of India.

The police organisation consists of majority of constabulary whom, the founder of the Indian Police- the British colonial ruler-preferred not to give any work of responsibility. The same pattern continued after Independence too. They still form the majority of the organisation. The same culture of not trusting them and not giving them any responsibility too continued. Presently, they form 87 percent of the organisation.

Any police reform would be incomplete untill problems in this segment are addressed. The police performance cannot be improved unless the constabulary give their best. The poor country like ours cannot afford to spend on such a huge workforce unless it contributes effectively. Therefore, this issue needs urgent attention.

The police were established in 1861 after the revolt of 1857. The British were not ready to trust and give any responsibility to the Indians and, therefore, it was a colonial policy not to employ the natives on important position to maintain British control over the administration. That is why all major powers were retained with the officers, which consisted of 100 % British officers. Shall the same policy be continued especially, when it has failed to fulfill the aspirations of the people of Independent nation?

Past

The Police Commission of 1860 recommended that the foot policeman must be paid "something more than the highest rate of wages for the unskilled labour... thus securing the best and the most respectable of that class for the police". Thus, the British wanted best of unskilled labours as policemen.

The 1902 Indian Police Commission stated about constabulary that "they should never be themselves

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Abstract

The police organisation consists of majority of constabulary whom, the founder of the Indian Police-the British colonial ruler-preferred not to give any work of responsibility. The same pattern continued after Independence too. They still form the majority of the organisation. The same culture of not trusting and not giving them any responsibility too continued. Presently they form 87 percent of the organisation.

entrusted with the investigation of offences or performance of duties of a similarly responsible character..... The great principle to be borne in mind is that duties requiring the exercise of discretion and judgment should not be entrusted to them.... The duties of constable should be of a mechanical character".

present

As per the Gujarat Police Manual, "Constable will perform such police duties as may be ordered to them by head constables and their superior officers to perform for the prevention and detection of crime, the maintenance of order, the apprehension of offenders on warrants ... the escorting of prisoners, treasure or private or public property of which they may be placed in charge..... Routine patrol duties may not be carried out by constables. A constable is not to be used for rambling round to pick up information by chance in villages. When he is used for any duty coming in the sphere of a beat man, his instructions must be specific, e.g.

"To,
Constable A, B.

You are hereby informed that "F" was last heard of as being at village "X" Proceed here and report:-
(a) if he is still there;
(b) if so, how he earns his livelihood; and
(c) If he is not there, where he has gone."

Thus, it emphasizes upon the performance of duties entrusted by the superior officers. Also in terms of protecting private and public property their duties are like the ones presently performed by the private security guards, as they are physically deployed to prevent crime and maintain law and order. The provision, in various police manuals, of giving specific written instructions to the constables reflects the kind of mistrust the organization has about the professional capabilities of the constables.

The Gujarat police manual states about the duties of the head constables that "The Head Constables are subject to the order of the Sub-Inspectors placed over them and to those of the superior of the police force. They are entitled to the obedience of all police subordinate to them within the limits of the charge that may be assigned to them... They must report to their Sub-Inspectors all crime within their charges and any probability that cognizable offences is about to be committed, but must not wait for orders before proceeding to make necessary inquiries for the discovery and apprehension of offenders.... In prevention of crime and in maintenance of order, they will obey such orders as their superior officers may give.... Head constables are the assistants of the Sub Inspector and should assist him in drilling and instructing the men and in patrolling the posts frequently."

The duties of head constables are bit different from constables in the sense that they can hold independent charge, make inquiries, etc. But the same language of supervision and obedience of order reflects the mentality of colonial ruler who started police force immediately after the Revolt of 1857, and was always worried about their loyalty.

Shall this change? To find answer to this question, let us see beyond the police organisation. What the corporate leaders say about their people?

Beyond Police

Peter Mukerjea, the CEO of Star India, says: "I try to hire the best people I can- people better than myself. This is because you cannot deliver a superb product unless you have superb people. I believe if you can get people who are committed, passionate and with a high level of energy, you are well on the way to success."

