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'Promoting Good Practices and Standards'

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IPJ

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EDITORIAL MESSAGE

2020 has been a year of revisiting our priorities. The Corona pandemic has brought health, hygiene and environmental issues back to the fore. As we usher in 2021, with the rolling out of the vaccines, we also realise that hope will surmount darkness and despair, no matter what the odds are.

For the Indian police it has been a year of realising again that public service is its *raison de etre*. As corona warriors, our police forces have shown that they are committed to the public. I pay homage to the Police officers who made the supreme sacrifice of laying down their lives in the service of the nation. I am proud of the name earned by police in winning the hearts of the public while fighting the pandemic together. The BPR&D has published a compendium of good police work during the corona pandemic.

As always, it is a pleasure to introduce the latest edition of the IPJ. Our eminent contributors have authored several well research articles on various subjects and I am happy to introduce them.

The article on “Effects of covid-19 lockdown on psychological health”, touches upon many aspects of policing as frontline corona warriors in khaki. It elaborates upon how a number of health care and clinical institutions have opened online to provide services for affected people to battle the deadly virus.

In the article “Ways of coping and mental health among male and female police constables”, Dr. Rinki and Dr. Nitesh Kumar Jha focus on how the constabulary is struggling with mental health issues and challenges.

The article “Changing forms of cyber violence against women and girls”, explains how cybercrimes are continuing in changed forms and the required police response to contain them.

The article, “Online radicalization: Threats, challenges and proactive measures”, provides deep insights into the factors of poverty, disadvantage, social exclusion, extremist influences and access to online resources, which lead to vulnerability and conversion to extreme views and radicalisation.

Arul Verma expounds the important role of police in curbing the drug menace among children utilizing provisions of Juvenile Justice Act.

In a well-researched article, DG NCRB, Shri Ramphal Pawar & his colleague Sanjay Mathur, and Dr. Prasoon Gupta explain the “Crime Multi-Agency Centre”, a platform to share information on crime and criminals on a real-time basis.

I hope that you will find these articles useful and would also continue contributing your valuable suggestions for further raising the standards of the IPJ.

I wish the readers, a very Happy New Year and hope that the year 2021 brings joy, success and good health.

Happy Reading!

(Editor-in-Chief)

Crime-Multi Agency Centre (Cri-MAC)

A Platform to Share Information on Crime & Criminals on Real-Time Basis

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ABSTRACT

The Cri-MAC application is designed and developed by an in-house team of NCRB to enable smooth online sharing of crime and criminal data in the form of real-time alerts among various disjointed police units across the country, keeping in mind the ease of use.

KEYWORDS

Cri-MAC, crime alert, real-time alerts, crime prevention, Hue and Cry Notices, jail breaks, broadcast crime information, high alert, police communication

INTRODUCTION

Detection of crime is one of the important functions of the police. Criminals adopt new technology and techniques of committing crimes. Gathering clues from the scene of crime without any delay and dissemination of relevant information to the neighboring police stations plays a very important role in detection and apprehension of criminals. Conveying information to other states in case of a possible involvement of an interstate gang is also extremely important. Crime and Criminal Network & Systems (CCTNS) is a key e-governance project of Government of India. It facilitates entry of data related to crime reported at police stations in CCTNS including details of scene of crime, accused

involved, property seized, and final report filed in the court. Under CCTNS project, search facility for searching person of interest and property of interest has been provided at the state level as well as the national level. NCRB has played a very important role in the implementation of this project. As on 31st May 2020, out of 16050 Police stations, CCTNS has been implemented in 15214 Police stations in the country. CCTNS has created a backbone for sharing Crime and Criminal related information across the country.

Taking one step forward, NCRB has recently launched Cri-MAC application for flashing alerts on important matters of crime and for inter-unit communication among disjointed police units across the country. The concept

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of Cri-MAC was coined during the DGSP/IGSP Conference held at Tekanpur (MP) in January, 2018 on the lines of Multi Agency Centre (MAC) of the Intelligence Bureau. It has been integrated with the CCTNS application at the backend so that related FIR details can be fetched directly from the system on click of a button. The application can be accessed securely through a link provided in the national Digital Police Portal (<https://digitalpolice.gov.in>) by Police and Prison officials by using ICJS user credentials already existing with them.

There are seven scrolling windows for sharing information on important and critical crime events such as jail breaks, major heinous crimes, important seizure and recoveries, jail releases of notorious criminals, major human trafficking cases, information on wanted/arrested notorious criminals and High Alerts like Hue and Cry Notices (Screenshot1). Police officers can upload information by selecting a crime category (window), simply by entering relevant information (gist) available with them (Screenshot2). They can also upload attachments such as photographs and other documents.

There is a provision to make searches - FIR-based (Screenshot3) and text-based (Screenshot4) - in different windows over legacy data. Further, for operational or logistic communication needs, the application offers two modes of communication: E-mails

(Screenshot6) can be sent to any Police Station along with attachments after selecting state, district and police station names from the drop-down menu; and SMSs (Screenshot7) can be sent to any police personnel after selecting state, district and police station names from the drop-down menu.

SALIENT FEATURES

Using the Cri-MAC application, a user can view alerts, generate new alerts, search for an alert and communicate with others through e-mail and SMS.

- a) The application can be accessed by using ICJS user credentials already existing with the Police and Prison officers.

Police Stations are able to directly export and broadcast important information under various identified crime heads. The exported information is displayed on the application's dashboard (Screenshot1).

Alerts can be generated about a particular crime category, simply by entering relevant information in the application's upload data module (Screenshot2).

- b) Two types of searches can be performed on legacy data under any/all the windows:
Search based on FIR number (Screenshot3)
Search based on crime category or any keyword (Screenshot4)

The screenshot shows the 'Cri-MAC Dashboard' interface. At the top, it says 'CRIME MULTI AGENCY CENTRE (Cri-MAC) (Under Crime and Criminal Tracking Network & Systems (CTNS))' and 'Hello, S V Navani'. The dashboard contains several widgets:

- Jail Breaks:** A widget with a red border containing text about a registered case at PS-ISLAMABAD ADR CITY AGAINST ACCUSED GURPREET SINGH ALIAS GORI S/O SUNDDEV SINGH, JARNAL SINGH S/O SUNDDEV SINGH AND VISHAL SHARMA S/O SATISH KUMAR I/S 221224420128-B IPC, S2 PRODN ACT CHALLAN HAS BEEN SUBMITTED TO COURT. (This is a repeated entry for testing purpose).
- High Alerts:** A widget with a red border containing text about a case where a person attempted to get a passport. FIR No. 89590082000142. It is a repeated entry for testing purpose.
- Jail Releases of Notorious Criminals:** A widget containing text about a case where a person was released from jail. FIR No. 18189021200049. It is a repeated entry for testing purpose.
- Major Heinous Crimes:** A widget containing text about a case where a person was arrested. FIR No. 21137042200008. It is a repeated entry for testing purpose.
- Important Seizure/Recoveries:** A widget containing text about a case where a person was caught. It is a repeated entry for testing purpose.
- Major Human Trafficking:** A widget containing text about a case where a person was rescued. It is a repeated entry for testing purpose.
- Notorious Criminals (Arrested/ Wanted):** A widget containing text about a case where a person was arrested. It is a repeated entry for testing purpose.

Screenshot1. The Cri-MAC Dashboard

The screenshot shows the 'Upload Data' form in the Cri-MAC interface. The form has the following fields and options:

- Crime Category:** A dropdown menu with 'Heinous Crime' selected.
- FIR Number:** A text input field with a placeholder 'Please enter 14 digits FIR Number'. Below it, a note states: '14 digits of FIR No. comprise : First 2 digits for State code, 3 for Distt, 3 for PS, 2 for Year and last 4 for FIR No.'
- Description:** A large text area with a placeholder 'Content..'
- Attachment:** A section with a 'Choose File' button, the text 'No file chosen', and a 'More Attachments' button.
- Buttons:** 'Submit' and 'Reset' buttons at the bottom of the form.

Screenshot2. Generating Alerts (uploading data)

The screenshot shows the 'Search Data' section of the Cri-MAC portal. It features a header with the organization's name and logo. Below the header, there are two search options: 'Search by FIR No.' (selected) and 'Search by Keyword/Crime Category'. The 'Search by FIR' form includes a text input field for the FIR number, a note explaining the 14-digit format (2 digits of state + 3 digits of district + 3 digits of PS + 2 digits of year + 4 digits of FIR), and 'Submit' and 'Reset' buttons.

Screenshot3. FIR number based search

The screenshot shows the 'Search Data' section of the Cri-MAC portal. It features a header with the organization's name and logo. Below the header, there are two search options: 'Search by FIR No.' and 'Search by Keyword/Crime Category' (selected). The 'Search by keyword' form includes a dropdown menu for 'Crime Category' (set to 'All'), a text input field for 'Keyword' (containing 'Accused arrest'), and two date input fields for 'Date From' (01-01-2020) and 'Date To' (01-06-2020). 'Submit' and 'Reset' buttons are located at the bottom of the form.

Screenshot4. Crime category/keyword based search

In each alert, a link to the case details is given, clicking on which will fetch the related FIR details from the CCTNS/ICJS database (Screenshot5).

SMS: SMSs can be sent to any police personnel after selecting state, district and police station names from the drop-down menu (Screenshot7).

The screenshot shows a web application interface for sending SMS. The page title is "Communication" and the sub-header is "SMS". The form includes fields for "Phone No." with dropdown menus for "Select state", "Select district", "Select police station", and "Select recipient's phone number". Below these is a "Message" text area and a "Remaining Characters" indicator. At the bottom are "Submit" and "Cancel" buttons. The footer contains the text: "National Crime Records Bureau, Ministry of Home Affairs, Government of India, National Highway-E, Mansarovar, New Delhi-110037, http://nocrb.gov.in".

Screenshot7. Communicating through SMS

TECHNOLOGIES USED

NCRB has developed the Cri-MAC application as a web-application using the following technologies/ tools:

- i. Programming language: Java (Springboot Framework)
- ii. Database: My SQL
- iii. Other technologies/tools used: HTML, jQuery, Javascript, CSS, Bootstrap
- iv. The application runs on browsers such as Google Chrome, Internet Explorer, Safari, Firefox, etc.

It has backend integration with CCTNS for the

purpose of fetching FIR data.

SECURE APPLICATION

Being a software application, thorough IT Security Audit for Vulnerability Testing and Certification was performed by CERT-In empanelled vendor and a certificate was obtained therein. A built-in counter keeps track of the footfalls into the application, emails/SMSs originated through the App and number of searches made as well as FIR button clicked for seeing the corresponding FIRs.

BENEFITS TO POLICE

- a) The Cri-MAC is a user friendly application

- which requires very little training for use.
- b) The application utilizes the existing CCTNS network at police stations, without any extra infrastructural demands.
 - c) Being a web-based computer application, it puts minimal strain on logistics and finance.
 - d) Security of application and data remains a priority. Police Stations, Prison offices and other higher offices can securely access this portal by using already existing ICJS user credentials with them.
 - e) Using the alert generation feature for incidents like Jail Breaks and for Hue and Cry Notices, the sensitive and urgent information can be disseminated quickly.
 - f) Using the built-in communication module and pre-existing email IDs and Mobile Nos. of PSs in the application, the time required for operational and logistic communication would be minimized.
 - g) The application can also be used to refer to previous incidents of a particular type through search from the legacy data earlier uploaded on Cri-MAC portal.

ADOPTABILITY AND SCALABILITY

- a) The Cri-MAC application is adopted and currently being used by 28 States/UTs.
- b) Currently, the application is accessible to nearly 12000 police stations across the country.
- c) At present, the application can be used for following types of crimes:
 - i. Major Heinous Crime

- ii. Major Human Trafficking
- iii. Jail Breaks
- iv. Jail Releases
- v. Important Seizures and Recoveries
- vi. Notorious Criminals (Arrested / Wanted)
- vii. Hue & Cry Notices (PAN India)

GOING FORWARD

NCRB is open to suggestions and improvements and the same would be reviewed and incorporated in subsequent versions. The following features are being incorporated in the next version:

- a. A user will see data, by default, related to his district alone. There will however, be an option to click the State or Country level filter as well. High Alert (Red Window) will however, show the entire country's data at all times without any filter in order to show national high alerts.
- b. There would be a facility with the state to upload/update email addresses and phone numbers for the users, to reflect changes, if any, from time to time.
- c. The application response time will be further reduced for enhanced user experience.
- d. Report on the usage of application will be developed.

EXPECTATIONS FROM THE STATES|UTs

- a. Submission of updated email-ids and mobile numbers of police stations for communication
- b. Opening access of Cri-MAC application to its police stations. As of now, 29 States|UTs

have provided access. Arunachal Pradesh, Bihar, DD&DNH, Manipur, Nagaland, Sikkim and Uttar Pradesh have to facilitate the Cri-MAC access to their police stations.

- c. Enhance the usage experience of Cri-MAC application by sharing and viewing the alerts as well as communicate over e-mail and SMS.

CONCLUSION

Earlier, there was no formal system of sharing

of alerts on crime and criminals in real-time basis across various disjointed police/jails units across the country. It used to be shared through unsecure channels like PSTN lines, police wireless, or personal emails etc. Using Cri-MAC Application features now, generation of alerts and online sharing of information can be efficiently done. This would help in better and faster coordination leading to early detection and prevention of crime across the country.

The Politics of Punishment

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ABSTRACT

This paper examines the politics of how penal laws get framed. The retributive as well as reductive consequences of punishment are discussed. It is shown how sometimes the optics of lawmaking takes precedence over extant social realities and the capabilities of the State for enforcement of the said laws. To illustrate the anomaly, the morality and the utility of corporal punishment are examined by juxtaposing it with the death penalty. The paper suggests that reform in the Penal system is essentially a political question and needs a suitable political discourse along with building of a social discourse and capability of the State before a proper Penal reform can happen.

Key words: Reductivism, Retributivism, Corporal Punishment, Death Penalty

INTRODUCTION

Lant Pritchett (2009) has called India a flailing State¹. A flailing state is what happens when the principal cannot control its agents. The flailing state cannot implement its own plans and may have its plans actively subverted when its agents work at cross-purposes. To explain the mismatch between the Indian state's ambitions and its abilities, some economists blame premature demands by Indian elite for policies more appropriate to a developed country. Some of them state that in order to satisfy external actors, the Indian state and other recipients of foreign funding

often take on tasks that overwhelm state capacity, leading to premature load bearing².

On the other hand, some of these writers feel that the cause for inappropriate imitation is that the Indian intelligentsia—the top people involved in politics, the bureaucracy, universities, think tanks, foundations, and so forth—are closely connected with Anglo-American elites, sometimes even more closely than they are to the Indian populace. As a result, the Indian elite initiates and supports policies that appear to be normal even though such policies may have little relevance to the Indian population as a whole and may be

1 Pritchett, Lant. 2009. Is India a Flailing State: HKS Faculty Research Working Paper Series RWP09-013, John F. Kennedy School of Government, Harvard University

2 Andrews, Matt, Lant Pritchett, and Michael Woolcock. 2017. Building State Capability: Evidence, Analysis, Action. 1st ed. Oxford: Oxford University Press

Author's Intro:

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wildly at odds with Indian state capacity³. Incidentally, these writers do not assert that this kind of mimicry of what appear to be the best Western policies and practices is necessarily ill intentioned. It is simply one by-product of the background within which the Indian intellectual class operates.

This paper will attempt to show that a similar dynamic appears to be operating in the process of enactment of penal law as well. It will do so by examining in detail the paradoxical way in which corporal punishment is viewed in our country today, at least officially, and compare it with the largely accepted public discourse on Capital punishment- in the larger perspective of the purpose for which punishment is imposed on the individual. It will also argue that building up of a proper social discourse and State capacity are necessary precursors to penal reform.

THE TRIGGER

The premature release of Manu Sharma on June 1, 2020 has once again highlighted the deeply ambivalent nature of the society's outlook towards the Penal System (for which, incidentally, the presently correct terminology is the Correctional System). Manu Sharma had shot dead Jessica Lal, a model working as a barmaid for the evening, in the early hours of April 30, 1999, in a posh party in Delhi, for refusing to serve him alcohol. The trial court acquitted him in February 2006, causing an outrage which manifested itself in widespread condemnation, candle vigils and protest marches. During the trial, the accused

was granted bail quite a few times. It was only in November 2003 that the Delhi High Court put an end to this, and the Supreme Court (SC) too dismissed his special leave petition.

The High Court took the case on 'fast track' and delivered the judgement in December 2006, convicting him and awarding him life imprisonment, besides terming the trial court judgement "an immature assessment of material on record." The SC upheld both the conviction and life sentence in 2010. The sentence review board (SRB) rejected his plea six times for premature release, against which he went to the High Court, which ordered that detailed reasons may be recorded for rejecting his plea and that it should be heard on the next date. Now, the SRB, headed by the state home minister, recommended the release of the prisoner on grounds of "good conduct" after having served a term of 16 years, 11 months and 24 days.

During the prison term, he was on parole and furlough a number of times. This was a topic of much coverage in the media during Mrs. Sheila Dikshit's tenure as the Delhi CM. During parole, his fight with a police officer's son in a pub was also well-publicised, as well as his visits to a hotel in Janakpuri. For the last two years, he was awarded open jail facilities implying he was out the whole day working with an NGO and then back to his cell at night. As expected, questions were raised as to whether such facilities are given to other prisoners too or only to those who have the resources to apply so many times for paroles, remissions and other facilities. Civil society strongly protested the release, specially the women activists asking that in a country which witnesses so many heinous crimes

³ Shruti Rajagopalan and Alexander Tabarrok, *Premature Imitation and India's flailing State*, *The Independent Review*, v. 24, n. 2, Fall 2019, ISSN 1086- 1653

against women at regular intervals, what kind of message is sent by such premature releases.

The SC in 2012, noticing the trend of the state governments pardoning prisoners on important occasions or granting remissions en masse, had observed that life imprisonment means prison term for life. The state governments can reduce sentence under Section 432 CrPC but not less than 14 years as stipulated under Section 433A CrPC. Premature release of a lifer amounts to commutation of sentence u/s 433 CrPC for which the opinion of the trial judge is not required. For remission of sentence u/s 432 CrPC, opinion of the trial court may be taken as prescribed in section 432(2) CrPC.

In the legalistic and moralistic debate, one loses sight of the fact that the real questions should be about the fundamental assumptions about that how a society punishes crime. It is about what that society considers right and what it considers wrong- it is about Ethics- it is about the norms of human conduct- it is about priorities- and therefore it is essentially a political question!

THE MORAL JUSTIFICATIONS FOR PUNISHMENT

Human societies have always sought to reduce the frequency and severity of crime and all societies evolved different techniques for dealing with crime. The first technique is to ensure that the potential criminal understands that he has far more to lose than to gain from committing the crime. This is basically disincentivising the act of crime which may also be called as *deterrence*. The second method would be to *incapacitate* the

criminals by sending them to jail, executing them, sending them away from the places they commit a crime in (exile) or otherwise make it impossible for them to commit a crime. The third method would be to *persuade* the criminal not to take action by rehabilitation, re-education or shaming him and convincing him that his action is wrong.

All these methods have different overlaps. Punishment, per se, may have features of incapacitation or deterrence or even reform but if one was to cite a moral justification for punishment, it can be broadly classified into two categories: *Retribution* justifies punishment on the ground that it is deserved by the offender whereas *Reductivism* justifies punishment on the ground that it helps to reduce the incidence of crime.