Prem Mehta, the Chairman, MD and CEO of Lintas, says: "I think genuine caring for people and promoting their strengths, without rejecting them for their weaknesses, goes a long way in building a business."

Ranjan Kapur, the Country Manager of WPP group, says: "I get put off by people who have a habit of saying "*Yes Sir, No sir, three bags full sir*".... I believe one has to treat humans like intelligent beings and not brainless animals. Give them authority and responsibility and watch them to perform"

Ashwini Kakkar, the MD and CEO of Thomas Cook India says: "The two values that excite me are integrity and empowerment..... I try to hire the best people. Then they are put on a familiarisation programme to understand the nitty-gritty of their current role. Then after, I leave them to do their job. I don't interfere at all.... We utilize their heads. While I was at Philips, a person retired after working for Philips for forty two years.... The gentleman in his farewell speech cried saying: '*This Company has paid me for forty two years for the use of hands but forgot I had a brain. I could have taught them so much*'. I have never forgotten this."

This is what is going on around us, outside the khaki uniform. Can not this make us think? The police can not work with the same mentality the colonial ruler had. The organisation that does not believe in the capabilities of 87% of the members cannot perform. Then why do not we change? Let us examine that.

Barriers
(1) Mental barrier

The problem lies here with the police leadership and the political leadership. The leadership have not

Any police reform would be incomplete until problems in this segment are addressed. The poor country like ours cannot afford to spend on such a huge workforce unless it contributes effectively. Therefore, this issue needs urgent attention. In this paper the views of some of the corporate leaders about the role of the people are discussed. The barriers to the constabulary empowerment and solutions to the issue are discussed in details.

Various initiatives taken in Bhavnagar district in last two years in this area have been discussed.

been able to change the colonial mindset as far as the capabilities of the constabulary is concerned.

The police organisation follows rigid line of hierarchy. Its effective functioning depends on following the commands of the superiors in the hierarchy. There is a belief within the organisation that the empowered constabulary will not obey the instructions of the superiors.

(2) *Selection of right kind of people*

The police organisations in India select SSC pass candidates as police constables, though there is a large number of better qualified people who are available.

(3) *Training Problems*

The police training in India is too much skewed towards physical aspect. It is lacking in development of professional skills, including the behavioural and interpersonal competencies. The lack of professional skills is a major hindrance in empowering police personnel as they are neither capable nor willing to take responsibility.

(4) *Work culture*
(a) **Too much reliance on physical deployment**

The police organisation in India have the work culture of relying too much on physical deployment. This

may be due to historical reasons too. The police during the colonial period had a major function of maintaining law and order amidst the public opposition of the ruler. They had the major role of dealing with freedom struggle. Even now, there are major security arrangements during fares and festivals, procession and public meetings. The safest way in such condition is to deploy police personnel, though there are better and cost-effective means available if thought innovatively.

(b) **Too much reliance on officers**

Due to lack of trust in the ability of the constabulary, there is a work culture of relying too much on officers. It is expected that many functions like investigation, security arrangements, etc should be performed by officers personally. This needs to be changed. It has following disadvantages:

a. It leads to too much work load on officers.

b. The officers are engaged too much in unimportant work.

c. They are unable to perform their leadership functions.

d. Due to lack of proper leadership to the constabulary their productivity is very low.

e. Due to lack of delegation, the constabulary does not develop.

f. When they are promoted as

officers they perform very poorly. They become burden on the organisation.

g. The constabulary is underutilised in terms of real delivery of police service of providing safety and security to the people.

Solution

The solution lies in overcoming the above barriers. First of all, the organisation needs to change the mindset of its leadership. It is also the responsibility of the top police leadership to convince the political leadership about the urgency of such needed change. The mindset of the police leadership is much more responsible than the political leadership, as the later does not have much knowledge of the functioning of the police. The fact that not much efforts in this direction have been made by the police leadership too proves this point.

The efforts of changing the mindset of the police leadership should start in the training institutes. It is high time that top police leaders seriously deliberate on this issue and decide the strategy. This should become an important training input in the induction training as well as other in service training courses.

If some of the chief ministers of the states pronounce themselves as the CEO of the state, why police organisation hesitate in incorporating some of the good features of the corporate world? Of course, the police need to make necessary changes regarding the nature of their job and the nature of the organisation.

The British chose to select police personnel from the lot of unskilled labourers in the backdrop of their experience with the Indians in the British army during the Revolt of 1857. In those days, they could not have found reasonably educated persons to be recruited in the police. As the expectation from the police and the challenges it faces have changed in modern times, it is very essential to recruit reasonably qualified persons as the constables. The

dynamic nature of the environment also demands educated police personnel as they are in a better position to learn to respond to the ever changing environment.

Their job demands on the spot independent decisions. Therefore, they need to be professionally competent. Policing is a highly technical as well as human job. It requires technical knowledge as well as interpersonal competence. Moreover, these skills and knowledge need to be constantly updated. That is possible only with police personnel with a reasonable level of conventional education and effective induction training. The training should be able to inculcate learning attitude and aptitude.

The present work culture of preventing crime through physical deployment is unable to prevent crime effectively, as it is not possible to deploy police personnel at all the places all the time. It also brings down the status of the constabulary within the organisation and the society. This further erodes the efficiency of the police personnel in particular and the organisation in general.

This issue needs to be addressed urgently and effectively, if the performance of the police organisation is to be improved.

(1) Motivation by changing the status, designation and the nomenclature

Due to historical reasons, the police force is divided into two parts, the officers and the nonofficers or policemen. The low status of the constabulary within the organisation and outside is one important reason for their low productivity. Presently, they are expected to prevent crime and maintain order through their physical presence, but they are not accepted as the effective enforcer of law leading to prevention of crime and maintenance of law and order.

In Bhavnagar District, the members of this segment that is conventionally known as constabulary are addressed as officers. They sit along with senior officers in public

meetings. They chair the meeting of the *Gram Suraksha Samitis* (the village defence committees). They conduct awareness programmes for the people. They are encouraged to attend public functions. They are felicitated by senior police officers in public for their good works. They are felicitated by the members of the community who are benefited by their work. These felicitations are properly projected through media releases.

(2) *Capacity building through assigning additional responsibility*

The Section 2(4) of the Bombay Police Act states that a "constable is a police officer of the lowest grade". The Criminal Procedure Code Section 2(h) states that "investigation" includes all the proceedings under the code for the collection of evidence conducted by a police officers or by any person (other than a magistrate) who is authorised by a magistrate in this behalf. Thus, these two acts prescribe no bar on assigning additional responsibility to the constabulary.

In Bhavnagar district, they are assigned following additional responsibilities:

a. Investigation of all applications regarding breach of peace.
b. The cases of preventive action under CrPC 107, 116(3).
c. The investigation of GD entries, that is, non-criminal matters like accidental injuries, etc.
d. Service of warrants except the warrants under section 94, 95 of the CrPC.

(3) *Training and capacity building*

The training and capacity building of the constables is a must for any empowerment initiative to succeed, as they would not be willing to take responsiblity if they are capable and confident of taking responsibility. For undertaking any responsible job, the competence and the professional knowledge is very essential. A special competence development training programme was initiated for imparting them professional knowledge, including interpersonal and behavioural competencies. They were also trained to change their mindset. They were trained to believe in themselves. They are made to understand that only designation change is not going to change their status in the society and the organisation unless they behaved like officers. They are motivated to enhance their performance and confidence through acquisition of knowledge and skills.

(4) *Training of officers for changing mindset*

The officers of the rank of Sub-Inspector and above are trained to change their mindset to believe in the competence and the status of the constables.

(5) *Appointment as Village Defence Police Officers*

The members of the constabulary are appointed as Village Defence Police Officers (VDPO). Every village has one VDPO. This gives them jurisdiction to perform. They perform all the police function like service of summons and warrants, preventive actions, community policing and awareness, arrest of absconders, checking of history sheeters etc, relating to that village except major investigations.