Reductivism is a forward looking or consequentialist theory. It seeks to justify punishment by the so called future consequences. It is hoped that with punishment the incidence of crime will be less than what it would be if there was no punishment. These ideas are also utilitarian in the sense that those actions which produce the greatest happiness of the greatest number of people have moral worth. But does punishment really reduce crime? If *individual deterrence* did work and if we had a new kind of harsh punishment, the offenders who underwent the new harsh punishment would be less likely to reoffend than similar offenders who underwent more lenient penalty. This was the logic behind the introduction of the concept of 'Short Sharp Shock Detention System' for young offenders by the UK Government in the early 1980s⁴.

4 <https://thatchercrisisyears.com/2013/01/14/short-sharp-shock->

However, these centres with the new harsher penalties were no more successful than detention centres with unmodified regimes in terms of recidivism rates of their ex-inmates. In fact, some other research suggests that offenders who suffer more serious penalties are more and not less likely to reoffend.

This may appear to be contrary to intuition but it is not difficult to understand. Overall, punishment has other effects which cancel out the effects of deterrence. These are known as labelling effects. Catching and punishing offenders labels and stigmatizes them as criminals and very often this acts as a self-fulfilling prophecy which makes it more difficult for them to conform to law abiding life in future. Our jails are notoriously known as schools for crime where offenders meet each other, learn criminal techniques and enter into a criminal subculture. Harsher penalties in particular, could foster a tough macho self-image in young men who predominate in criminal statistics.

The other deterrent effect is known as general deterrence. This is the idea that once the criminal is punished it may send a signal to the rest of the society that it does not pay to commit the crime. There is some evidence that general deterrence can be improved if potential criminals' perceived likelihood of punishment is increased. But there is little evidence that more serious punishments can deter any better than more lenient ones. Hence, general deterrence might well form the basis of a plausible general justification for having a system of punishment. But there is no justification to argue that the amount of punishment is justifiable by only deterrent

thatcher-takes-on-the-wayward-youth/

considerations.

Consistent finding in research is that increases in the certainty of arrest and punishment demonstrate a significant deterrent effect. Perception about the certainty of arrest, for example, may counter the 'present bias'⁵ and reinforce the potential cost of committing a crime.⁶ Certainty and not the severity of punishment is the chief deterrent for most crimes. However, homicide is influenced by severity, possibly reflecting the differences between homicide and other crimes.⁷

The next reductive purpose of punishment could be *reform* or rehabilitation. The idea that punishment can reduce the incidence of crime by improving the individual offender's character or behaviour and make him/her less likely to reoffend in future is still highly popular in India. Many proponents of reform including the heavily influential positivistic theorists of crime favour this ideal called the 'treatment' model. This views criminal behaviour not as 'freely willed' action but as a symptom of some kind of mental illness that should not be punished but be treated like an illness. However, modern research has suggested that penal measures intending to reform offenders are no more effective in preventing recidivism than sheer punitive methods.

The present wisdom about reform in many quarters is that 'nothing works'⁸ and that

5 The 'present bias' refers to the tendency of people to give stronger weight to payoffs that are closer to the present time when considering trade-offs between two future moments

6 Donald Ritchie, April 2011, Does Imprisonment Deter? A Review of the Evidence, Sentencing Advisory Council, www.sentencingcouncil.vic.gov.au

7 Bailey, William C. and J. David Martin (1974). Crime and Deterrence: A Correlation Analysis. *Journal of Research and Crime and Delinquency*, 11, 124-143

8 Lipton, Douglas, R. Martinson, and J. Wilks, The Effectiveness of

whatever you do to offenders makes no difference. However, this might be an exaggeration as there are examples of reformatory programmes which seem to work with certain groups of offenders⁹. The ambivalence of society, especially about young criminals, also shows itself in pendulum swings between retribution and reform. The retributive social outrages after Nirbhaya¹⁰, Shakti Mills Rape case^{11 12} or the Ryan school murder¹³ also got countered by sentimentality over 'children in trouble'¹⁴.

The next reductive purpose is incapacitation which simply means that the offender is usually

Correctional Treatment: A Survey of Treatment valuation Studies, Praeger Press, New York.

- 9 Miceli, Victoria, Analyzing the Effectiveness of Rehabilitation Programs (2009). Senior Honors Projects. Paper 158. <http://digitalcommons.uri.edu/srhonorsprog/158>
- 10 In July 2014, Minister of Women and Child Development said that the Govt. was preparing a new law which will allow 16-year-olds to be tried as adults. She said that 50% of juvenile crimes were committed by teens who thought that they get away with it. She added that changing the law, which will allow them to be tried for murder and rape as adults, would scare them. This culminated in the JJ Act 2015.
- 11 The Shakti Mills gang rape refers to the incident in which a 22-year-old photojournalist was gang-raped by five people, including a juvenile. The incident occurred on 22 August 2013, when she had gone to the deserted Shakti Mills compound, in South Mumbai, with a male colleague on an assignment. Later, an eighteen year old call centre employee reported that she too had been gang-raped, on 31 July 2013 inside the mills complex. On 20 March 2014, a Mumbai sessions court convicted all five adult accused in both cases on 13 counts. On 4 April 2014, the court awarded the death penalty to the three repeat offenders. For the other two accused, one was awarded life imprisonment while the other accused turned approver in the case. Two minors, one in each case, were tried by the Juvenile Justice Board separately. They were convicted on 15 July 2015, and sentenced to three years (including time in custody) in a Nasik reform school.
- 12 After being sent to a correction home in Nasik for three years for the gang-rape Akash Jadhav, then 17 years old, by 2018, had formed an underworld gang and was arrested in 3 offences subsequently. His repeat offences put paid to expectations that he would emerge a reformed man from the Nasik home.
- 13 Pradyuman Thakur was a student at Ryan International School, who was found murdered inside a washroom on 8 September 2017 in Gurgaon. On 8 November 2017, the CBI arrested a class XI student aged 16 from the same school for the murder.
- 14 Child Rights Activists and Women Rights Activists called the JJ Act 2015 a regressive step. Many experts and activists viewed post 'Nirbhaya' responses as creation of media sensationalisation of the issue, and cautioned against any 'regressive' move to disturb the 'momentum of Juvenile Justice Legislation' in the Country which was so far purely rehabilitative and reformatory.

physically prevented from reoffending by the punishment imposed either temporarily or permanently. The practice in some societies of chopping off the hands of thieves has this kind of incapacitatory effect! Similarly, one of the few obviously valid arguments in favour of capital punishment is that executed offender can never reoffend afterwards. Lesser penalties can also have some incapacitatory effects. Disqualification from driving does something to prevent motoring offenders from repeating their crimes! It is therefore, certainly a plausible claim that incapacitation could be a justification for certain kinds of punishments.

The *retributivist* principle that wrong doers should be punished because they deserve it is in many ways the complete antithesis of reductivism. Where reductivism is forward looking, retributivism looks backwards in time- to the offence. It is the fact that the offender has committed a wrongful act which deserves punishment, not the future consequences of the punishment, which is important to the retributivist. Retributivism therefore advocates a 'tariff' of punishments of varying severity matched to crimes of varying seriousness: punishment should fit the crime in the sense of being in proportion to the moral culpability shown by the offender in committing the crime. It should be noted that our Penal Code is retributive, in this sense.

Retributivism also has consonance with the fundamental principle of justice that like cases should be treated alike and that offenders have rights. Reductivist theory has always found it difficult to encompass the notions of rights even when it comes to providing

entirely innocent people with a right not to be punished. For example, if you could achieve the desired reductive consequences by punishing an innocent person and if these effects are all that is needed to justify punishment, there should be nothing wrong with punishing the innocent! Retributivism has no such problem as it follows automatically that it is wrong to punish non-offenders, nor do we need to punish criminals to a greater extent than their crimes deserve. This is the reason why retributivism fits well with our common sense intuitions and this has been the most resilient idea when dealing with crime and punishment. Hence, often when people talk of 'justice', what they really mean is 'retribution'.

TYPES OF PUNISHMENT

Section 53 of the Indian Penal Code of 1860 provides for five forms of punishment-death; imprisonment for life; simple and rigorous imprisonment for a period; forfeiture of property and fine-there is nothing intervening between imprisonment and fine. The Indian Penal Code (Amendment) Bill, 1972 had provided for sentencing alternatives. With the restrictive use of the death penalty ('in the rarest of the rare cases', as the Supreme Court has prescribed) and a limited infrastructure for probation-sentencing, imprisonment was the only punishment available in a wide variety of cases. This created problems of resource, and it led the Executive to look for noncustodial alternatives.

The Indian Penal Code Amendment Bill of 1972 suggested three new forms of punishment: externment, compensation to victims and public censure. The Bill was sent

to a select committee of Parliament, and in 1978 the committee rejected the proposal for externment as a form of punishment, having regard to its constitutional ramifications. The subsequent Indian Penal Code Amendment Bill of 1978 proposed four forms of punishment: community service, compensation to victims, public censure and disqualification from holding offices in certain types of cases, for example, white-collar crimes. But the 1978 Bill never saw the light of day. (W.r.t. compensation, Section 357 A inserted into Cr.P.C. with effect from December 31, 2009, provides for "victim compensation scheme". Similar provisions have also been made under Section 5 of the Probation of Offenders Act, 1958).

The sentence of forfeiture of property was abolished for certain offences (*e.g.* Sections 121 and 122) by Act XVI of 1921 but can be imposed for certain other offences (*e.g.* Sections 126 and 127). The sentence of penal servitude which could be awarded against Europeans and Americans in lieu of transportation was abolished by Act XVII of 1949. Act 26 of 1955 abolished the sentence of transportation and Act 44 of 1955 which repealed the Whipping Act, 1909, abolished the sentence of whipping which could be imposed in lieu of or in addition to other punishments. The Reformatory Schools Act, 1897, provided for "youthful offenders" (*i.e.*, offenders below the age of 15 years) sentenced to imprisonment being detained in a Reformatory School instead of being sent to Jail.

Imprisonment is comparatively a modern method of dealing with offenders. Although there had been a practice of imprisoning the

wrong doers for a particular period of time, those places were not the concrete structures meant for keeping the offenders. Such places could be part of a palace, a church or any other place declared as prison by the rulers at that time. Prison was initially regarded as temporary holding den rather than a primary institution of punishment and rehabilitation. Imprisonment was used to compel the offender to pay the fine imposed on him, or to spend the period between arrest and trial or between the conviction and its execution.

Penal philosophies usually undergo a development from retaliation to brutality, to restraint, to deterrence, to treatment and to rehabilitation. Penal philosophies also differed widely between East and West. This difference was primarily attributable to the fundamental differences between the two cultures in social values. In Eastern societies, the cause of crime was linked to the neglect of the natural order. Man's action was regarded as part of the complex network of causal filaments within the Universe. Any social violation was interpreted as an ominous disturbance of the natural order, and thus subject to punishment by heaven through designated agencies such as the family, clan or state. In India as well, traditional penal philosophies were more retributive than reductive. As our present Criminal Justice System is derived from the English, it would be instructive to examine the trajectory of the penal philosophy in our country, since the English, by looking at the trajectory of Corporal Punishment.

THE POLITICS OF CORPORAL PUNISHMENT

As already stated supra, in Indian law today, there is nothing intervening between imprisonment and fine. However, this wasn't always so. The Abolition of Whipping Act, 1955 repealed the Whipping Act, 1909; and omitted 'whipping' from sections 32 & 396 & deleted sections 390-395 of Cr.P.C. of 1898. It would be instructive to have a look at the discussions in the Rajya Sabha on 24th August 1955¹⁵ when the then Union Home Minister Sri Govind Vallabh Pant introduced the Act. The UHM had said, "...Our entire outlook towards crime and criminals has undergone a far-reaching and almost categorical change. The age when punishment was inflicted out of a spirit of vindictiveness is gone. No longer do we think of an eye for an eye or a tooth for a tooth. On the other hand, punishment is inflicted more with a view to reforming and rehabilitating the person who is subjected to some sort of penalty by the State. The State is interested in the reform and rehabilitation of the so-called criminal, and also in the protection of society. The triumph of a penal system lies in converting a criminal into a useful and clean citizen. The sentence of whipping does not conduce towards that end. It, in fact, aggravates the tendency towards desperation. It embitters one and makes him all the more callous. So, from whatever angle one may look at it, it serves no wholesome purpose, and no remedy short of its complete eradication and elimination can suffice."

In reply Prof A.R. Wadia had said, "...It seems to me that after all whipping is not resorted

15 http://164.100.47.5/Official_Debate_Nhindi/Floor/10/F24.08.1955.pdf

to normally by our magistrates. It is there. No magistrate is compelled to impose whipping as a form of punishment. Along with two other forms of punishment it is there. And it should be there, because human nature is very complex, and although I fully share the enthusiasm of the Home Minister that criminal law should be used as an instrument for reforming a criminal, I am afraid, there are certain types of criminals who cannot be reformed... It is impossible for any person to enter a prison and to leave it without being coarsened- exactly the expression that the Home Minister used. Well, perhaps it is so. But that is hardly an argument for abolishing imprisonment altogether. If human beings choose to do a wrong, they must face the consequences... I think even whipping would be useful in connection with those people who are really bullies at heart, absolutely depraved individuals who deserve very little sympathy from respectable citizens, and in the case of such people, a timely whipping would do a lot of good and would serve to reform them really much more effectively than perhaps a long term of imprisonment, or even a very heavy fine... I think the fear of whipping would be a useful deterrent in several cases. And, if it is there, it is the business of the magistrates to make use of it or not. If a magistrate feels that in a particular case whipping would be the right type of punishment, I think, his hands should not be fettered, and he should be given the liberty of imposing that type of punishment."

Dr. P.V. Kane had added, "...If you want to abolish entirely this punishment of whipping, why don't you abolish the death sentence? I know as a lawyer that there have been

miscarriage of justice and the wrong man being sentenced to death and the right man being found out afterwards. You inflict the death sentence and there is no question of reforming the man. You simply hang him. Unless you reform the whole system, such piecemeal legislation is bad in the first place..."

The discussions had fascinating contributions from Sri Rajendra Pratap Sinha, Smt. Mona Hensman, Sri H.P. Saksena, Sri Akbar Ali Khan & Sri Devakinandan and the rich debate shows that the members were well aware of the retributive as well as reductivist ideas of penology. However, the winds of change and the desire to align with 'modern' understanding of penology carried the day.

THE TRAJECTORY OF CORPORAL PUNISHMENT

The formal application of flogging, caning, birching, whipping, strapping or spanking as an official sentence by order of a court, as laid down for specified offences under the law of the country concerned is called the Judicial Corporal Punishment (JCP). Earlier it used to be common in many countries, but it has now been abolished in nearly all the Western world. It still remains a standard penalty in some Asian, African and Middle Eastern countries. Many countries, which were not under the British colonial rule or are Islamic, use whipping as a punishment. Other countries that were neither British nor Islamic that have used JCP in the past include the USA (it was last used in 1952 in Delaware), China, Germany, Korea, Sweden and Vietnam. Flogging as a punishment, of both men and women, used to take place in public in

England. This seems to have had its origin in the Common Law coming from the medieval times. However, there were no laid down rules about the offences for which whipping was to be administered, the number of strokes or the *modus operandi* of whipping. The public whipping of women was abolished in 1817. Public floggings were discontinued altogether in the 1830s.

One of the aims during the Industrial Revolution was to do things more efficiently and cheaply and the solution was to make a machine for everything. During this period, the use of whipping was so widespread in England that Jeremy Bentham gave a detailed suggestion on how to make a machine which could perform the task of whipping several persons simultaneously and more efficiently and thereby cutting down the cost of whipping per person and saving time and energy¹⁶. Between 1861 and 1863, under various legislations, provision for JCP was restricted and regularised by statute law. Ordinary local courts lost their common-law right to order whippings. Thereafter only the higher courts in England and Wales were empowered to order corporal punishment for adults, and these too for a narrowly defined range of offences - mostly robbery with violence, treason and certain vice-related crimes¹⁷. Corporal punishment as a judicial penalty was abolished in England, Wales and Scotland in 1948. However, the 1948 abolition did not affect the ability of a prison's visiting justices to order flogging for prisoners committing serious assaults on prison staff. This power was abolished in 1967.

Singaporean law even today allows caning for over 30 offences, including robbery, gang robbery with murder, drug use, vandalism, and rioting. The maximum number of strokes that can be awarded in Singapore is 24. Caning is also a mandatory punishment for certain offences such as rape and drug trafficking, and for visiting foreigners who overstay their visa by more than 90 days, a measure designed to deter illegal immigrant workers. Judicial caning is clearly intended to be a humiliating experience. Former Prime Minister Lee Kuan Yew, founding father of modern Singapore, introducing mandatory caning for vandalism in 1966, told Parliament: "If the offender knows he is going to get three of the best, I think he will lose a great deal of enthusiasm, because there is little glory attracted to the rather humiliating experience of having to be caned"¹⁸. The Singapore's official punishment of caning was widely discussed when an American teenager Michael P. Fay was sentenced to six strokes of the cane for vandalism in 1994. Subsequently, the sentence was reduced from six lashes to four in an attempt to "accommodate" a personal appeal for clemency from the then President Bill Clinton of the USA. However, in a speech to an international conference of lawyers in Singapore, Shunmugam Jayakumar, Singapore's Minister of Law and Foreign Affairs, defended the decision to carry out the caning: "If today we are told that we are not entitled to cane, then tomorrow we will be told that we cannot enforce the death penalty and some other day, that we cannot enforce some other law," he said¹⁹.

16 "The Rationale of Punishment" by Jeremy Bentham, Published by Robert Heward, Wellington Street, Strand, London, MDCCCXXX.

17 <http://www.corpun.com/counukj.htm#prisoncp>

18 http://www.malaysianbar.org.my/criminal_law/the_current_form_of_sentencing_is_outdated_time_for_reform_by_v_sithambaram.html

19 http://www.nytimes.com/1994/05/05/news/05iht-cane_0.html

THE ANOMALY

Interestingly, in India whipping continues on the statute for prisoners in most states! There are two Central Acts on Prisons in India - The Prisons Act, 1894 and the Prisoners Act 1900. The former, deals with prisons in India and rules for their regulation. The latter deals with the law relating to prisoners confined by order of a court. "Prisons" is a State subject under List II of the Seventh Schedule to the Constitution and Prison Administration is the responsibility of the State Governments. The provisions of the Prisons Act, 1894 and the Jail Manuals framed by State Governments provide a framework for the prison administration. Chapter XI of the Prisons Act 1894 deals with prison offences and their punishments. Section 45 gives a long list of 16 acts which are prison offences. Section 46(12) prescribes punishments for jail offences and states that whipping will be one of the punishments provided that the number of stripes shall not exceed 30. Only the following 7 States have, by amendments, omitted this section in so far as their respective States are concerned - Andhra Pradesh, Assam, Bihar, Gujarat, Madhya Pradesh, Maharashtra and West Bengal. The Punjab Jail Manual 1996 has omitted whipping as one of the punishments for prison offences.

Article 5 of the Universal Declaration of Human Rights states that, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." Article 7 of International Covenant on Civil and Political Rights, which was adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 lays down

that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." India ratified the Covenant in 1979. "Standard Minimum Rules For The Treatment Of Prisoners" were adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977. Rule 31 states that 'corporal punishment, punishment by placing in a dark cell, and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offences.' Hence, it is evident that despite being party to these international covenants, India has not amended its law regarding punishment applicable to prisoners, enough!

It should also be noted that the Prevention of Torture Bill, 2018 which was brought before the Lok Sabha on 9th February 2018 (The Prevention of Torture Bill, 2010 was introduced in the Lok Sabha to give effect to the provisions of the UN Convention against Torture. The Bill was passed by the Lok Sabha on May 6, 2010. Rajya Sabha referred the Bill to a Select Committee which had proposed amendments to the Bill. However, the Bill lapsed with dissolution of the 15th Lok Sabha. Again in 2017, the Bill was introduced as a private member bill in Rajya Sabha and then again in 2018, in the same form in Lok Sabha. The latter has lapsed due to dissolution of the 16th Lok Sabha) dealt with the unauthorised use of violence by public servants against an individual whereas both the Whipping Act and the Prisons Act deal with punishments as authorized by law. This anti-Torture Bill was

not considered seriously, it is said, because it was felt that the western standards of human rights did not apply to India. Thus, it is clear that when it comes to treatment of prisoners or of people in custody, there appears to be insufficient moral imperative in our country to ensure that corporal punishment is not imposed, whereas JCP itself appears to be beyond the pale.

THE MORAL IMPERATIVE

JCP is called out in our discourse as 'unusual' or 'inhuman' punishment. However, if Corporal Punishment is termed as 'inhuman' or 'unusual', what about the death penalty? Death penalty is a subject of great debate not only in India but in the world over. There are two Constitution Bench judgments on the death penalty rendered by the Supreme Court. The first case relates to Jagmohan Singh. It was held that capital punishment was not 'unusual' or 'inhuman' as it had been followed since ancient times.

Earlier, when a person was convicted for murder under Section 302 IPC, the punishment was either death or imprisonment for life. Section 367 (5) of CrPC provided that normal punishment for murder was death, while a lesser punishment of life imprisonment was to be given after giving special reasons. When Jagmohan's case came up, Section 367 (5) was deleted by an amendment in 1955. It was left to the courts to hang or give life imprisonment. CrPC was amended, yet again, after the judgment and Section 354(3) was inserted. It stated that when a man was convicted for murder, special reasons should be given for imposing the death penalty. This was a shift from the earlier stand when death

penalty was the norm. In the case of Bachan Singh, the constitutionality of the death penalty was again upheld, though death was to be awarded in the 'rarest of the rare' case.

Another important case which led to the evolution of the death penalty jurisprudence in India is that of Machchi Singh. Justice Thakkar, delivering the judgment, said persons like Machchi Singh should be hanged. The court, while upholding the penalty of death, laid down certain guidelines. A person was to be hanged only when murder was grotesque, diabolical and shocked the community. There was a sort of moratorium on the death penalty till the Supreme Court decided to hang Dhananjay Chatterjee. The rape of a 14-year-old innocent and defenceless girl by a security guard fell within the ambit of the 'rarest of the rare', said the court. There was widespread protest when he was ultimately hanged. Human rights organizations claimed that the death penalty was too harsh in India's imperfect judicial system where the poor were hanged and the rich got away.

This view was supported in Santosh Kumar Bariyar's case wherein it was observed, "What is sorely lacking in most capital sentencing cases is information in relation to socio-economic background of the offender. This issue was also raised in the 48th report of the Law Commission." The court observed further, "The truth of the matter is that the question of death penalty is not free from subjective element and the commutation by this Court depends a good deal on the personal predilection of the judges constituting the Bench." This view was also taken in the case of Sangeet and Another vs. State of Haryana wherein it was observed, "It appears to us

that even though Bachan Singh intended “principled sentencing,” sentencing has now become “judge centric” as highlighted in Swamy Shraddananda and Bariyar.”

Hence, it is clear that the SC hasn’t found the death penalty to be either ‘inhuman’ or ‘unusual’; what the concern has been is the judicial vagary. The absence of statutory sentencing guidelines to assist judges in discharging this duty has left a vacuum in the machinery of justice dispensation in India. Often, in cases that capture the public imagination and create a groundswell of opinion, even the trial can get affected²⁰. The Malimath Committee Report on Criminal Law Reform (2003) had recommended an incorporation of sentencing guidelines for aiding the judiciary in deciding an appropriate sentence. The Law Commission of India in its 262nd report on Death Penalty had recorded this disparity in sentencing on account of personal leanings of judges, as one of the factors amongst others to recommend abolition of death penalty in all crimes except terrorism related offences.

We need to bend our heads around the fact that if judicially ordered death is not ‘inhuman’ or ‘unusual’, it should logically follow that JCP too is not! Dr. P.V. Kane’s advice in the 1955 Rajya Sabha debate about the futility of piecemeal legislation now appears prescient.

ISSUE OF IMPRISONMENT

The National Policy on Prison Reforms & Correctional Administration²¹ of 2007 had accepted that “the main problem of prison

administration has been related to prison overcrowding. Prisons in most countries, including India, face dearth of resources to provide for proper accommodation, health care and constructive activities for prisoners, leading to overcrowding and neglect of schemes for reformation and offender rehabilitation. Prison overcrowding adversely affects the justice system and has repercussions on the safety and health of society. Even construction of new prisons to accommodate the increasing prison population is an unsustainable solution, as there is a limit to provision of public funds for this purpose. However, imprisonment is costly in terms of not just financial expenditure, it also has social costs. It damages people socially and psychologically making the process of reintegration difficult and challenging.”

The same policy had suggested alternatives to imprisonment at all the three stages: pre-trial, sentencing and post sentencing. The Pre-Trial alternatives suggested were liberal Bail, Imposing time limits on Pre-Trial Detention, Plea Bargaining, Free Legal Aid, Compounding of Offences, Decriminalization of Offences, Diversion from criminal justice process and redirection to community support service and Administrative fines / non penal fines. The suggestions at the Sentencing stage were for Fines and other monetary penalties, Admonition/Absolute discharge/Conditional discharge, Compensation, Probation and community-based sentencing. Suggestions for the post-sentencing stage included liberal use of Parole, Pardon, Remission of Sentence, Temporary Release Mechanisms and Open Prisons.

20 Howell-Collins, Marti Cecilia, "Court Of Public Opinion: How the Convicted Perceive Mass Media Have Affected Their Criminal Trials and Personal Lives" (2012).Mass Communications - Dissertations. Paper 90.

21 https://bprd.nic.in/content/196_1_NPPRCA.aspx

The point to be noted here is that the above policy did not even discuss JCP. All the above suggestions were made towards reducing the load on Imprisonment- showing an implicit assumption that Imprisonment is the only possible method of Punishment and Penal reform implies reform in Imprisonment. The possible utility of JCP diverting the penal load away from Imprisonment did not even figure as a possibility. Failure of this piecemeal approach towards reform based on Western experience is exemplified, for instance, in the fate of 'plea bargaining'²². The public disquiet over Manu Sharma's pre-mature release is at odds with the correctional ideologies behind the same. This tension between the public mood and lofty legal ideals in our country comes into sharper focus every time in cause célèbre cases. The Rule of Law, that our polity is based on, is what our legislature- as the voice of the people- decides or is it something more?

VOX POPULI, VOX DEI?

Does the concept of Rule of Law find its fulfilment by the mere enactment of a law, or is it also concerned with the content and quality of the law? There is a certain core component without which a government cannot really be said to be based on the Rule of Law. That core component is respect for the basic human rights of the people and for human dignity. Otherwise commission of atrocities and gross violation of human rights could be justified by pointing to the mere existence of a law. Most of the actions of the Nazi State were carried out under laws made by law makers. Therefore, law should satisfy

at least the prerequisite that it guarantees basic human rights and ensures their implementation by due process through an independent judiciary exercising power of judicial review. But what is the right way to generate Law? Is it the voice of the people as expressed through the Legislature? If so, how do we prevent creation of unjust Law, as described supra? Is Judicial Review a sufficient bulwark against this? But we have seen how even Judicial Review may suffer from Sectoral myopia. Or is the right way by an elitist rule making- by the 'enlightened'? Then how to prevent 'Rule by Law' instead of 'Rule of Law'?

Law requires the Police to enforce all criminal laws all the time. Police discretion to enforce a criminal law or not to enforce it is not envisaged in law. Yet, full enforcement of many laws will never be tolerated. Selective enforcement of *mala prohibita* laws relating to social vices or bad practices like child marriage, dowry etc. is well known but what about neglect of laws enacted for maintenance of public order? Say, for instance, 'The Religious Institutions (Prevention of Misuse) Act of 1988'?

In conclusion, therefore, we need to see that many of the problems in our Criminal Justice System flow from the fact that as a society we did not develop enough self-confidence so far to determine what are the basic human rights, which we will uphold- without reference to western paradigms. As pointed out earlier, we failed to develop our own system of Ethics- our own ideas of Justice, because we failed to do this. We see this permanent tension between the public mood and the Law. We have therefore adopted the 'way of the hypocrite' where the law enforcement agencies are allowed to operate beyond the pale of law

22 Sharraf, Umesh, The Chimera of Plea Bargaining, Indian Police Journal, January-March 2017

to meet public expectations, while the State pretends that such action is without sanction. If at all genuine reform in the Correctional/ Penal System is desired, then a reform of the entire Criminal Justice System is required. A build up of a proper social discourse and a concomitant build up of the capacity of the state to administer the law without fear or favour is therefore a necessary precursor to penal reform. And that - is a Political question!

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The Doctrine of Approver: A Complex Evidentiary Process

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“Discovering witnesses is just as important as catching criminals”. -Simon Wiesenthal

ABSTRACT

Heinous offences warrant extraordinary evidentiary tools to punish offenders especially in the modern era of advanced technologies helping criminals to escape from the cusp of law. The archaic battery of evidence sometimes fails to provide cogent proof to complete the chain of conspiracy in order to establish guilt beyond reasonable doubt. In common law jurisdictions, the doctrine of tender of pardon provides an extraordinary evidentiary provision to fill the void in the chain of crime events by disclosing uncharted mystery and role of main culprits behind a crime by an accomplice. However, the approver testimony per se may be a slippery slope and have the potential to frustrate the purpose of justice. The judiciary must use this tool with utmost diligence only in exceptional and extraordinary cases to facilitate justice. In the recent past, the doctrine of approver has extensively been used in criminal cases of significance; but this legal precept is least explored by the academia, which ignited the quest to deliberate the subject in this article.

KEY WORDS

Approver, accomplice, tender of pardon, investigation, trial, revocation of pardon, criminal justice system.

INTRODUCTION

Justice is the quintessence of the right to life with dignity. In criminal justice administration across the globe, proving culpability beyond a reasonable doubt by the prosecution is an essential prerequisite for punishing guilty and for securing a conviction. In the modern

era of ‘smart criminals’ equipped with the latest technology, proving the infallible chain of events in commission of crime becomes a daunting task. It further necessitates additional evidentiary tools to strengthen the judicial system ensuring that criminals may not slip from the clutches of the legal process.

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The doctrine of approver, as additional testimonial evidence, permits an accomplice¹ to realise and timely disclose his guilt to facilitate and assist the investigation and judicial process to ensure justice. In the Code of Criminal Procedure, the term 'approver' is neither defined nor used, however, sections 306 to 308 of the Code deal with tender of pardon to an accomplice. In this article, attempts have been made to deliberate upon legal requirements for making an approver, its reliability and efficacy; and to delve into the global perspective of this extraordinary evidence in criminal administration. The apex court in *Ravinder Singh vs State of Haryana*² has succinctly described the nature and scope of an approver in the criminal justice process:

An approver is a most unworthy friend if at all and he having bargained for his immunity, must prove his worthiness for credibility in court. This test is fulfilled, firstly, if the story he relates involves him in the crime and appears intrinsically to be a natural and probable catalogue of events that had taken place. The story if given of minute details according to reality is likely to save it from being rejected *brevi manu*. Secondly, once that hurdle is crossed, the story given by an approver so far as the accused on trial is concerned, must implicate him in such a manner as to give rise to a conclusion of guilt beyond reasonable doubt. In a rare case taking into consideration all the factors, circumstances and situations governing a particular case, conviction based on the uncorroborated evidence of an approver confidently held to be true and reliable by the court may be permissible. Ordinarily, however, an approver's statement has to be corroborated

in material particular bridging closely the distance between the crime and the criminal. Certain clinching features of involvement disclosed by an approver pertaining directly to an accused, it reliable by the touchstone of other independent credible evidence, would give the needed assurance for acceptance of his testimony on which a conviction may be based.

Sections 306, 307 and 308 under Chapter XXIV of the Code of Criminal Procedure, 1973 (hereafter 'the Code') deal with granting and revocation of pardon to an accomplice. The corresponding provisions for tender of pardon to accomplice were enshrined under section 337 to 339 of the Code of Criminal Procedure, 1898.³ A comparative account of the provisions for tender of pardon under the Code, 1898 and the Code, 1973 reveals that they are, in all germane respects, in *parimatetria*, and the provisions for granting pardon under the Code, 1898 would also apply, *mutalis mutandis*, to sections 306 to 309 of the Code, 1973.⁴ The Prevention of Corruption Act, 1988 has enabling provisions under section 5 for tender of pardon to facilitate justice in graft cases.⁵ In the recent past, the issue of approver has been in the limelight in some significant cases like the INX Media graft case⁶ and the August Westland case⁷ warranting in-depth discussion on this procedural legal dogma.

AN ACCOMPLICE

An accomplice, after a tender of pardon becomes approver, however, term approver nowhere defined under the Indian laws. In ancient English law, an approver may also be called as probator, an accomplice in felony,

who to save himself confesses to the fact and charged or accused any other person as principal or accessory, against whom he is aware of the secrets behind a crime. Every approver may be called an accomplice, but all accomplices cannot be termed as the approver. The apex court in *R.K. Dalmia v. Delhi Administration*⁸ has succinctly explained an accomplice as under:

An accomplice is a person who participates in the commission of the actual crime charged against an accused. He is to be a particleboard. There are two cases, however, in which a person has been held to be an accomplice even if he is not a *particeps criminis*. Receivers of stolen property are taken to be accomplices of the thieves from whom they receive goods, on a trial for theft. Accomplices in previous similar offences committed by the accused on trial are deemed accomplices in the offence for which the accused is on trial, when evidence of the accused having committed crimes of identical types on other occasions be admissible to prove the system and intent of the accused in committing the offence charged.

PURPOSE OF TENDER OF PARDON

It is essential to understand the purpose of granting pardon to an accused enshrined the procedure code before entering into nature and scope of the canon of law. Public policy and public interest are the baseline for sanctioning tender of pardon.⁹ In general, investigative agency necessitates the course of tendering pardon for making an approver, firstly, when the perpetrators of a felony are more than one and they have committed a crime in pursuance of criminal conspiracy but chain of evidence with regard to establishing

conspiracy is not in sequence; secondly when investigating agency feels that without taking an accused as an approver, it is difficult to prove guilt beyond reasonable doubt against all other accused or the mastermind or main accused. The Kerala High Court in *Asokan v. State of Kerala*¹⁰ has succinctly observed that “the object of the provision for tendering pardon to an accomplice is to get evidence in cases involving grave offences alleged to have been committed by several persons under circumstances making it difficult to get any evidence otherwise. Sometimes, expert offenders leave no clue or trace of the offence or there may be vital gaps in the chain of crime events to connect crime with the perpetrators. The dominant purpose of pardon is that the culprits behind such heinous crimes do not go unpunished if a co-participant of the crime comes forward offering to make a clean breast of his complicity as also the complicity of other offenders.” *In re Arusami Goundan*,¹¹ the Madras High Court has observed:

Let us examine the reason of the matter. Occasionally when grave offences are committed the law finds it necessary to enlist the assistance of some of the offenders in order that the rest may be brought to justice. This happens when one of several persons who have committed a crime makes a confession which is believed to be true and which is considered would help to secure a conviction of the rest.

The Procedure Code now insists that accomplices who have been tendered a pardon must be examined both in the Committing Court and in the Court of Session. This provision is inserted in the interests of justice and is not intended for the benefit of

the approver. Its purpose is to ensure that all the evidence obtained from the accomplice is placed before the court so that justice may be done as between the State and the persons placed in their trial. It is not an ordeal through which an approver has to pass before he can win to safety.

So far as the approver is concerned, he is given a pardon on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof. The condition of the pardon is that he must make a full and true disclosure, and, if, he wilfully conceals anything essential or gives false evidence, he would have failed to comply with the conditions on which the pardon was granted to him.

Thus, the inherent objective of tendering pardon is to serve the larger interest of justice, since it additionally helps to cogently stitch a crime with the criminals.

INGREDIENTS OF SECTION 306 OF THE CODE

The procedural laws in India empowers the court to ensure justice despite having adversaries and otherwise deficit of cogent evidence. Section 306 of the Code empowers the Magistrate for tender of pardon to an accused. The main ingredients of these legal provisions include:

- The application for seeking pardon must be filed before Magistrate of the First Class by the investigating officer (IO) or by the accomplice [s. 306(1) CrPC].

- Tender of pardon may be considered by the Magistrate at any stage of investigation or enquiry; or the trial of the offence [s. 306(1) CrPC].
- The person must have been directly or indirectly concerned in or privy to the offence in question [s. 306(1) CrPC].
- This legal provision applies to any offence triable exclusively by the Court of Session or by the Court of Special Judge [s. 306(2) (a) CrPC], or the offence punishable with imprisonment which may extend to seven years or with a more severe sentence [s. 306(2)(b) CrPC].
- The Magistrate shall record his reason on application for tendering a pardon [s. 306(3) CrPC].
- In case a tender of pardon is accepted, the accomplice shall be examined as a witness [s. 306(4)a) CrPC]; and he shall, unless already on bail, be detained in custody until the termination of the trial [s. 306(4)(b) CrPC].
- Where a person has accepted a tender of pardon made under section 306(1) and has been examined under section 306(4), the Magistrate shall, without making any further inquiry, commit it for trial either to the Court of Session [s. 306(5)(a)(i) Cr.PC], or to a Court of Special Judge [s. 306(5) (a)(ii) Cr.PC], or in other case make to the Chief Judicial Magistrate [s. 306(5)(b) Cr.PC].

Authority of the court to grant a pardon is a judicial function, but cannot be exercised *suo motu*.¹² It is conditioned upon the request

of either prosecution or the accused person because the court can have no interest whatsoever with any party or in the final decision of the case. The apex court held that while proceeding and considering of granting pardon, co-accused has no right to be heard.¹³

PROCEDURE FOR A TENDER OF PARDON

The inculpatory statement of an approver is voluntary admission of guilt in addition to disclosure of the role of the co-accused in commission of the crime. Sections 306 and 307 of the Code empower the court to tender pardon under different circumstances. The powers conferred for granting pardon can be exercised at any stage after the case is received for trial and before its conclusion. There is nothing in the language of the section to show that an application must be moved by the prosecution. The court may consider a request by the prosecution and also from an accused. The Supreme in *CBI v. NK Amin*,¹⁴ has referred the *Lt. Commander Pascal Fernandes* case¹⁵ to explain procedure and nature for granting pardon:¹⁶

To determine whether the accused's testimony as an approver is likely to advance the interest of justice, the Special Judge must have material before him to show what the nature of that testimony will be. Ordinarily it is for the prosecution to ask that a particular accused, out of several, may be tendered pardon. But even where the accused directly applies to the Special Judges he must first refer the request to the prosecuting agency. It is not for the Special Judge to enter the ring, as a veritable director of prosecution. The power which the Special Judge exercises

is not on his own behalf but on behalf of the prosecuting agency, and must, therefore, be exercised only when the prosecution joins in the request. The State may not desire that any accused be tendered pardon because it does not need approver's testimony. It may also not like the tender of pardon to the particular accused because he may be the brain behind the crime or the worst offender. The proper course for the Special Judge is to ask for a statement from the prosecution on the request of the prisoner. If the prosecution thinks that the tender of pardon will be in the interests of a successful prosecution of the other offenders whose conviction is not easy without the approver's testimony, it will indubitably agree to the tendering of pardon. The Special Judge (or the Magistrate) must not take on himself the task of determining the propriety of tendering pardon in the circumstances of the case.