Conclusions

The issue of constabulary empowerment is much discussed topic for the contemporary police in India. But it is unfortunate that not much progress has been made so far. In Bhavnagar, as elsewhere, it is an urgent need. An experiment was initiated a couple of months ago. Such a long standing issue requires lot of time to get desired results, but the experience in Bhavnagar so far is encouraging. It has led to improved initiative, morale, motivation, confidence, knowledge, skills, behaviour with public, self belief, etc in the constabulary. The efforts are continued and being followed up for realising the full impact.

FROM THE DESK OF DIRECTOR (R&D), BPR&D

(CORRECTIONAL ADMINISTRATION DIVISION)

PRISON AND LAW IN INDIA

R.C. Arora, IPS

The institution of Prison acts as custodian for the citizens coming in conflict with law during the period of their incarceration. Thus the prisons give legal effect to the labours of the investigative, prosecution and adjudicatory functions performed by the Police, Prosecution and the Courts respectively.

However, today the prison as an institution is said to be in a state of crisis. Complaints about sub-human physical conditions, contamination, overcrowding, lack of sensitivity to human values, weak motivation and instances of corruption amongst the prison functionaries are frequently heard against them.

The main reason for such a state of affairs is: First, low priority accorded to the Prisons at different levels of civil administration and social apathy. Second, the lack of transparency and visibility of the Prison system in public eyes and third is the inadequate training and orientation of the Prison officials in the modern day philosophy underlying the very phenomenon of imprisonment.

In a society governed by the Rule of Law, the prisons, like other wings of the criminal justice system, function within the legal framework of the Constitutional and Municipal laws that comprise mainly of the Constitution of India, the Prison Act 1894, Prisoners Act 1900, Laws related to Preventive Detention, Probation of Offenders Act, 1959, Furlogh and Parole Rules the State Prison Manuals, the Code of Criminal procedure, Code of Criminal Procedure 1973, the Indian Penal Code, 1860, the Protection of Human Rights Act, 1993, etc. Though the wide range of statutory laws constitute normative basis for the Prison functions, but at the actual functional level often doubt and controversies arise regarding the ambit and interpretations of the statutory rules, thereby calling for frequent adjudications by the courts.

Time and again, Guiding Principles have been formulated under the aegis of United nations. The Hon'be Supreme Court and various High Courts of States have also issued many guidelines regarding reform in the light of modern correctional philosophy and the human rights initiatives in the management of prisons.

As per Article 246 of the Constitution of India, the subject 'Prisons' have been included in the State List (List II) to its Seventh Schedule. Accordingly, the State Governments and State Legislature are competent to manage their prisons based on modern correctional philosophy. As per the official data available for the year 2005, 3,58,368 prisoners are confined in 1328 different kind of prisons throughout the country against the authorized capacity of 2,46,497 prisons which amounts to 45.4% of overcrowding in Indian prisons. On the other hand, the rate of imprisonment in India 30 prisoners per one lakh population which is one of the lowest in the world as compared to the USA (737); Russia (613); Singapore (350); South Africa (334); UAE (288); Iran (214); UK (148); Australia (126); China (118); Canada (107); Germany (94); Japan (62) and Pakistan (57). The prisons had a strength of 39,762 prison officials to take care of 3,58,368 inmates which amounts to one prison officials for 9 prisons which is well below the expected norms to ensure the effective management of prisons. The prison staff require basic and in-service training at the state, regional and national level.

The Ministry of Home Affairs (MHA), Govt. of India has taken some notable initiatives to provide impetus in infrastructural upgradation of prisons to make prison management more effective. In this direction, the Ministry of Home Affairs set up a Correctional Administration Division in Bureau of Police Research and Development in 1995. This Division has been given some responsibilities which are as follow:

(1)   Study and analysis of general problems related to Prison Administration and Prison Statistics.

(2)   To collect information related to Correctional Administration and hand over these to states.