An accused can approach the court with a request for the recording of his confessional statement as an approver, however in that situation, the magistrate has to ensure his identity as the accused and also the fact that investigation in that offence is currently underway, otherwise such statement shall not amount to a statement 'in the course of investigation' and therefore not a valid statement within the meaning of Section 164 of the Code.¹⁷ Procedures are different for tendering pardon under section 306 and section 307 of the Code.¹⁸ Section 306 is invocable at the pre-committal stage whereas section 307 is applicable at the post-committal stage. The person granted a pardon under section 306 may have to be examined twice; such a contingency may not arise

under section 307. First stage proceedings under section 306 held in the Magistrate Court in the absence of suspect at any stage of the investigation or inquiry into or at the stage of taking cognizance; whereas in the second stage the court is also empowered to tender a pardon during the trial.

The examination of the approver, as per the scheme under section 306(4) of the Code is *ex facie*, mandatory. Thereafter, the proceeding may follow one of two paths; the trial of main offence continues, in the absence of any infraction, and the approver is liable to be arraigned therein as a prosecution witness. On the other hand, if the public prosecutor certifies that the approver is breaching any condition of tender of pardon, by concealing material facts or tendering false evidence, the approver is arraigned as accused liable to be tried separately under section 308.

On the other hand, the power to grant pardon under section 307 is exercised after the commitment of case under section 209 of the Code usually to the Court of Session, but before the judgment, intending to obtain evidence from a person supposed to have been directly or indirectly concerned in, or privy to, any such offence. Thus, after the commitment of a case for trial, the Session Court or the court trying the case also equipped with the power to examine the approver at the first instance after expressing intention and qualifying the object under section 307, without any limitation of section 306(4)(b) of the Code, since after commitment an accused has the right to participate in all the proceedings conducted in open court. Thus, by invoking section 307, the court may exercise power to grant a pardon as a trying

court in the original jurisdiction

The multiplicity of proceedings in granting pardon as well as a dual examination of intended approver is also curbed under section 307 of the Code to avoid possibilities for elimination or influencing the intended approver. However, the drawback of section 307 is that prosecution also loses its right to claim the privilege under section 173(6) of the Code¹⁹ in a case section 307 has opted during open proceedings after the committal of a case. This legal conundrum of procedural duality was challenged before the apex court in *M. Chhaganlal v. Greater Bombay Municipality*²⁰ on the strength of violation of Article 14 of the Indian Constitution. The apex court turned down the contentions by observing:²¹

It is, therefore, clear from these decisions that where there are two procedures for determination and enforcement of a liability, be it civil or criminal or revenue, one of which is substantially more drastic and prejudicial than the other, and they operate in the same field, without any guiding policy or principle available from the legislation as to when one or the other procedure shall be followed, the law providing for the more drastic and prejudicial procedure would be liable to be condemned as discriminatory and void. This principle has held that field for over twenty years and it is logically sound and unexceptionable. The arbitrary choice of two alternative procedure is, therefore, not given to the same authority and there is accordingly no violation of Article 14. This contention of the respondents is in our opinion, having regard to the substance of the guarantee of equality, untenable and cannot be accepted.

It proceeds on a misconception of the true principle on which this Court has struck down laws providing for special procedure which is substantially more drastic and prejudicial than the ordinary procedure.

There is another provision under section 5(2) of the Prevention of Corruption Act, 1988, which empowers the Special Judge to tender pardon to obtain evidence of any person who directly or indirectly concerned in an offence for the purpose of sub-sections (1) to (5) of section 308 of the Code deemed to have been tendered pardon under section 307 of that Code. However, Section 5(2) of the Act, 1988 does not affect invoking provisions of section 306 of the Code by the court. Consequently, the Special Judge of PC Act enjoys dual power as the warrant trial magistrate and the Session Judge. Thus, the powers under sections 306 and 307 of the Code are vested in the court notwithstanding the provision of section 5(2) of the Act, 1988.²²

RECORDING THE STATEMENT OF PROPOSED APPROVER UNDER SECTION 164 OF THE CODE

It is pertinent to understand the need to record the statement under section 164 of the Code. The object of the recording of such statement before the Magistrate is twofold; firstly, to deter a witness from changing his version subsequently; and secondly, to get over the immunity from the prosecution concerning information given by the witness under section 161 read with section 162 of the Code. The other reason of recording statement of a witness by the Magistrate is to minimize the chances of turning volte-face by a witness during the trial due to fear

of being found involved in perjury, or under duress or intimidation by the perpetrators. The statement recorded under section 164 is the public document according to section 74 of the Evidence Act and does not require any formal proof. Such a statement is admissible in evidence under section 80 of the Evidence Act. Hence, summoning of the Magistrate by the Sessions Court to prove the contents of the said statement is improper.²³

The statement recorded by the Magistrate under section 164 of the Code is not a substantive piece of evidence, however, it may be used only for contradiction or corroboration made in the Court in the manner provided under sections 157 and 145 of the Indian Evidence Act. A confession is a substantive evidence against its maker, provided it has been duly recorded and suffers from no legal infirmity, it would suffice to convict the accused who has confessed. Further, as a matter of prudence, the Court may expect some corroboration for establishing the guilt of other accused beyond a reasonable doubt, in addition to a disclosure made by an approver.

The confessional statement of an accused under section 164 of the Code for considering him as an approver is not mandatory to be recorded,²⁴ but it is a prevalent prudent convention for getting recorded his confessional version by the Magistrate to arrive at a logical conclusion before considering to grant tender of pardon.²⁵ It is suggested that the Magistrate must emphasize corroboration of facts disclosed by the proposed approver and advanced digital technology like videography must be used for examination of approver to take judicial

notice of gestures and body language of the witness, which is relevant under sections 8, 14 and 119 of the Evidence Act. 1872 of the Evidence Act. It becomes more relevant in case the approver is deaf or dumb or not in a state to tender oral statement.²⁶

EXAMINATION OF THE APPROVER

Section 306(4)(a) of the Code entails that the person accepting a tender of pardon made under sub-section (1) shall be examined as a witness in the court of Magistrate taking cognizance and during the subsequent trial. As such, there are two occasions to be examined the approver once by the magistrate while taking cognizance, and before the trial court. The question arises whether the approver is to be cross-examined while examining pre-cognizance by the Magistrate and the defence has the right to cross-examine twice on both stages. The examination of the approver by the Magistrate taking cognizance is similar to the examination of a witness under section 202(2) of the Code. It is a settled law upheld by the apex court during the course of an enquiry under section 202, the accused neither has right to cross-examine the accused, nor has a claim to participate in such proceedings; even the Magistrate has not to put any question to the witnesses at the instance of the accused.²⁷ Earlier, different views on this legal issue have been expressed by the High Courts.

The High Court of Andhra Pradesh in *Uravakonda Vijayaraj Paul v. State of Andhra Pradesh*²⁸ held that mere recording of the statement of an approver does not amount to examination as a witness unless the accused are allowed to cross-examine the

approver and that the provision of section 306(4) of the Code is mandatory. Kerala High Court in *In Re Chief Judicial Magistrate v. Unknown*²⁹ has observed that examination under section 306(4) would be even before issuing process, and at that stage no inquiry is involved and accused will be nowhere in the picture, therefore, there is no question of the accused being permitted to cross-examine the approver at that stage and he has no right to participate in the examination. The apex court in a plethora of judgments has illuminated this legal riddle by not permitting the accused, at this stage, to cross-examine a proposed approver.³⁰

An analytical examination of law safely deduced that examination of the approver by the Magistrate taking cognizance is a mandatory requirement but his cross-examination by the accused is not the statutory obligation, and the accused would get an opportunity to cross-examine the approver only during trial proceedings. Nevertheless, the offences under the Prevention of Corruption Act are to be tried before the Special Judge who has got original jurisdiction on a par with the Magistrate and if pardon tendered by the Special Judge, the approver is to be examined only during the trial and not before taking cognizance.

JUDICIAL CUSTODY OF THE APPROVER

Section 306(4)(b) of the Code necessitates that after accepting a tender of pardon under section 306(1) he shall, unless he is already on bail, be retained under judicial custody till termination of the trial. Illuminating the constitutional validity of section 306(4)(b), the apex court in *Suresh Chandra Bahri v. State*

of Bihar³¹ has observed that there is no doubt that Clause (b) of section 306(4) directs that the approver shall not be set at liberty till the termination of the trial, and the provision is based on the principle of public policy and public interest, and violation of the statutory provision would invite stringent action against hostile approver under section 308. Sections 437 and 439 of the Code may not be applicable to the case of approver since after granting a pardon his status is as a witness of the prosecution and these sections deal with granting of bail to the accused lodged under judicial custody. It is a well settled principle of law that general provisions shall give way and bow before the special provisions.³²

However, a question was raised before various High Courts, whether notwithstanding section 306(4)(b), provisions under section 482 of the Code may be invoked within the ambit of the inherent power of the High Court to grant the bail to the approver. Various high courts of India have observed that there is nothing to fetter the power of the High Court under section 482 and in exceptional and reasonable matters a High Court is empowered to enlarge an approver on bail; or if proven circumstances to suggest that his detention is longer.³³ In these judgments of high courts, the observations of the apex court in *Sunil Batra v. Delhi Administration*³⁴ and *Hussainara Khatoon v. State of Bihar*³⁵ have been referred, wherein section 482 of the Code has been made applicable to the approver for releasing him on bail for preserving the spirit cherished under Article 21 of the Indian Constitution. It appears befitting that in case an approver being in jail has complied all conditions of a tender

of pardon to the satisfaction of the court and the public prosecutor has no objection to the disclosure of all facts of crime, then there must be a provision in law enabling the trial court to release the approver immediately.

EVIDENTIARY VALUE: 'DOUBLE TEST' FOR DETERMINING THE RELIABILITY OF AN APPROVER

In *Mahla v. Crown*³⁶ the High Court of Lahore observed that "The fact, however, that an approver appears to the court to be an untrustworthy witness does not absolve the court from complying with the statutory provisions." The apex court of India, in *Sarwan Singh v. State of Punjab*,³⁷ held that "The appreciation of an approver's evidence has to satisfy a double test. It must show that he is a reliable witness and that his evidence receives sufficient corroboration".³⁸ The Magistrate, while recording the statement of proposed accomplice under section 164 of the Code for considering as approver, must ensure that "the mind of the accused person should be completely free from any possible influence of the police and he must be sent to jail custody and given adequate time to consider whether he should confess at all. Ordinarily, he must be given at least 24 hours to decide."³⁹ The court must evaluate two interconnected and inseparable aspects, firstly considering the evidence of the approver with the corroborated piece of testimony, and secondly, reject it if appears to be untrustworthy. The court must ascertain that confession is purely voluntarily and discloses true facts of commission of the crime. It is essential to compare the disclosure with the rest of evidence and probabilities of chain of incidence.

In *R v. Baskerville*,⁴⁰ the King Bench held that "It has been a rule of practice at common law for the judge at the trial of a person for a criminal offence to warn the jury of the danger of convicting the prisoner on the uncorroborated evidence of an accomplice." It is not necessary that the accomplice provides every detail of the crime with direct evidence, it is sufficient if the evidence is merely circumstantial in nature. The United Kingdom Courts in *R. v. Atwood and Robbins*,⁴¹ and *R. v. Jones*⁴² held that an accomplice is a competent witness, and, if the jury found testimony worthy of credit, the verdict fulfil requirements of law.⁴³ Lord Ellenborough, in *R v. Jones*⁴⁴ held that "Judges in their discretion will advise a jury not to believe an accomplice unless he is confirmed, or only in as far as he is confirmed, but, if he is believed, his testimony is unquestionably sufficient to establish the facts to which he deposes. It is allowed that he is a competent witness, and the consequence is inevitable that if credit is given to his evidence it requires no confirmation from another witness." In *Ram Narain v. State of Rajasthan*,⁴⁵ Dua, J. while speaking for the apex court on the nature of approver has observed:

An approver who is admittedly guilty of the crime is an accomplice who has betrayed his associates and has apparently sought pardon for saving his own skin. In other words, he has purchased complete immunity for his prosecution at the expense of his associates by agreeing to give evidence against them for the prosecution. He is, therefore, presumed not to be a man of high character or a fair witness. His pardon being conditional, to please the prosecution he

may well weave some false detail into the true details of the prosecution story and may also falsely involve some innocent person. There is thus a real danger of his telling a story true in general outline but containing some untruth which he can easily work into the story. It is for this reason that the courts as a matter of prudence and caution anxiously look for some corroboration to satisfy their conscience that the approver's testimony which is clearly admissible is also worthy of belief credit. One can of course visualise an accomplice who is genuinely repentant for the commission of his crime and truly desires to make a clean breast of the whole affair by way of penitence. But even in such cases the court has to judicially determine the extent to which his uncorroborated can be considered as trustworthy by looking to the other relevant material and the attending circumstances on the basis of which the accused can be safely convicted. The rule which seems to emerge from the foregoing discussion and judicial decisions is that the necessity of corroboration as a matter of prudence except when it is safe to dispense with such corroboration must be clearly present to the mind of the judge.

In *Narayan Chetanram Chaudhary v. State of Maharashtra*,⁴⁶ the apex court held that a conviction based on the uncorroborated testimony of an approver is not illegal since no distinction can be made between an accomplice who is an approver and who is not. However, courts as a matter of prudence and practice do not usually accept the testimony of an approver without corroboration in material particulars. In reference to evidential value of approver,

provision under section 133 and illustration (b) of section 114 of the Indian Evidence Act, 1872 need to be analysed. Section 133 contemplates that an accomplice shall be a competent witness, and a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice. However, as per illustration (b) of section 114, an accomplice is unworthy of credit unless he is corroborated in material particulars. These provisions seemingly appear contrary, but in a true sense, these are complementary to each other. The constitutional courts have deliberated and approved the legal issue of conviction based on the uncorroborated sole testimony of the approver.⁴⁷ Section 134 of the Indian Evidence Act contemplates that no particular number of witnesses shall, in any case, be required for proving an act, and an approver is akin to a witness. Hence, it would be befitting to deduce that a conviction cannot be illegal merely due to non-corroboration; however, his evidence is examined and evaluated with due care and copious caution.

NON-COMPLIANCE OF CONDITIONS OF A TENDER OF PARDON

Once an accused is granted a pardon under the provision of the Code and is made approver, his status changes from the accused to a prosecution witness, and he is duty-bound to speak 'truth' to facilitate the process of justice. Violation of conditions of tender of pardon by an approver, irrespective of the pardon granted under sections 306 or 307 of the Code, meets the same fate as envisaged under section 308 of the Code. Section 308(1), enables the judge to conduct the trial of a person not complying with the

conditions of pardon, if the Public Prosecutor certifies that in his considered opinion such person has, either by wilfully concealing anything essential or by giving false evidence, not complied with the condition on which the tender was granted, or for any other offence in which he appears to have been guilty in connection with the same manner, and also for the offence of giving false evidence.⁴⁸

After the public prosecutor filed such certificate under section 308(1), the inexorable and inevitable consequence would be that the approver would cease to be an approver, and would become an accused. Consequently, the approver-turned-accused could never be regarded as a witness for the prosecution during the core trial. The apex court has observed that in case the Public Prosecutor has not taken any step to proceed against the approver, the High Court itself has inherent powers to proceed against the approver in case he is wilfully suppressing material facts or is giving false evidence.⁴⁹

In *State (Delhi Administration) v. Jagjit Singh*,⁵⁰ the apex court held that grant of pardon has nature of a contract between the State and the accused in exchange for full disclosure of facts on the part of accused and granting pardon by the State. The court further observed that "It is because of this mandate, the State cannot withdraw the pardon from the approver nor the approver can cast away the pardon granted to him till he is examined as a witness by the prosecution both in the Committing Court as well as in the trial court. The approver may have resiled from the statement made before the Magistrate in the Committing Court and may not have complied with the condition on

which a pardon was granted to him, still the prosecution has to examine him as a witness in the trial court".⁵¹ Commenting on the role of the Public Prosecutor in criminal proceedings and the provisions under section 308 of the Code, the High Court of Delhi has observed:⁵²

I do not deem it necessary to examine the authority, of the Public Prosecutor, to "peep into" the investigation, and the evidence garnered therein. It is obviously not possible to hold that the Public Prosecutor should remain a stranger to the investigative process, which constitutes the terminus a quo, wherefrom the entire proceeding emanates. Suffice it, therefore, to state that the certificate, under Section 308 (1) of the Cr PC, to be issued by the Public Prosecutor, is required to be based on the examination, of the approver, under Section 306 (4), or any other evidence adduced by the approver during trial, whether prior to committal or thereafter.

The approver is entitled to plead that he had complied with the condition on which tender of pardon was made. The approver shall not be tried for the offence of giving false evidence except with the permission of the Hon'ble High Court. Section 308(2) also contemplates that any statement of such person accepting the tender of pardon, recorded by Magistrate under section 164 or by a court under section 306(4) may be used as a piece of evidence against him during the trial.⁵³ In case, during separate trial of the approver-turned-accused, the trial court observed that he has complied the conditions of pardon, judgment of acquittal shall be passed under section 308(5) of the Code.

REVOCAION OF A TENDER OF PARDON DURING INVESTIGATION: A LEGAL CONUNDRUM

Recently Delhi High Court has deliberated upon the interplay between section 306 and section 308 of the Code of Criminal Procedure, 1973.⁵⁴ The petitioner law enforcement agency, in this case, had moved an application before the Special Judge to revoke the tender of the pardon granted to the approver on the ground that he has wilfully concealed true facts and essential information during the ongoing investigation and had deleted relevant data from his laptop. The special court held that the application is not maintainable being premature and implying contention of the approver that pardon granted to an accomplice can be invoked at any stage is untenable; consequently, the application was dismissed. The legal conundrum arose before the high court whether the concept of 'revocation of pardon' does exist under the Indian legal lexicon. The issue was also raised before the court as to whether pardon once granted be revoked, cancelled or withdrawn at the stage of investigation and before recording the statement of an approver under section 306(4) of the Code.

The "concealment" of something "essential", or the tendering of "false evidence" has to be relatable to the statement of the approver, recorded under section 306(4), and not independent thereof. Delhi High Court dismissed the petition by observing that an inclusive and conjoint reading of sections 306 and 308 reveals an "inexorable sequence", whereby the most obligatory step is the examination, of the approver, as a witness, mandated under section 306(4). The high

court further held that issuance of a certificate under section 308(1) had to be necessarily preceded by recording of the statement of the approver as enshrined under section 306(4). However, the court refrained from entering into a debate as to whether “revocation of pardon” exists as a concept in law or not. 55 This remained a vital legal challenge, which needs to be deliberated by the constitutional courts of India. In view of the authors, the legislature or the apex court may consider to introduce legal provisions for revocation of a tender of pardon, if approver is wilfully not disclosing true facts, which may likely to help other accused. This amendment may compel the approver to abide by the conditions of pardon and to cooperate during the process of evidence collection, which is the baseline for fair trial.

CONCLUSION

The approver is an extraordinary legal dogma to punish the heinous criminals, otherwise they may have escaped from the clutches of the legal process. However, it is a slippery slope especially when the prosecution builds a case predominately on an edifice of sole testimony of the approver, without credible corroboration. The judge must be extra cautious about holding guilty, since in Indian social milieu false allegations due to extraneous factors like personal enmity cannot be ruled out. This legal provision may be considered for extraordinary cases like terrorism, big-ticket corruption and economic offences, or diabolic and gruesome bodily crimes. Further, admission of guilt by a proposed approver may be corroborated in terms of recovery of vital items related to crime such as case property or documents or

weapon etc. under section 27 of the Evidence Act, 1872 or any significant disclosure which otherwise remained unknown during investigation or trial. Indeed, an approver is a double-edged sword, which must be used by the court with due attention and utmost caution.

(Endnotes)

1 References

- Section 133 of the Indian Evidence Act, 1972 deals with ‘Accomplice’, but the term is nowhere defined in the law. However, an accomplice means “a partner in crime” or “a guilty associate”. Section 133 laid down that an accomplice shall be a competent witness against an accused and conviction is not illegal merely because uncorroborated testimony of the accomplice against the accused. Also see: RK Dalmia v. Delhi Administration 1962 AIR 1821: 1963 SCR (1) 253:1962 (32) CC 699.
- 2 1975 AIR 856 : 1975 SCR (3) 453.
 - 3 Bipin Bihari Sarkar v. State of West Bengal AIR 1959 SC 13 : 1959 SCR 1324:
 - 4 Id. at para 7. Also see: Bipin Bihari Sarkar v. State of West Bengal Also see: Emperor v. Imamshah AIR 1944 Sindh 184; In re.ArusamiGoudan v. Unknown AIR 1959 Mad 274.
 - 5 State through CBI, Chennai v. Arul Kumar (2016) 11 SCC 733 : (2017) 1 SCC (Cri) 381 : (2016) 2 SCC (L&S) 715 : 2016 SCC OnLine SC 582.
 - 6 IndiraniMukerjea (Sheena Bora murder

- case accused) turns approver in INX media case. Available at:
- https://www.business-standard.com/article/pti-stories/delhi-court-allows-indrani-mukerjea-to-turn-approver-in-inx-media-case-119070400953_1.html (last visited on July 21, 2020).
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- https://www.google.com/search?q=Approver+latest+case&rlz=1C1CHBD_enIN863IN864&oq=Approver+latest+case&aqs=chrome..69i57.6987j0j8&sourceid=chrome&ie=UTF-8 (last visited on July 21, 2020).
- 8 .AIR 1962 SC 1821 : 1963 SCR (1) 253. Also see: Suresh Chand Bahri v. State of Bihar AIR 1994 SC 2420.
- 9 Holmon v. Johnson [(1775) 1 Cowp 341, 343;98 E.R. 1120, 1121]. Lord Mansfield explained the percept of public policy by saying, “ex dolomalo non oritur action” meaning means “no action arises from deceit”. Also see: KaruppaServaiv. KundaruAIR 1952 Mad 833; Rajkumar Sangaiah Pandiyan v. State of Gujarat2010 SCC OnLineGuj 12540 : (2011) 98 AIC (Sum 13) 6 : (2010) 3 GCD 2594 (DB) : (2011) 2 CCR 412 (DB).
- 10 2005 SCC OnLine Ker 377 : 2005 CriLJ 3848 : 2005 (3) KLT 770 : (2005) 3 KLT 770 (FB) : (2005) 35 AIC 198 (FB) : (2005) 4 CCR 372 (FB).
- 11 AIR 1959 Mad 274.
- 12 Santosh Kumar Satish Bhushan Bariyarv. State of Maharashtra (2009) 6 SCC 498.
- Also see: BawaFaquir Singh v. Emperor AIR 1938 PC 266.
- 13 CBI v. Ashok Kumar Aggarwal (2014) 14 SCC 295.
- 14 .CBI v. NK Amin 2010 SCC OnLineGuj 10104.
- 15 Lt. Commander Pascal Fernandes v. State of Maharashtra (1968) 1 SCR 695 : 1968 AIR 594.
- 16 .Id. at p. 9.
- 17 Mahavir Singh v. State of Haryana AIR 2001 SC 2503
- 18 State of Maharashtra v. Yuvraj 2014 SCC OnLine Bom 1978 : 2015 Cri LJ (NOC 255) 79. The Bombay High Court held that: “... section 306 is applicable where in a case the order of commitment has not been passed and section 307 would be applicable after commitment of the case but before the judgment is pronounced.”
- 19 Section 173 (6) Cr.PC If the police officer is of opinion that any part of any such statement is not relevant to the subject-matter of the proceedings or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interest, he shall indicate that part of the statement and append a note requesting the Magistrate to exclude that part from the copies to be granted to the accused and stating his reasons for making such request
- 20 AIR 1974 SC 2009.
- 21 Id. at para 33.

- 22 Supra note 5.
- 23 Guruvindapalli Anna Rao v. State of A.P. 2003 CRI.L.J. 3253
- 24 K. Anil Kumar v. State of Kerala 1996 CrIj 1942, Hon'ble Kerala High Court has observed that recording a statement U/s 164 is not a "condition for granting pardon".
- 25 Inderpreet Singh Kahlon v. State of Punjab 2006 (6) SCJ 107 : 2006 (5) JT 252 : (2006) 11 SCC 356; Gurvinder Singh Bhatia v. CBI 2015 SCC OnLine Del 13078; Bangaru Laxman v. State through CBI (2012) 1 SCC 500; CBI v. Ashok Kumar Aggarwal (2014) 14 SCC 295 : (2015) 1 SCC (Cri) 344 : (2015) 3 SCC (L&S) 475 : 2013 SCC Online SC 1030; Harshad S. Mehta v. CBI 1998 (5) BomCR 783 : 1998 2 MOBLR 114; and State through CBI, Chennai v. Arul Kumar (2016) 11 SCC 733 : (2017) 1 SCC (Cri) 381 : (2016) 2 SCC (L&S) 715 : 2016 SCC OnLine SC 582.
- 26 State of Rajasthan v. Darshan Singh @ Darshan Lal (2012) 5 SCC at p. 789; and Chander Singh v State (NCT of Delhi) (2016) 3 DLT (Cri) 793 : 2016 SCC OnLine Del 3574 : (2016) 167 AIC 697 : (2016) 232 DLT 517 : (2016) 5 RCR (Cri) 890.
- 27 ChandraDeo Singh v.Prokash Chandra Base @ Chabi 1963 AIR 1430; and Sashi Jena v.Khadal Swain (2004) 4 SCC 236 : AIR 2004 SC 1492.
- 28 1986 Cri. L.J. 2104 : LQ 1986 HC 1705.
- 29 1988 CriLJ 812. Also see: Ashokan v. State of Kerala 2005 Cri.LJ 3848 : 2005 (3) KLT 770.
- 30 Sanjay Gandhi v. Union of India 1978 AIR 514 : 1978 SCR (2) 861; Ranadhir Basu v. State of West Bengal AIR 2000 SC 908 : (2000) 3 CALLT 74 SC : 2000 Cri.LJ 1417 : JT 2000 (1) SC 618 : 2000 (1) SCALE 483 : (2000) 3 SCC 161 : 2000 1 SCR 646 : 2000 (1) UJ 446 SC; and Suresh Chandra Bahriv. State of Bihar 1995 Suppl. (1) SCC 80.
- 31 1995 Suppl(1) SCC 80. Also see: A.L. Mehra v. State. 1958 Cri LJ 413; Bhawani Singh v. State 1956 Cri LJ 44; and Karuppa Servaiv. Kundaru alias Muniandi 1953 Cri LJ 45.
- 32 Kunj Bihari Lal and Jagdish v. State of Rajasthan 1984 RCC 42; Bhimsen v. State of Rajasthan 1991 RCC 412; Gurcharan Singh v. State of Rajasthan 2001 (3) WLC 575 : 2002 (1) WLN 338.
- 33 Prem Chand v. State 1985 Cri.L.J 1534; Noor Taki Alias Mammuv. State of Rajasthan 1986 Cri.LJ 1488; and Subramanian @ Ravi Subramanian v. State of Tamil Nadu 2013 SCC OnLine Mad 3760 : (2014) 1 LW (Cri) 122.
- 34 1980 Cri LJ 1099 : AIR 1980 SC 1579.
- 35 AIR 1979 SC 1360 : 1979 Cri LJ 1036.
- 36 AIR 1930 Lah 95.
- 37 1957 Cri LJ 1014 : 1957 AIR 637 : 1957 SCR 953.
- 38 Id. at para 7.
- 39 Id. at para 10.
- 40 [2016] 2 KB 658 : [1916-1917] All ER Rep 38 : 86 LJKB 28 : 25 Cox CC 524 : 60 Sol Jo 696 : 115 LT 453 : 12 Cr App Rep 81.
- 41 (1788) 1 Leach 464 : 14 Digest (Repl) 534,

- 5132.
- 42 14 Digest (Repl) 535, 5184 : (1809) 2 Camp 131 : 31 State Tr 251.
- 43 R. v. Everest 2 Cr App Rep at p. 132. The court observed that "The rule has long been established that the judge should tell the jury to acquit the prisoner if the only evidence against him is that of an accomplice, unless that evidence is corroborated in some particular which goes to implicate the accused."
- 44 14 Digest (Repl) 535, 5184 : (1809) 2 Camp 131 : 31 State Tr 251.
- 45 (1973) 3 SCC 805 : AIR 1973 SC 1188 : 1973 3 SCR 463 : 1973 CriLJ 914 : 1973 (5) UJ 598 SC : 1973 WLN 98.
- 46 (2000) 8 SCC 457.
- 47 BhivaDoulu Patil v. State of Maharashtra 1963 AIR 599; Ravinder Singh v. State of Haryana 1975 AIR 856, CBI v. Ashok Kumar Aggarwal (2014) 14 SCC 295; Narayan Chetanram Chaudhary v. State of Maharashtra (2000) 8 SCC 457 : AIR 2000 SC 3352; and K. Hashim v. State of Tamil Nadu (2005) 1 SCC 237 : AIR 2005 SC 128.
- 48 Emperor v. ShandinoDhaniparto AIR 1940 (Sind) 114.
- 49 Renuka Bai alias Rinku alias Ratan v. State of Maharashtra (2006) 7 SCC 442.
- 50 AIR 1989 SC 598 : 1989 (2) SCALE 1578 : 1989 CriLJ 1986 : 1989 (1) Crimes 343 SC : 1989 Supp (2) SCC 770.
- 51 Id. at para 8.
- 52 Directorate of Enforcement v. Rajiv Saxena 2020 SCC OnLine Del 719, at para 47.
- 53 The State of Rajasthan v. Bhoora AIR 1961 Raj 274 : 1961 CriLJ 798; The State v. Hiralal Girdharilal Kothari AIR 1960 SC 360 : 1960 CriLJ 524 : 1960 2 SCR 355; and State of Maharashtra v. Abu Salem Abdul Kayyum Ansari (2010) 10 SCC 179.
- 54 Supra note 52. Also see: In re: Arusami Goundan AIR 1959 (Madras) 274; and Emperor v. ShandinoDhaniparto AIR 1940 (Sind) 114.
- 55 Id. at para 54.

Role of Police in Curbing the Drug Menace among Children using the Juvenile Justice (Care & Protection of Children) Act, 2015



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Thou shalt not be a victim, thou shalt not be a perpetrator, but, above all, thou shalt not be a bystander!"

- Yehuda Bauer

ABSTRACT

A pivotal duty is discharged by the police in combating the drug menace, as it has the mandate, and requisite machinery to implement supply reduction techniques. Supply reduction techniques essentially involve taking preventive measures, identification of source of drugs, containing drug peddlers, taking steps to initiate legal action by registering FIRs against the drug peddlers, and conducting effective investigation with a focus to secure convictions. To equip the police in this endeavour, the Parliament in its wisdom introduced Juvenile Justice (Care & Protection of Children) Act, 2015 (JJ Act) which also contains provisions for tackling drug peddlers. Section 77¹ is a formidable tool, a 'Ram Baan',

¹ 77. Penalty for giving intoxicating liquor or narcotic drug or psychotropic substance to a child.—Whoever gives, or causes to be given, to any child any intoxicating liquor or any narcotic drug

which prohibits and penalizes the supply of various categories of drugs and psychotropic substances to children. The intent of the legislature is that if drug pushers are kept at bay and the sale of drugs and intoxicating fluids is regulated, the proclivity of children to fall prey to addiction would reduce drastically. The extirpation of the source of these drugs and fluids is a sustainable solution to stop the malaise of addiction, and the path to ameliorate the condition of these hapless children of India. This paper seeks to guide the police in this direction. The experiences shared in this paper are chiefly from Delhi but can be replicated with equal force across the country.

I. Introduction

It is trite that addiction to drugs and other substances induce children to commit crimes to purchase fluid/drugs in order to satiate their cravings. Significantly,

or tobacco products or psychotropic substance, except on the order of a duly qualified medical practitioner, shall be punishable with rigorous imprisonment for a term which may extend to seven years and shall also be liable to a fine which may extend up to one lakh rupees

Author's Intro:

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there is a direct relationship between consumption of intoxicating substances and increase in crime rate. In a study titled **‘Substance Use and Criminality among Juveniles-under-enquiry in New Delhi’** published in Indian J Psychiatry, 2016 AprJun:58(2): 178-182 it was concluded that ‘Out of 487 juveniles-under-enquiry booked under different crimes, 86.44% of the sample had a history of substance use.’ The study and statistics essentially bring to the fore the deleterious effect such substances have on children. This is the age where their susceptibility to start consuming drugs is also at the peak, and thus intervention by the police must be made on a war footing.

II. Section 77, Juvenile Justice (Care & Protection of Children) Act, 2015 and other relevant provisions

Albeit least invoked, this provision is the most potent weapon in the arsenal of law enforcement authorities. To combat the burgeoning issue of drug proliferation amongst children, this stringent provision i.e. Section 77 penalizes the offering of (i) narcotic drugs, (ii) psychotropic substances, (iii) tobacco product or (iv) intoxicating liquor to a child below the age of eighteen years. The section makes the offence punishable with rigorous imprisonment upto seven years, and a fine extendable up to as high as rupees one lakh. Section 78² is equally

effective, and it penalises whosoever uses a child, for vending, peddling, carrying, supplying or smuggling the above four categories of substances. Both the sections are cognizable, and non-bailable. Further, Rules 56³ & 57⁴ of the Juvenile Justice (Care & Protection of Children) Model Rules, 2016 (JJ Rules) provide for the procedural

3 56. Procedure in case of offence under section 77 of the Act- (1) Whenever a child is found to be under the influence of, or in possession of intoxicating liquor or narcotic drugs or psychotropic substances or tobacco products, including for the purpose of sale, the police shall enquire as to how the child came under the influence of, or possession of such intoxicating liquor or narcotic drugs or psychotropic substances or tobacco products and shall register an FIR forthwith. (2) The child who has been administered narcotic drugs or psychotropic substances or is found under the influence of the same may be produced either before the Board or the Committee as the case may be, and the Board or the Committee shall pass appropriate orders regarding rehabilitation and de-addiction of the child. (3) In case of a child found to be addicted to intoxicating liquor or tobacco products, the child shall be produced before the Committee which shall pass directions for rehabilitation including de-addiction of the child and transfer the child to a fit facility identified for the purpose. (4) In case any child is found to have been administered intoxicating liquor or narcotic drugs or psychotropic substances or tobacco products in a Child Care Institution, the child shall be produced immediately before the Board or the Committee, except in such cases where the child is not in a position to be produced before the Board or the Committee and requires immediate medical attention. (5) The Board, shall on its own or on complaint received from the Committee, issue directions to the police to register an FIR immediately. (6) The Board or the Committee shall also issue appropriate directions for inquiry as to the circumstances in which such product entered the Child Care Institution and reached the child and shall recommend appropriate action against the erring officials and the Child Care Institution. (7) The Board or the Committee may also issue directions for transfer of the child to another Child Care Institution as the case may be. (8) Any shop selling intoxicating liquor, tobacco products, must display a message at a prominent place on their shop that giving or selling intoxicating liquor or tobacco products to a child is a punishable crime with up to seven years of rigorous imprisonment and a fine of up to one lakh rupees. (9) All tobacco products and intoxicating liquor must display a message that giving or selling intoxicating liquor or tobacco products to a child is a punishable crime with up to seven years of rigorous imprisonment and a fine of up to one lakh rupees. (10) Giving or selling of intoxicating liquor, narcotic drugs or psychotropic substances or tobacco products within 200 meters of a Child Care Institution or any other home registered or recognized under the Act, or the office of a Committee or a Board shall be deemed to be an offence under section 77 of the Act.

4 57. Procedure in case of offence under section 78 of the Act- (1) Whenever a child is found to be vending, carrying, supplying or smuggling an intoxicating liquor, narcotic drug, or psychotropic substance, the police shall enquire how and from whom the child came into possession of the intoxicating liquor, narcotic drug, or psychotropic substance and shall register an FIR forthwith. (2) A child who is alleged to have committed an offence under section 78 of the Act shall be produced before the Board, which may transfer the child to the Committee, if the child is also in need of care and protection.

2 78. Using a child for vending, peddling, carrying, supplying or smuggling any intoxicating liquor, narcotic drug or psychotropic substance.—Whoever uses a child, for vending, peddling, carrying, supplying or smuggling any intoxicating liquor, narcotic drug or psychotropic substance, shall be liable for rigorous imprisonment for a term which may extend to seven years and shall also be liable to a fine up to one lakh rupees

mechanism to give teeth to the above sections.

A perusal of the individual childcare plans or social investigation reports of any of the children lodged in drug de-addiction centers reveal that many children have dependency inter alia on inhalants. As narrated by their parents, these children regularly consume whiteners, diluters, thinners and solution/sulochan. It is writ large by observing the plight of such children that consumption of the aforementioned addictive substances has played havoc with their physical and mental health. It would be further revealed that addiction of the child is due to the nefarious activities of drug peddlers, and even unscrupulous chemists, who are operating in the area and who are responsible for proliferation of such substances.

III. Interpretation of Section 77 JJ Act, 2015

Four categories of substances have been explicitly mentioned in the section. However, what was not mentioned, was a seemingly innocuous but potentially deadly substance, sale of which was essentially unregulated, and its ease of availability ensured sustained doses of addiction. The said substances are different species of inhalants or volatile solvents viz. correction fluids, whiteners, thinners etc. As per the **Report on Magnitude of Substance Abuse in India, 2019**, issued by the Ministry of Social Justice and Empowerment, GOI 'at the national level, an estimated 4.58 lakh children and 18 lakh adults need help for their problematic inhalant use'. The Juvenile Justice Board, Delhi, was grappling with the issue of children

taking inhalants and committing crimes, and was bestowed with an occasion to meaningfully interpret this provision to include inhalants within its ambit, under the category of 'intoxicating liquor' It is pertinent to note that according to the **25th Report of the Standing Committee on Social Justice and Empowerment, December 2015** titled "Persons Affected By Alcoholism & Substance (Drug) Abuse, Their Treatment/Rehabilitation And Role Of Voluntary Organizations", the Committee observed that early prevention and early intervention are an integral part of the treatment and rehabilitation programme for drug addicts. Early prevention necessitates keeping children away from drugs and other psychotropic substances. Prohibiting the sale of such substances that are easily available would be a positive step towards attaining this objective.

Duty of the State

It is the duty of the State as enshrined in Article 47, Part IV of the Constitution of India to raise the level of nutrition and the standard of living and to improve public health. It is mandated that the state shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties. Further, the State shall endeavour to bring about prohibition of the consumption, except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health. At the time when the process of framing of our country's Holy Document was underway, one of the members Sh A.V Thakkar had remarked during the debate on the aforementioned Article held on 24.11.1948 :

"There is another matter. All Adivasis do not want to drink: they want prohibition.

I am talking of the Bhils in Gujarat, in Maharashtra, in West Khandesh and in the Central Provinces. I am talking of the Gonds also of the Central Provinces. I have asked hundreds and thousands of them whether they want drink or whether they want prohibition. Their decided answer to me has been: "Thakkar, you are talking of prohibition; you are talking of doing away with drinks. **You are placing these enticements in our path and you are still asking for our opinion. For God's sake have the liquor shops closed and then ask us. We are enticed to go to drink; otherwise we will not.**"

Thus, the focus has to be on removal of supply chain.