(3)   To prepare guidelines on advice of State Govt. for this field after co-ordinating regional correction administration and other research institutes.

(4)   To review the training module of Prison staff/officers and make it in tune with changing social scenario.

(5)   To prepare training module / syllabus for different level of prison staff/employees and prepare related publications and report, etc.

There is a need of adequate resources to execute such an important array of responsibilities successfully and efficiently. Despite the resource constraint, Bureau of Police Resource & Development has contributed significantly in this regard.

Periodical review of this scheme by the MHA and BPR&D revealed that the benefit of Modernization Scheme shall remain incomplete for the field functionaries of our prisons and prisoners, if they are not sensitized regularly as to the legal framework of the prison administration and the directions issued by the Hon'ble Supreme Court and various High Courts in the country from time for compliance therewith in their day to day work. It was, therefore, felt that BPR&D, being the nodal agency at the national level under MHA should bring out a comprehensive document on this subject at the earliest.

The challenge was accepted by the Correctional Administration Division of BPR&D, headed by the Director (R&D) despite serious resource constraints. Well-researched material in the trend setting rulings given by the Constitutional Courts of the Country was prepared. A team led by Dr. B. V. Trivedi, Assistant Director, Correctional Administration Division, BPR&D and assisted by Dr.(Ms) Rita Tiwari, Statistical Assistant with Division under the leadership of Director(R&D) BPR&D undertook this work. The document was published as **Prison and Law in India.**

This document has been divided into four parts. The first Part deals with statistical details of prisons/prisons in India till 1.1.2006. In Part II Legal framework of Prisons has been discussed. Different rules and regulations have been dealt with in this section. The Part-III mentions important rulings given by Hon'ble Supreme Court and High Courts on prisons. The Part-IV sums up different rulings and Judgments delivered by Hon'ble Supreme Court on Prisons.

This collection has been termed as easily available Reference document and has become an important paper on prison and related matters. It has been uploaded on our website www.bprd.gov.in so that it could be easily available to all concerned.

Notes for Contributors

Editorial objectives

The journal covers articles of general police interest as well as research papers based on empirical data pertaining to police work. Authentic stories of criminal case successfully worked out with the help of scientific aids and techniques are also published. Only original manuscripts are accepted for publication. Articles submitted to the journal should be original contributions and should not be under consideration for any other publication at the same time. A certificate to this effect should invariably accompany the article.

Areas covered include

Crime, criminology, forensic science, forensic medicine, police organization, law & order, cyber crime, computer crime, organized crime, white collar crime, crime against women, juvenile delinquency, human resource development, police reforms, organizational restructuring, performance appraisal, social defence, correction/prison administration, police housing, police training, human rights. Insurgency, intelligence, corruption, terrorism etc.

The review process

Every article received for publication is subject to the following review procedures:

1. It is reviewed by the editor for general suitability for publication.
2. If it is found suitable, it undergoes a review process by a member of our Board of Referees.
3. Based on the recommendations of the reviewers, the Editorial Board decides whether to accept the particular article as it is, or seek revision, or reject.

Manuscripts requirements

The manuscripts should be submitted in duplicate in double line spacing with wide margins. Articles should ordinarily be between 2000 and 4000 words in length. Title of the article should be precise. **Authors should also supply an Abstract of 100-150** words with keywords. A copy of the article saved in floppy/CD in MS-Word may be send in addition. Contributors are advised to be very brief in introducing the subject and devote most of the paper to the main theme. Authors should take care to ensure accuracy of the data and references. Quotes should be cited accurately from the original source, should not be edited and should refer to the page numbers of the original publication. Capitalization should be kept to the minimum and should be consistent. British spellings should be used rather than American. The typed script may please be carefully scrutinized for typing errors before dispatch. A brief autobiographical note should also be supplied including full name, designation, postal address and e-mail address, if any. Figures, charts and diagrams, should be kept to a minimum and good quality originals must be provided. *At the end of the article a reference list and a short bibliography would enhance acceptability of the contribution.* The contributions can also be e-mailed, in addition to being sent by post.

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