Order of the JJB

The JJB surmised that the meaning of the term 'intoxicating liquor' in Section 77 cannot be confined to mean only beer, wine, etc., as understood in common parlance. Its meaning would be expanded to inhalants too. These inhalants contain inter alia solvents like toluene, methylbenzene, trichloroethylene, etc. which are alcoholic, and produce the same effects on the body as an alcohol does. Inhalants are highly addictive, like alcohol and are often the first drug children experiment with because of their widespread and easy accessibility. To mitigate the menace caused by inhalants, the quest that the Board embarked upon was to ascertain whether inhalants like correction fluids/whiteners, thinners and vulcanising solutions/sulochans can be covered within the ambit of the term 'intoxicating liquor' as mentioned in section 77 of the JJ Act, 2015. The answer was held to be in the affirmative.

Govt Notification

Pursuant to the Order of the JJB, the Delhi govt issued a notification, having

far reaching ramifications, which would eventually be for the benefit of lacs of children of Delhi This notification will serve as an efficacious tool to curb the menace of drugs, as it is inhalants that are 'stepping stones' into the world of drugs. The prohibition vide the above said notification, on the sale of inhalants to minors, would eventually reduce their usage and dependency by minors: It would be a stupendous strategic and tactical move in the war against drugs.

High Court verdicts

The above interpretation of Section 77 JJ Act was referred to, and upheld in *Aasha vs State*⁵, *Akshay Chadha vs State*⁶, two verdicts of seminal importance in this field. Both the judgments held that inhalants fall in the category of intoxicating liquor, and thus their sale to minors is punishable under Section 77 JJ Act. Taking a cue from Delhi High Court, The Uttarakhand High Court in *Shweta Mashiwal Vs State of Uttarakhand*⁷ relied on *Aasha's* judgment and also banned the sale of inhalants in Uttarakhand, punishable under Section 77 JJ Act.

IV. Prevention

Surveillance

Criminal history is replete with examples where persons with previous convictions or involvements are unable to extricate themselves out of the vicious cycle of crime, and pursue it as an avocation. The experience in Delhi reflects that a lot of drug peddlers had a prior involvement especially with NDPS cases, but they unabashedly continued with their

5 WP (CrI) No 2401 of 2017 (Delhi High Court)

6 Bail Application No. 334/2018 (Delhi High Court)

7 2018 SCC OnLineUtt 736

nefarious activities while they were out on bail. It is this lot which needs to be monitored. In *Asha's* case (supra), the High Court instructed the Delhi Police to mount a constant vigil and surveillance on such persons. Further, externment proceedings ought to be initiated against bad characters (BC) against whom NDPS and Excise cases have already been registered, as they, more often than not, indulge in drug peddling to children

Awareness & distancing

Next, steps should be taken for removal of sources of allurements. As per Rule 56(8) of the JJ Rules, any shop selling intoxicating liquor, tobacco products, must display a message at a prominent place on their shop that giving or selling intoxicating liquor or tobacco products to a child is a punishable crime with up to seven years of rigorous imprisonment and a fine of up to one lakh rupees. This alone would deter the owner of the shop. Further, as per Rule 56(10) giving or selling of intoxicating liquor, narcotic drugs or psychotropic substances or tobacco products within 200 meters of a Child Care Institution or even the office of a Child Welfare Committee or a Juvenile Justice Board shall be deemed to be an offence under section 77 of the Act. Carrying out a survey to ensure that there is no violation of Rule 56(8) and 56(10) of the JJ Rules would be a constructive step toward reducing the supply of these contraband items. Further, invoking powers vested under Section 144 CrPC, senior police officers may get directions issued for putting such display boards in

all betel shops.

Action against unauthorized shops

Further, a lot of these stalls operate without licenses. Their removal may entail loss of livelihood, and it may be a law and order problem. However, when such unscrupulous elements sell tobacco products and alcohol to children without any compunction, then steps must be initiated for their closure under Section 268 or 283 IPC. Similarly, it is a known phenomenon that stolen items are usually sold to goldsmiths, scrap dealers, many of them which are unauthorized. Removal of unauthorized *kabadi* shops which do not have licenses is another step that needs to be taken along with invoking Sec 411 IPC i.e. the charge of receiving or retaining stolen property must be invoked against such elements.

Special Units

Setting up of Task Forces or Special Units, as mandated by the NALSA (Legal Services to the Victims of Drug Abuse and Eradication of Drug Menace) Scheme, 2015. The Special Units, apart from coordination and spreading awareness, can also help in destruction of illicit opium and cannabis cultivation⁸. Cue can be taken from Delhi where, vide a Govt. Notification⁹, setting up of District Task Force comprising the

8 9. Destruction of illicit cultivation: The SLSAs shall coordinate with the State Governments for the destruction of illicit cultivation of cannabis and opium as well as any other plant used to derive Narcotic and Psychotropic Substances. The SLSAs may also urge the State Government to include such destruction as admissible work under MNREGA Scheme. This will pave the way for the destruction of illicit plants on a large scale besides, encouraging community involvement in the entire campaign.

9 Government Notification F.No.7(15)/2012/Misc/DHS/SHS/Pt.file-III/1229-1239 dated 28.07.2017 issued by the Department of Health and Family Welfare, Govt of NCT of Delhi

Deputy Commissioner (Revenue) and the Deputy Commissioner of Police has been envisaged for monthly monitoring of sale of inhalants.

V. Taking the Initiative

Identification of source and registration of FIRs under Section 77 & 78 JJ Act

Experience suggests that most of the FIRs under Section 77 & 78 JJ Act came to be registered pursuant to the orders of Juvenile Justice Boards (JJBs). The JJBs take a proactive approach, inquire from the children as to the source of drugs, and by exercising powers under Sec 8(3)(k) of the JJ Act, direct the police to register FIRs against drug peddlers. However, the need of the hour is *suo moto* registration of FIRs under section 77 and 78 JJ Act by the police. It is imperative for the police to develop credible intelligence network for the said purpose. The most reliable sources for tapping information are Children's Homes, Observation Homes and Drug De-addiction Centers. There are Narcotics Anonymous Centers too.¹⁰ Senior Police Officers should make regular visits to these centers and interact with children. Do not begin by asking *whether* the child takes drugs, as invariably the child will be in denial. Instead, ask from him *where* does he buy his stuff, from *whom* does he buy and at what price. Show that you know. The presence of staff of these centers, including counsellors, who have already established a rapport with these children, would be imperative. Once the trust of a child is earned, he or

she will easily divulge all the necessary information.

Eliciting information through persuasion

The above information can, and ought to be elicited by the Child Welfare Police Officers (CWPO)¹¹ too. Rule 2(xvi) of the Juvenile Justice (Care & Protection of Children) Model Rules, 2016 mandates the preparation of Social Background Report (SBR) of the child. The most vital utility of preparation of a Social Investigation Report has been laid down in the Rules, wherein it has been elaborated that Social Investigation Report should provide for risk assessment, including aggravating and mitigating factors highlighting the circumstances which induced vulnerability such as traffickers or abusers being in the neighbourhood, adult gangs, drug users, accessibility to weapons and drugs, exposure to age inappropriate behaviours, information and material. The report prepared by CWPOs can give a description of drug peddlers in the following format, and the police can initiate action *suo motu* thereafter.

10 <https://naindia.in/na-meetings-in-india/delhi-area-meetings/>

11 107. Child Welfare Police Officer and Special Juvenile Police Unit.—(1) In every police station, at least one officer, not below the rank of assistant sub-inspector, with aptitude, appropriate training and orientation may be designated as the child welfare police officer to exclusively deal with children either as victims or perpetrators, in co-ordination with the police, voluntary and non-governmental organisations. (2) To co-ordinate all functions of police related to children, the State Government shall constitute Special Juvenile Police Units in each district and city, headed by a police officer not below the rank of a 42 Deputy Superintendent of Police or above and consisting of all police officers designated under subsection (1) and two social workers having experience of working in the field of child welfare, of whom one shall be a woman. (3) All police officers of the Special Juvenile Police Units shall be provided special training, especially at induction as child welfare police officer, to enable them to perform their functions more effectively. (4) Special Juvenile Police Unit also includes Railway police dealing with children

Name & Description of suspected drug peddler	Other details viz. address, family members etc.	Area of operation	Time of operation	Type & price of drugs sold

Protocols

It would be vital to formulate a Standard Operating Procedure (SOP) qua investigation of cases under section 77 and 78 JJ Act. In Delhi, the police have been so mandated vide orders passed in *Akshay Chaddha's* case. This progressive order makes it incumbent upon CWPOs to prepare the above chart while preparing SBRs.

Anti-Narcotic Squads

The necessity of specialized task forces, of law enforcement agencies, to curb street peddling was recognized by the High Court of Delhi in *Aasha's* judgment. The Commissioner of Police, Delhi has approved to constitute a Anti-Narcotics Squad in each district, which shall be supervised by an Inspector rank Officer, who in turn shall work under the supervision of ACP Operations. Each Squad shall have manpower of two Upper (S.I/ASI) and eight subordinates (HCt./ Ct.). Another step that ought to be taken is immediate operationalization of Anti-Narcotics Squads. Further, these Squads should have sufficient women officers, so as to allay the apprehension of counter allegations of sexual harassment on male police officers, as many drug peddlers are women.

Ending illegal community practices

It has been a trend that certain sections of society/communities indulge in bootlegging, of carrying trade in illicit liquor. They brazenly carry out this 'trade' with total impunity, on the pretext that it is their 'family' or 'community' business. By involving children in these activities, they jettison the future of children of their own community. This cannot give them a *carte blanche* to violate the law, and the police must step in, and not balk at invoking Section 78 of the JJ Act, along with the provisions of relevant Excise laws.

Ban on sale of loose cigarettes

Another major area of concern is the easy availability of loose cigarettes in the hands of children. An overwhelming 70% of the cigarettes sold in India are loose. Banning sale of loose cigarettes would be an important step: The ban on loose cigarette sale would be in consonance with the WHO Framework Convention on Tobacco Control (FCTC), which India signed and ratified in February 2005. Article 16(3) of FCTC states: "Each Party shall endeavour to prohibit the sale of cigarettes individually or in small packets which increases the affordability of such products to minors. Further, interpretation of Rule 3 & 4 of the Cigarettes and Tobacco Products (Packaging & Labelling) Rules, 2008 would make it explicit that selling loose cigarettes would defeat the purpose of Rule 3, and is a violation of Rule 4

Crime Review Meetings

Include Section 77 JJ Act in Crime Review

meetings /Statistics along with the *de rigueur* theft, murder etc statistics to keep a check on nefarious activities.

Helpline number

Having a helpline number/ WhatsApp Number like NCB has (for uploading images of illicit cultivated areas of opium¹².Further, State Police website and Facebook page should have a mechanism for reporting sale of illicit drugs and intoxicants.(with an assurance to the informer that the user will not be prosecuted). There should be Reward Policy like NCB has- rewards to be paid to informants as well as officers.

VI. Investigation

Mindset

There is a mindset to take action only when a 'big' recovery would be effected. Quantity should not be a factor to be taken into consideration. A drug peddler sells small 'purias/piece/packet' at one point in time, but at the end of the day, it is a 'big' quantity that has been ultimately sold.

Effective Investigation

All pending investigations should be immediately transferred to specialized task forces or the Anti-Narcotics Squad in each District. Uttarakhand has emulated Delhi by setting up Anti-Narcotics Squad, and other States can follow suit too. Further, it must be ensured that surveillance and trap technique is adhered to, as straightaway arrests, without recovery, botch up the cases. Further, to ensure videography during raids, smart body worn cameras can be put on the

body of decoy or stock witnesses. Further, directions should be given under Section 144 CrPC for installing CCTVs at liquor vends and betel stalls, to keep a vigil and prevent sale to minors.

Bringing unscrupulous chemists to book

In case of sale of medicines without prescription to children, bills and registers of chemists should be seized so that investigation can be done qua stock actually received and items disposed off. In case of sale of habit forming drugs (Alprazolam, diazepam etc which are Schedule H 1 drugs) to children without prescription, action should be taken not only under the Drugs & Cosmetics Act but also under the NDPS Act as these substances fall under the category of psychotropic substances too. This will effectively deter unscrupulous chemists. Focus should be on registration of FIRs u/s 18(1) read with Section 27(b)(2) of the Drugs & Cosmetics Act, 1940 instead of merely cancelling/revoking licenses under Rule 65&66 of the Drugs and Cosmetics Rules, 1945.

Safeguards whilst recording statement of child victim

It must be borne in mind that a child in conflict with law who is a substance abuser, is also a child in need of care & protection¹³. Since the child is a victim, recording of Statement under section 164 CrPC of the child witness must be scrupulously in adherence to Rule 54 of the JJ Rules. Thus, the child shall be produced before a Magistrate to get the statement recorded as expeditiously as

12 WhatsApp No : 9868505002 for uploading of images of illicit cultivated area of opium and poppy by general public

13 Section 2(14) "child in need of care and protection" means a child— (viii) who has been or is being or is likely to be abused, tortured or exploited for the purpose of sexual abuse or illegal acts; or (ix) who is found vulnerable and is likely to be inducted into drug abuse or trafficking;

possible, the child should be accompanied by a support person, the child should be examined in the Vulnerable Witness Deposition Rooms and must not be brought face to face with the accused. With the safeguards, truthful testimonies would be elicited, which will go a long way towards securing convictions.

VII. Prosecution

Witness Protection

We have always lamented the rate of low convictions. To secure a higher conviction rate, especially under Section 77 JJ Act cases, it is of vital importance to protect our vulnerable witnesses. Identity of child witnesses needs to be concealed and they need to be protected in terms of the Witness Protection Scheme, 2018 and directions laid down in *Mahender Chawla vs Union of India*¹⁴. If child witnesses are threatened, appropriate action u/s 195A IPC be initiated

Opposing bails

Bails need to be opposed vociferously by the IOs through the Prosecutor, along with previous NCRB or SCRB dossiers of the accused, if any. The Courts also grant bail wherever investigation is slipshod. There is a need to invoke Section 41(1)(b)(ii) of the CrPC at the time of making arrests and in opposing bail applications so as to meaningfully adhere to the mandate of *Arnesh Kumar vs State of Bihar*¹⁵. Threats to child witness, commission of offence again by the accused are reasons that can be put forth, as per the said section.

Challenging bail orders

Bail cannot denigrate into a passport

for commission of crimes. To go a step further, the bail orders granted should be challenged wherever warranted, through the office of the Chief Prosecutor, especially in cases where the accused, who has previous involvements, comes out and commits an offence during his bail term. Also, grant of anticipatory bail does not *ipso facto* entail in grant of a regular bail, as laid down in *Sat Pal Singh vs State of Punjab*¹⁶, wherein the Apex court highlighted the difference between section 438 and 439 CrPC.

Thorough chargesheets

Prosecutors need to be trained or Special Public Prosecutors may be appointed in the Courts of Metropolitan Magistrates where cases under Section 77 and 78 will be tried. Checklists/Standard points qua objections to being raised at the time of scrutiny need to be developed by the Directorate of Prosecution and the same be disseminated amongst all prosecutors, and then only charge-sheets be filed in courts. Forwarding authority i.e. ACsP be directed to strictly comply with objections raised during scrutiny, and to get lacunae in investigations rectified

The Bait

Section 64 A NDPS Act should be invoked by Prosecutors to grant immunity from prosecution. This provision can be used as a bargaining chip to elicit information on main suppliers/ traffickers. Further, Courts can be persuaded to invoke Section 39 NDPS Act, for accused persons cooperating with the investigation. This *avant garde* measure needs to be explored and implemented.

14 (2019) 14 SCC 614

15 (2014) 8 SCC 273

16 (2018) 13 SCC 813

VIII. Coordination

With Drug Inspectors

The State Police cannot work in isolation to tackle this menace. In Delhi, Standing Order No. 435/2018 of the Delhi Police ensures that the police liaisons with the Drug Inspectors/office of the Drug Controller. Drug Inspectors must make complaints, requesting the Delhi Police to register FIRs under the NDPS Act too. The police should keep a check on chemists whose licences have been suspended / cancelled by office of the Drug Controller. For this, it is imperative that the data should be shared by both agencies.

With NCB

Deputation of one officer from NCB for a period of time to the Anti Narcotic Squad. Distribution of Drug Detection/Precursor Testing kits by NCB to these Squads.

SIMS & SIEN

Giving access to the State Police to SIMS(Seizure Information management System) as information needs to be shared. Further, police need to be added to SIEN- Secure Information Exchange Network- a platform for an online exchange of intel and info.

With CEIB

The CEIB(Central Economic Intelligence Bureau) has data of illicit cultivation of cannabis and opium, which they obtain by using satellite images. For effective identification, steps should be taken towards procuring latest digital maps of affected areas in each State, so that steps

can be taken to destroy illicit crops. It must be noted that the Special Units set up under NALSA Scheme, 2015 have also the mandate to take steps to destroy illicit cultivation¹⁷.

IX. Training

The theme for International Day against Drug Abuse and Illicit Trafficking 2020 is 'Better Knowledge for Better Care'. The title is apt, for it is only sharing of knowledge and best practices of police forces across the country that can lead to concerted efforts to contain this menace.

Manual

It is imperative that local police get training in drug law enforcement by the officers of Narcotics Control Bureau, as it is an area of their expertise. NCB can help the State Police to make a booklet of Dos and Don'ts, similar to their own The National Academy of Customs, Excise & Narcotics (NAECN), Faridabad can also play a vital role in disseminating information. The COVID pandemic has forced us to adopt technology, and we can make use of this opportunity to prepare online modules and impart classes online.

Sensitization Courses

The course content should focus on imparting knowledge about the JJ Act and the Rules. Further, police personnel should also be taught how to deal with peddlers who themselves are addicts. It is important for the police to regularly have meetings with the judiciary and

17 Supra Note 4

the prosecution department. As per directions of Supreme Court in *Sampurna Behrua vs Union Of India*¹⁸, the District Legal Services Authority conduct sensitization programmes for police officers.

X. Monitoring & Evaluation

The efforts of all agencies need to be continuously monitored and reviewed by one Nodal organization or Steering Committee. In Delhi, a suggestion was mooted to make the Juvenile Justice Committee as the Steering Committee, as it routinely holds meetings comprising stakeholders including the police. Further, in Delhi there is an Intersectoral Coordination Committee which discusses and attempts to resolve issues pertaining to drug addiction. It would be in the fitness of things to have 'District Task Forces' or 'Special Units' working and reporting to the above. The work done can be encapsulated in the form of a **Quarterly Reporting Format** given at the end of the paper.

XI. Conclusion

It is common knowledge that inhalants and psychotropic substances pharmaceutical combinations (like alprazolam diazepam etc.) are widely and easily available. Focus and priority of law enforcement agencies need a paradigm shift. It is inevitable that there would be diversion of manpower & resources, which

are insufficient. However, a concerted effort for a relatively short period of time, a 'blitzkrieg' so as to say, might help in the elimination of these anti-social elements and would ensure a drastic reduction in the overall crime rate. It would be an act of supererogation to highlight the nexus between drug proliferation among children on the one hand, and the rising spate of crimes on the other. Children are increasingly being lured and used by unscrupulous adults. The bait is drugs, be it in the form of inhalants, narcotic drugs such as ganja, psychotropic substances such as smack, pharmaceutical products like Nitrovite (10 number) etc. We need to urgently tackle the core issue and take the bull by the horns, to be able to break the vicious cycle of crime, perpetrated using youngsters, by adults pursuing their nefarious designs.

It is with a sense of urgency that we need to understand that children need to be insulated from the scourge of substance abuse, which has proliferated deep in our societal structure. The UN Secretary General Kofi Annan had once remarked "*there is no trust more sacred than the one the world holds with children. There is no duty more important than ensuring that their rights are respected, that their welfare is protected, that their lives are free from fear and want and that they can grow up in peace*". It is upto us to zealously safeguard their rights. We need to act on a war footing.

18 (2011) 9 SCC 801

EVALUATION FORMAT (QUARTERLY)

S. NO.	ACTION TO BE TAKEN	DEPARTMENT	DETAILS OF WORK DONE	SHORTFALL, IF ANY & REASONS THEREOF
1.	No. of cases registered u/s 18 read with Sec 27 Drugs & Cosmetics Act, 1940 qua unauthorized sale to minors	Drug Controller		
2.	No. of licenses suspended or cancelled under Rule 66 Drugs & Cosmetics Rules, 1945.	Drug Controller		
3.	No. of personnel in Anti-Narcotics Squad	Police		
4.	No. of women personnel in Anti-Narcotics Squad	Police		
5.	No. of Bad Characters externed	Police		
6.	No. of FIRs registered u/s 77 JJ Act, 2015	Police		
7.	No. of FIRs registered u/s 78 JJ Act, 2015	Police		
8.	No. of unauthorized kabadi shops challaned u/s 283 IPC	Police		
9.	No. of authorized/unauthorized kabadi shops challaned u/s 411 IPC	Police		
10.	No. of betel stalls/khokas and liquor vends in the area.	Police		
11.	No. of betel stalls/khokas and liquor vends in the area complying with Rule 56(8) JJ Rules, 2016	Police		
12.	No. of areas where exercise to conduct mapping of distance has been conducted under Rule 56(10) JJ Rules, 2016	Police		
13.	No. of areas where exercise to conduct mapping of distance has been conducted under Section 6 COTPA	Police		
14.	No. of areas where exercise to conduct mapping of distance has been conducted under Rule 51, Delhi Excise Rules, 2009	Police		

S. NO.	ACTION TO BE TAKEN	DEPARTMENT	DETAILS OF WORK DONE	SHORTFALL, IF ANY & REASONS THEREOF
15.	No. of illegal liquor vends removed, including ones running in houses.			
16.	No. of cases where statement of child was recorded under Section 164 CrPC as per Rule 54(13) JJ Rules,2016. (include number of days within registration of FIR within which statement was so recorded)	Police		
17.	No. of cases where TIP applications were moved immediately after arrest of drug peddler, include number of days within registration of FIR within which statement was so recorded)	Police		
18.	No. of CCTVs installed u/s 144 CrPC in vulnerable areas viz. betel shops, liquor vends etc.	Police		
19.	No. of hot spots in the area	Police		
20.	No. of hot spots removed and declared to be 'Drug-free' Zones.	Police		
21.	No. of visits made by DCP/SP to Drug-de addiction centers and to NAs (Source)	Police		
22.	No. of cases investigated where videography was not used, and reasons thereof.	Police, NCB & Drug Controller		
23.	No. of cases investigated where recovery was not effected, and reasons thereof.	Police, NCB & Drug Controller		
24.	No. of cases qua sale of habit-forming drugs, where in addition to Drugs & Cosmetics Act, the NDPS Act is also invoked	Police NCB & Drug Controller		
25.	No. of cases where SBRs (Social Background Reports) prepared by CWPOs give a description of drug peddlers (as per chart)	Police		

S. NO.	ACTION TO BE TAKEN	DEPARTMENT	DETAILS OF WORK DONE	SHORTFALL, IF ANY & REASONS THEREOF
26.	No. of meetings of Drug Disposal Committee and details of contraband incinerated/destroyed.	Police		
27.	No. of meetings of Drug Disposal Committee and details of contraband incinerated/destroyed.	NCB & Police		
28.	No of WhatsApp messages received on 9868505002 (for uploading of images of illicit cultivated area of opium and poppy) by general public	CEIB & CBN		
29.	Details of illicit opium etc. destroyed	CBN		
30.	No. of cases where destruction of illicit crops has been carried out after receiving intel from Delhi Police and NCB	CBN		
31.	No. of cases where steps have been taken under Chapter V & V-A, NDPS Act for confiscation and forfeiture of property derived from, or used in illicit traffic	NCB & Police		
32.	No. of Field Testing Kit(standard sized ND detection kit, Precursors chemical detection kit, Ketamine Detection kits) and Electronic Weighing machine at every PS	NCB & Police		
33.	No. of recipients, and details of rewards given as per reward policy	NCB & Police		
34.	No. of cases in which police sent intimation to the MCD so that unauthorized structures/illegal encroachments of drug peddlers can be demolished or removed	Police		
35.	No. of officers against whom action taken for failure to comply, as per addendum dated 22.03.2018 to S.O 453/2018 issued by the Delhi Police.	Police		

Forensic Examination of Unaccustomed Handwriting in Hindi Script: A Case Study



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ABSTRACT

Disguise may be accomplished by writing with opposite hand from that habitually used for writing i.e. unaccustomed hand writing. Many anonymous communications such as extortion letter, threatening letter, obscene missive, defamation letter etc. are sent by post and usually disguised using unaccustomed hand to avoid identity. The detection of writing characteristics of unaccustomed hand writing is a challenging task for Forensic Document Examiners. One of such cases in Hindi writing produced by unaccustomed hand was successfully reported in the laboratory. The present case study lays emphasis on the extraction of characteristic features of the writing in a threatening letter executed with unaccustomed hand and its comparison with sample writing written with both accustomed and unaccustomed hand are discussed here along with the silent points leading to the identification of the writer.

Keywords: Disguised Writing, Unaccustomed Handprinting, Accustomed Handwriting, Anonymous Communication, Forensic Document Examiner.

INTRODUCTION:

In India, Hindi language is country's official language [1]. Hindi language is an effective medium of communication in India and generally used for committing crimes. The modus operandi [2] has the potential of attracting criminals using Hindi language for committing crimes by writing threatening letter, extortion letter and anonymous letter causing social and mental harassment. Criminals while engaging in criminal activities

have the mind-set of hiding his or her identity and thereby execute disguise writings. In disguise writings the writer intends to impart an appearance of writing which is unlike his own habitual writing and yet maintain a significant level of legibility of the disguised writing [3, 4, 5, 6].

A case was reported and opined successfully related to an anonymous handprinted letter (threatening letter) that was written by the

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unaccustomed hand in Hindi Language. There are a few materials available related to work on examination of unaccustomed handprinting in Hindi language. The available materials are facilitating the points related to examination in English Language but none is available in Hindi language.

James VP Convey, discussed in his book "Evidential Documents" [7] regarding the left and right hand writing which states that the naturally right-handed writer who resorts to his left hand under abnormal writing condition, may adopt awkward counter-clockwise ovals and circles and clumsy left hand uncertainty may be apparent at the turns and upstrokes of the upper and lower loop letters in various English letters.

The essential resemblance between the writing of the two hands is not surprising when it is realised that developed handwriting is substantially the unconscious product of the mind; it is only reasonable to conclude that if a man is blessed with an artistic ability which is expressed in the adoption of a well-proportioned hand-writing, it is unlikely that this quality will be suppressed merely by changing the hand which has acted as the servant of the brain [8].

G.A. Dawson [9] presented a case study on unaccustomed left handprinting in English script. Jannine Zimmerman [10] presented his paper in 1991, ASQDE meeting in Orlando, Florida, titled "Handwriting Identification Based on An Unaccustomed Hand Standard". Several Document Examiners have worked in this context using English as the language and have generated similar results [11,12]. Team could not locate any research paper in

reference to Hindi Script.

DETAILS OF CASE

The present case forwarded by the authority to the laboratory was comprised of disputed writings marked as Q1 (Figure 1) and specimen writings marked as S1, S2, S3 & S4. The disputed handwriting was legible. The specimen writings marked S1 & S2 were written by accustomed or practiced hand which shows smooth line quality and the letters are formed smoothly and shows directness in strokes, gradation of pressure, flying commencing and terminating strokes. These were indication of free natural writing and full control on the writing instrument (Figure 2). The specimen writings marked S3 & S4 were executed by unpractised or unaccustomed hand as shown by the irregular movement of the strokes, sudden change in the direction of strokes which affects the skill level of the writing (Figure 3). These effects were due to the unfamiliarity of the writing hand to execute the letters.

Figure 1: A view of questioned document (Threatening letter) marked as Q1.

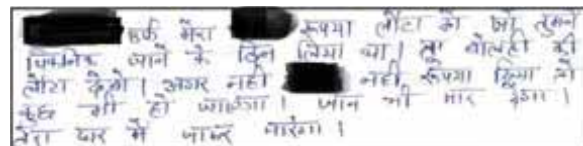


Figure 2: A view of Accustomed Handwriting Sample

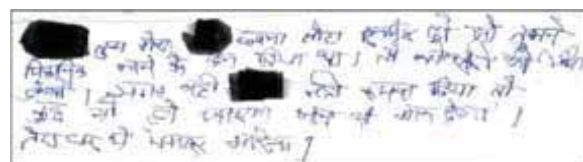


Figure 3: A view of Unaccustomed Handprinting Sample

EXAMINATION OF THE CASE

It was observed that the disputed writings were executed which show painful and laborious strokes. Some important noticeable features of the disputed writings were as follows:

- A) Slow in writing speed, movement (finger movement), show poor line quality, tremulous, irregular size of ovals, change in curvatures of the strokes, abrupt change in pen pressure, erratic motion, lack of coordination and rhythm, disconnections of letters and more spacing between the letters in the words.
- B) A noticeable loss of pen or muscular control that was evident in execution of curves and loops of letters viz. 'व', 'अ', 'घ', 'ज', 'त', 'ल', 'ब', 'भ', 'द', 'ह' etc., erratic turns, abrupt directional changes, wavy nature of overhead stroke in words.
- C) The inability to maintain consistency and quality of letters forms, letters sizes, alignments, terminations and movements (finger).
- D) The inability to maintain consistency in the slope of the particular letters in writing.
- E) More consciousness in execution of punctuation marks and vowel signs.
- F) Some simplifications of complex letters, hesitations and pen stops, uncertainty in succeeding movements of next character.

All these characteristics indicate that the disputed writings were written by unaccustomed hands [13].

The supplied specimens were written by both unaccustomed and accustomed hands. Similar texts of standard writings were supplied. The letters and words were repeated in both accustomed and unaccustomed writings make a suitable standard for detecting the inconspicuous details of the characters for comparison. The specimen written by an unaccustomed hand shows a laborious effort in the construction of letters as they were executed with an untrained hand. The writings were written by slow speed that affects the line quality, movement, pen pressure, rhythm, alignment and slant with a noticeable loss of pen control that dramatically changes the pictorial appearance of the texts. The specimen writings written with both hands show inter-consistency among themselves (Table 1).

3.1 Comparison of characteristics similarities between Handwriting of both Left and Right Hand in specimen writings

The handwriting of both accustomed and unaccustomed hands shows similarity between each other. The letters executed by the unaccustomed hand are larger with zig-zag movements, hesitation, lack of directness of strokes but they show inconspicuous characteristic similarities with accustomed handwriting in execution of letters, nature of commencement and termination of strokes, their movements, relative size and proportion of letters as well as spacing in writing as shown in Table 1.

S. No.	Characteristic Similarities	Accustomed Handwriting Sample (S1 & S2)	Unaccustomed Handprinting Sample (S3 & S4)
1.	The basic pattern and execution of various strokes in Hindi letters viz क, ग, ज, द, न, म, य, र, ह etc a) Termination of strokes of letters 'क', 'द', 'र' and loop of letter 'ग'. b) the location of commencement of letters 'न' and 'र'. c) Curvature of curved body parts of letters 'ज', 'य' and 'ह'. d) execution of letter 'म'.		
2.	The shape of body curve of letter 'द' in words 'दो', 'देबो' and 'देगा'.		
3.	The manner of execution of u-kar "ु" and degree of curvature in body curve of 'त' in 'तुम'.		
4.	Similar manner of execution of vowel signs viz. o-kar "ो", ou-kar, e-kar "ि", ee-kar "ी", u-kar "ु".		
5.	Manner of execution of full stop "।" (Purnaviram in Hindi script).		

Table 1: The comparison of characteristic similarities in between Unaccustomed and Accustomed handprinting.


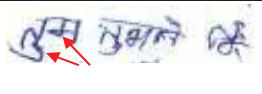

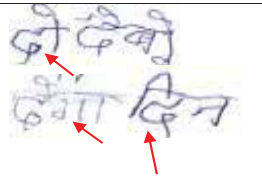
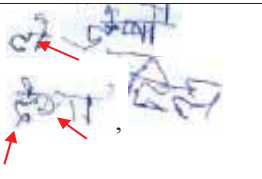
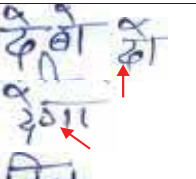

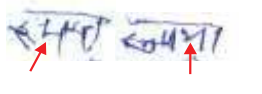
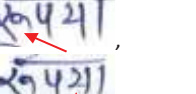
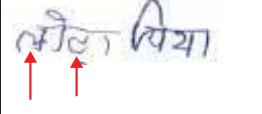
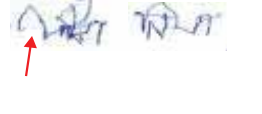
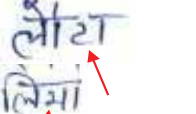
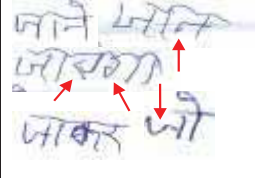
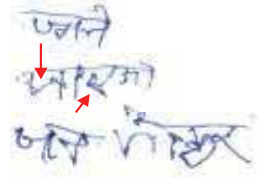
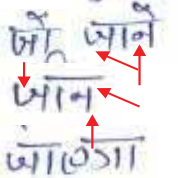

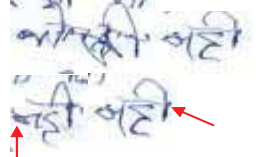
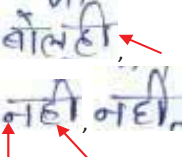
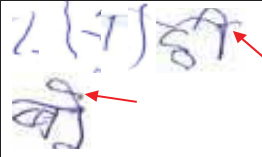
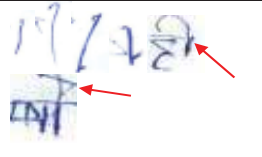
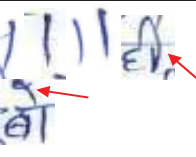
S. No.	Characteristics	Disputed Writing	Known Samples	
			Unaccustomed Handprintings	Accustomed Handwritings
1.	The manner of execution of u-kar “ु” and degree of curvature in the body curve of ‘त’ in ‘तुम’.			
2.	Shape of body curve and termination of letter ‘द’ in words ‘दो’, ‘देबो’ and ‘देगा’, etc.			
3.	Manner of execution of letter ‘रू’; angularity in body curve of letter ‘य’; shape of bowl of letter ‘प’; upper curvature and termination of ‘र’.			
4.	Nature of body curve and termination of letter ‘ल’; connecting stroke with the curved body part in ‘त’; retrace in commencing stroke of vowel sign e-kar “ि” in word ‘लिया’.			
5.	Shape of bowl of letter ‘ज’ and wavy nature of upper head strokes in words ‘जो’, ‘जाने’, ‘जान’ and ‘जाएगा’, etc.			
6.	Shape of body curve of letters ‘ह’; relative location of commencement of loop in letter ‘न’.			
7.	Manner of execution of full stop “।” (Purnaviram in Hindi script). Manner of execution of vowel signs viz. o-kar “ो” and ee-kar “ी”.			

Table 2: Showing characteristic similarities between disputed and known Specimen Handwritings (unaccustomed and accustomed hand).

The letters produced by an unaccustomed hand are generally larger in size than accustomed handwritings counterparts and show the difference in shift of slope (leftward). The vertical strokes are curved, wavy and generally written in haphazardly manner. The writer could not alter the writing habits on the change of hand except uncoordinated and erratic movement of strokes.

CONCLUSION

Although writings executed by unaccustomed hand appears awkward and clumsy but due to graphical maturity of writer the basic patterns of the letters remain the same. Above case study shows that it is possible to express opinion on an unaccustomed hand writing, if collected samplers are suitable and sufficient in quality. In criminal investigation, steps should be taken to obtain request writings of suspects(s) executed with both hands. Once the graphical maturity is achieved by the writer, it is extremely difficult to adapt to new letter formation. The developed writing is the product of unconscious mind and it is unlikely that this quality will be merely suppressed by changing the hand. Writing habits are neurologically fixed and it is difficult to change these to maintain the disguise thus making it possible for the Forensic Document Examiner to conduct examination and arrive at conclusion

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Online Radicalization- Threats, Challenges and Proactive Measures



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ABSTRACT:

The paper discusses the challenge of radicalization in context of internet and possible solution which might be helpful in keeping control on spreading of radicalization through internet. The radicals and political extremists have chosen internet as their favorite tool for spreading their propaganda and recruitment purposes. The internet sans the national and international boundaries has started to affect even the developed nations in continents like Europe and Asia. There is a need to have an international solution in form of international regulatory framework for identification and prosecution of such perpetrators who originates such radical content on internet. Counter narrative is an important factor in de-radicalization, it is also suggested that whenever identified radical content is searched then it can be made possible that counter narrative will be consequently uploaded for the search contents. International organizations, NGOs and corporations may also make collaborative efforts in checking menace of online radicalization.

Keywords: Internet, Radicalization, Counter narrative, Transnational, Online, Website.

We've only begun to think about the strategic implications of how a connected world changes the balance of power among states and we need to put a lot more thought into how to manage that, just as we did after the invention of chemical weapons, nuclear weapons, and drones.

DAVID SANGER, NEW YORK TIMES JOURNALIST.

In the last decade the internet has become an integral part of our life, nearly every group or social entity which forms any important

ingredient of our life is now represented online. This will not come as a surprise that political and religious radicals and terrorists also have used the internet in reaching out to people across different geographical regions. Extremists and radicals are using the internet tools for radicalization and recruitment purposes. "The Internet provides a great opportunity for terror groups to radicalize youth as it is an inexpensive way to connect, communicate, validate by finding out that the thoughts are widely shared and create a collective identity

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transcending national culture and ethos". [1]

Many federal agencies are focusing their efforts on removing and blocking radicalizing data from the internet, but the efforts require multidisciplinary efforts involving various stakeholders which include the Internet Service Provider (ISP) companies, government institutions, NGOs and the users therewith.

There has been various versions what 'on line radicalization stands for', "Online radicalization to violence is the process by which an individual is introduced to an ideological message and belief system that encourages movement from mainstream beliefs toward extreme views, primarily through the use of online media, including social networks such as Facebook, Twitter, and YouTube". [2] "On the other hand, online radicalization may be defined as the set of strategies that are being jointly applied by radical violent groups to consolidate and maintain a transnational audience of supporters. From this perspective, online radicalization is to be understood as a paradigmatic shift likely to explain how individuals become exposed to radicalization in the digital age". [3]

Generally, as individuals immerse themselves in online extremist content, they begin to develop a skewed sense of reality in which their views no longer seem radical. Online interactions with like-minded individuals can substitute for an individual's physical community and create an online social environment similar to that of a gang in which deviant behavior and violence are the norms. Consumers of online extremist content can also develop or increase feelings of superiority, moral outrage, and

desensitization to violence, and willingness to commit acts of violence in furtherance of a particular cause. [4]

While the Islamic State conducts most of its operations in the physical realm, hacking networks like 'Anonymous' rely predominantly on digital capabilities. Despite 'Anonymous' having little, if any, centralized command structure, the group (or individuals claiming to be affiliated with the group) has successfully attacked government agencies, major international corporations, and political figures. Anonymous and the Islamic State both demonstrate a central feature of the digital age: Even decentralized non-state actors can wield considerable power through the acquisition and deployment of cyber capacity. We should expect this trend to intensify quickly. [5]

INTERNET ROLE IN RADICALIZATION

The reason for use of internet by radicals and extremists is the same as the importance is for a normal citizen, the overarching reach of internet with minimum efforts which sans the geographical barriers makes it the favourite tool of radicals. A comprehensive inventory of online activities, therefore, can be said to be relevant and beneficial to extremist/ radical organizations.

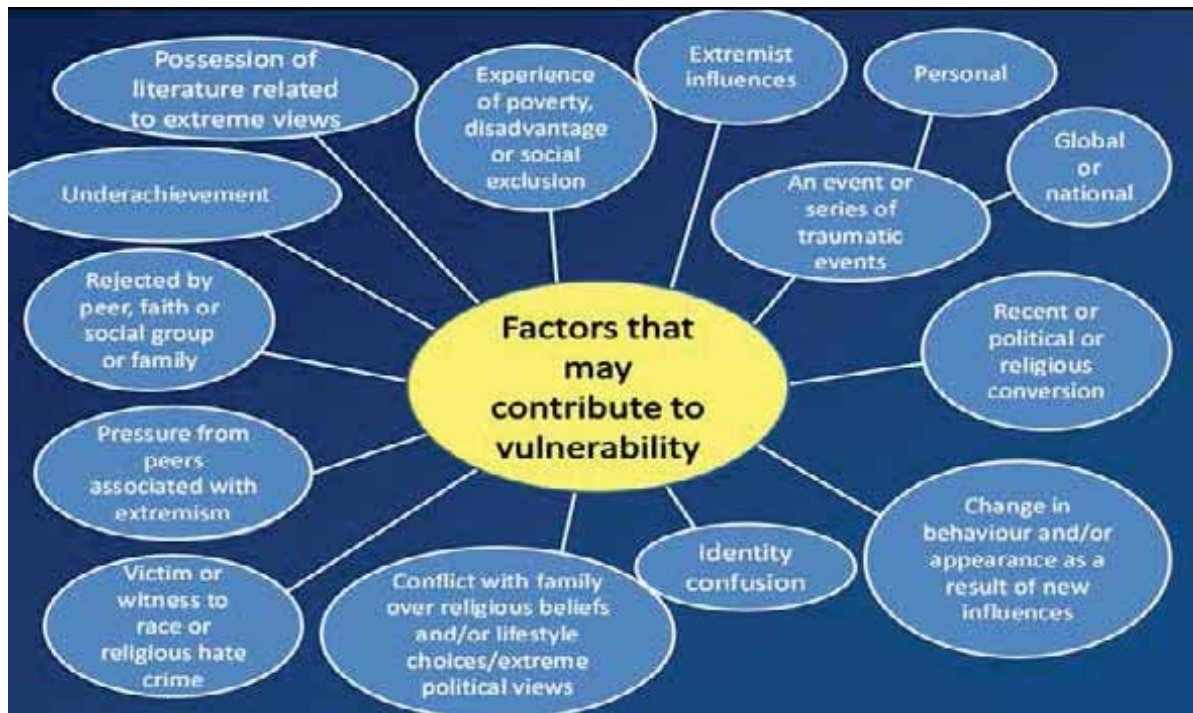
Based on the analysis of benefits of internet over conventional methods of radicalization, there are three aspects of the internet which can be thought of as particularly problematic in the context of radicalization and recruitment described in policy report by International Centre for the Study of Radicalization and Political Violence (ICSR): [6]

- The internet can be used by extremists to illustrate and reinforce ideological messages and/or narratives. Through the internet, potential recruits can gain near-instantaneous access to visually powerful video and imagery which appear to substantiate the extremists' political claims.
- The internet makes it easier to join and integrate into more formal organizations. It provides a comparatively risk-free way for potential recruits to find like-minded individuals and network amongst them, enabling them to reach beyond an isolated core group of conspirators.
- It creates a new social environment in which otherwise unacceptable views and behavior are normalized. Surrounded by other radicals, the internet becomes a

virtual 'echo chamber' in which the most extreme ideas and suggestions receive the great encouragement and support.

Having described the comparative benefits of internet over the other conventional methods of radicalization and subsequent recruitment for the purpose of extremist and violent activities, the following diagram describes the individual vulnerability factors which make susceptible to availability of radical literature on the internet. The diagram identifies the factors of individual in the sociological context and best described as distortions in social harmony at the level of family and society. These factors may even lead to social withdrawal symptoms and crisis of identity, for which a person will long for association and identification with something worthwhile.

Figure: 1



Source: <https://www.sheffield.ac.uk/ssd/safeguarding/prevent/radicalisation>

In European context the digital radicalization is the context of identity crisis and the search for identity politics. The 'online radicalization' is a symptom of 'internal threat' for most of the European States since the governments are witnessing evidence of radicalization from within and they have started to apply self-criticism and reflect on some local, regional and national issues. "In Europe, recruitment of foreign fighters has raised particular concerns with regard to the way second- or third-generation immigrants within local Muslim communities, as well as young individuals recently converted to Islam, are facing a form of identity crisis. As a result, the issue of radicalization in Europe often relies—explicitly and implicitly—on a broad range of debates relating to immigration, cultural integration, and the relationship between secularism and democracy. Over the last two to three years, commentators have ironically faced with a more challenging task when evaluating these parameters, as the debate on radicalization has introduced a trend towards identity politics from which many parties and political leaders have considerably benefited. The European case shows that anticipating radicalization cannot only be achieved by acknowledging existing identity concerns, but also by preventing all political actors from capitalizing on a resultant identity crisis". [7] "The root of radicalization lies in the sociopolitical alienation of a vulnerable individual and according to available literature goes through four stages: what is happening is not right; it is not fair; laying the blame on or demonizing the perceived enemy". [8]

The radicals are offering to target audiences a 'counter culture' and claim to offer an

alternative to Western model of democracy with the option of political theological system. These subjects are mainly vulnerable and are target top online radicalization. The role of 'human interaction' in first person has been replaced by online material with target audiences, though this is also true that at times internet fails to provide the answers to many questions which arise in the minds of target audiences. "The reason for the absence of self-radicalization and self-recruitment online is that real-world social relationships continue to be pivotal. Many experts who have studied the problem have concluded that the internet can support and facilitate but never completely replace direct human contact and the ties of friendship and kinship through which intense personal loyalties form". [9]

METHODS TO CHECK INTERNET BASED RADICALIZATION

Network-Level Filtering

"Filters are specialized software programmes that can restrict access to entire websites, types of online services, specific pages or content within websites, or web pages containing specified keywords". [10] State-mandated filtering is usually carried out by ISPs and can be required as one of the conditions of a company's operating license in a jurisdiction. The state may also install centralized filtering mechanisms through internet exchange points that serve as gateways for internet traffic between different jurisdictions and to - and from - the networks operated by different ISPs. Private or local institutions such as schools and libraries can deploy filters on their own local networks to

block access to certain content. Filters can also be installed at the household level – most commonly by parents seeking to control what content their children can access. [11]

When content or a URL within a specific website it is filtered at the level of network, then only will the users reach the unfiltered part of the website. But when an entire website is filtered at the level of network, the user cannot reach any part of that particular website. Under the second exercise, it is strongly possible that even legal content is also rendered inaccessible to the user. “Depending

on the legal context, ISPs can receive requests, recommendations, and orders for filtering from the government, private third parties, and/or regulatory organizations. Such orders can be communicated on a case-by-case basis directly to the ISP, or in the form of a general ‘blacklist’. ISPs can also offer individual users the option of applying filters to their home and office networks. Freedom of expression can be affected by the reasons for filtering, the practical implementation of the filtering, and the transparency by government and companies about how and why the filtering occurs”. [12]

Figure: 2; represents various methods of preventing objectionable contents on internet.

MEASURE	METHOD	ASSESSMENT
	Removing	
Takedowns	Government tells hosting company to ‘take down’ content of website.	Hosting company needs to be located in same jurisdiction.
Domain name deregistration	Government tells domain name provider to deregister domain name.	Top-level domain (e.g. ‘.uk’) needs to be operated by national registry.
Denial of service attack	Overloading servers or networks with communication requests.	Illegal and, at best, a temporary means of disruption.
	Filtering	
Internet protocol (IP) filtering	Requests for blacklisted IP addresses are intentionally dropped.	Cheap, but blocks all services hosted by a web host (‘overblocking’).
Content filtering (dynamic filtering)	Filtering software ‘sniffs’ all information packets for blacklisted keywords.	Expensive. Also requires ‘white listing’ of permitted websites.
Domain name tampering	During IP ‘lock-up’, requests for banned domain names are dropped.	Cheap, but problems with overblocking. Also, easy to circumvent.
Proxy filtering	Proxy filters decide whether to allow requests for individual webpages.	Expensive. May slow down traffic unless substantial investments are made.
Hybrid IP and proxy filtering	Combines IP and proxy filtering: proxy filtering only for blacklisted IP addresses.	Technically effective. But, like other methods, relies on blacklisting and fails to capture dynamic content.
	Hiding	
Search engine filtering	Search engines drop requests for certain webpages and keywords.	Requires active collaboration of search engine provider.
‘Black hat’ search engine optimisation (SEO)	Manipulating search engines to boost or reduce websites’ page rank.	Widely frowned upon. Utility may be limited.

Source: Countering Online Radicalization: A Strategy for Action (ICSR), p.22

NARRATIVES AND COUNTER NARRATIVES ON INTERNET

Extremist narratives and online radicalization; the Internet is a convenient propaganda tool for extremists for the following reasons. First, online media ranging from video web to interactive forums and social media could cater to different kinds of personality and cultural background. IS propaganda, for instance, consists of varying mixtures of humanitarian and violent elements, depending on the targeted audience. Messages that stress the humanitarian element of the Syrian conflict appeared to be more successful when targeting Western audience as opposed to the Arab one that could relate more to the violence dimension. Second, extremists have managed to establish resilient, multi-lingual online networks by combining various online and social media platforms. "A certain Indonesian Twitter user who translates and re-tweets IS' Arabic and English tweets in Bahasa Indonesia has over 11,000 followers. These networks enable uninterrupted campaigns and constant reproduction of materials to a wider audience. Consequently removing online extremist materials would be a pointless exercise. While many studies have been done on extremist narratives and how they are being propagated, the influence of such propaganda on the audience is often less understood. For example some people who consumed extremist materials online became radicalized but not others". [13] The mechanism and tipping point for violent extremism could vary among different individuals. In fact, individuals actively try to understand the information they receive, and the way they interpret extremist narratives

is largely influenced by their context. For instance, the extremist master narrative that emphasizes injustices on Muslims and the need for revenge might resonate more with someone who has personally experienced discrimination or had difficulties integrating within Western society. Therefore, it is instructive to understand the contextual factors and social milieu that could allow extremist narratives to find resonance.

The study based on role and use of internet by extremists which was undertaken jointly by Digitalis and the Centre on Religion and Geopolitics, explains the function of the search engine has been a blind spot that has been remained neglected for those seeking to measure and counter extremist messages on the internet.

'The findings came in the wake of a spate of attacks in Germany and France, some undertaken by young people radicalized on the internet. The study was entitled "A War of Keywords: How extremists are exploiting the internet and what to do about it," says the most popular search words used were crusader, martyr, kafir (non-believer), khilafa (a pan-Islamic state) or apostate'. [14]

'The study also discovered that from the extremist content accessible through the specific keyword searches, 44% was overtly violent, 36% was non-violent and 20% was political Islamist in context, the last being non-violent but circulated by known Islamist groups with political aims. The study is one of the first to expose the role of the search engine rather than social media in drawing people to extremist jihadi material on the web. It argues the role of the search engine

– a field dominated by Google – has been a blind spot that has been missed by those seeking to measure and counter extremist messages on the internet’. [15]

While the Internet posed new challenges to counter-terrorism, it could also provide some of the solutions. Available analytics tools such as big data and profiling techniques could help gather a large amount of data from social media and extremist online forums that are essential to support any theory on online radicalisation. Long-term solution to online extremism, however, requires more preventive measures through a concerted online and offline efforts. To this end, the role of civil society is indispensable given the significant influence of social context on individual radicalisation. Grassroots initiatives such as youth engagement programmes through sport and arts might be more effective to reach out to young people. Ultimately, education is vital in preventing the spread of extremist ideology. The education system in many countries does not prioritise critical thinking skills. The role of educators, family and civil society organisations in promoting critical thinking is needed to encourage youth to question and challenge assumptions, especially in the current information age.

Finally, counter-narrative remains the key to confronting online extremism. This could be improved through three elements: the message, messaging and messenger. The message promoted in counter-narratives should be positive and not just reactive, such as by promoting the ideology of peace. Counter-strategists could learn from extremist online campaigns to come up with creative

messaging methods that appeal more to the audience. A positive message and appealing campaign strategy would not work well without a credible messenger. Local religious and community leaders have a considerable role in this regard. To move forward, there is a need to bring out more terrorism victims’ voices in order to show the harm inflicted by terrorists to the lives of common people. [16]

In a condemnation of government efforts it finds very little of this content is challenged online. Analysing 47 relevant keywords, the search-engine analysis found counter-narrative content outperformed extremist content in only 11% of the results generated. For the search term khilafah, which has 10,000 global monthly searches, the ratio of extremist content to counter-narrative is nine to one. [17]

Developing, communicating, and publicizing an inclusive counter-narrative to violent extremism is a crucial and tough assignment. It demands international cooperation between the United Nations, governmental bodies, and dedicated expertise. It further requires comprehensiveness, credibility, and extensive accessibility. An inclusive counter-narrative must be able to cover the major aspect of the violent extremist context in question, like the political, historical, socio-psychological, and theological dimensions. It needs to be communicated, promoted, and purported by reliable messengers. For making counter narrative more appealing governments can also involve people who themselves once used violent or extremist means against state authorities. “The current moment is unique; for the first time in the history of Jihadism we are provided with a “critical mass” of former

militants who rebelled, not only against the current jihadists' behaviour but also against the ideology that motivated them. Their message to the younger generations of potential sympathizers and recruits is quite powerful: we were the pioneers of Jihadism and the authors of a large part of its literature. Here are our experiences and here is what went wrong.”[18] “In addition, due to the behavior of violent extremists, multiple other independent, credible messengers have emerged to speak out against the violent behavior and the ideologies promoting it. Those messengers include respectable and independent religious clerics, academic scholars, former officials, and civil society organizations”. [19] “The challenge for the United National and for governments worldwide will be how to capitalize on that unique moment and how to employ the messages, the messengers, and the proper media outlets to create and promote a comprehensive, credible counter-narrative to violent extremism. This article sketches a broad framework for a counter-narrative strategy”. [20]

The role of media in counter narrative is still underutilized. The internet which has taken shape of mass media can be exploited for disseminating the counter narrative versions. The media dimension of the counter-narrative strategy will require multiple tasks: [21]

1. The first task is to analyse the counter-narratives available and highlight their sources of strength, appropriateness for the audience in question, and evaluate the potential impact.
2. The second task is to translate (if required),

summarize, and sometimes simplify the existing and, hopefully, the forthcoming counter-narrative(s). In addition to texts, multi-media forms (for example online videos and audios) should be utilized as propagating tools.

3. The third task is introducing the messengers, their background, and their experiences.

SEARCH ENGINES ADAPTATIONS

Google also tested on a pilot programme that would divert British users searching for words linked to religious extremism to material prepared to counter radicalization. In 2016 Anthony House, Google's senior manager for public policy and communications, told British lawmakers in a parliamentary committee hearing about the pilot initiative, which is targeted at reducing the online influence of groups like ISIS. “We should get the bad stuff down, but it's also extremely important that people are able to find good information, that when people are feeling isolated that when they go online, they find a community of hope, not a community of harm,” House said. [22]

“What was referenced is a pilot Google AdWords Grants program that's in the works right now with a handful of eligible nonprofit organizations,” spokesman William Fitzgerald stated in an interview. “The program will enable NGOs to place counter-radicalization ads against search queries of their choosing.” [23] Hence such adaptations may also be experimented and subsequently launched for worldwide usage.

EMPOWERING REGULATORY FRAMEWORK IN CYBERSPACE

Whenever users send complaints to the service provider about the content which is not suitable or breaches the internal policies, national or international laws, the user has to depend upon the prudence and discretion of ISP. "Most file-sharing and social networking sites have internal reporting mechanisms which allow community members to flag offensive or potentially illegal content as well as material which contravenes the sites' own community guidelines". [24] Although the Code of Practice adopted by the Internet Services Providers Association (ISPA) addresses issues such as legality and decency – including the hosting of 'material inciting violence, cruelty or racial hatred'. [25] Considering the factors mentioned there is need of International body of regulators having intercontinental jurisdiction for such to redress private and national complains in context of objectionable material present on internet.

HOW PREPARED INDIA IS TO TACKLE THIS MENACE?

There have been instances in India where young people are getting radicalized through internet sources and this event is not only evident in people who are technically aware but also there are people who were having basic knowledge of use of internet. Shutting down of internet for some time is the best method used by security agencies for the past few years but it is proving to be counterproductive as it affects the other activities like banking, education, communication etc., so this method typically targets all and affects all adversely.

One main problem is the location of search engines due to which tracking of source is very difficult and security agencies have to depend upon Internet Service Provider (ISP) or the source country where servers are located. The most challenging problem has been posed by use of WhatsApp which used end to end encryption where the chats and other material exchanged among individual is difficult to track and decipher, although after incidents of lynching where the main provocation was spread through this media only Indian government has successfully persuaded to modify the appliance to restrict the number of options for forwarding of messages but the service provider is still not ready to compromise on encryption issue. There is no more problem of tracking of source of messages and photographs sent through WhatsApp for reason that every time any message is forwarded it changes the digital characteristics. So apart from YouTube these appliances which are freely available on internet with strong encryption features are facing stiff challenges to security forces.

India does have some good research and academic institutions like Gujarat Forensic Science University and National Institute of Criminology and Forensic Science where practitioners and researchers are there who are constantly working on such kind of issues but what is expected from such exemplary institutions is collaborate with international institutions of updating and advancement of digital forensics. The knowledge from such institutions is to be disseminated further to the level of district police.

There have been isolated cases of de-radicalization programmes that are being

run by police officers at some jails but these kind of programmes need to be expanded horizontally in society also by taking help of NGOs, counselors, academic institutions etc., India still has to learn from best practices of de-radicalization programmes that are being run in countries like Germany and some South-East Asian countries. It is also important that there has been some kind of social taboo has also attached with de-radicalization programme which needs to be reformed and parents of such targeted young people may be motivated to send their wards voluntarily for such programmes.

CONCLUSION

Any effective strategic effort to counter the online radicalization where the production, launch and reception of such kind of material is made more difficult technically and psychologically less convincing, which includes the following process to be followed;

The production of such online material to be made more difficult, the prosecution of those who are involved to be made more effective by international cooperation and creation of such international investigative organizations having transnational jurisdiction.

Framing code of conduct for Internet Service Providers corporations and devising software for their servers which can block the identified programmes responsible for online radicalization.

The counter narratives are to be made more appealing, like discussed earlier in the paper the counter narratives may be made to get uploaded whenever any website for radicalization is searched also the

counter narratives are to be authored and produced by empirical evidence of persons like theologians, radicals and extremists themselves.

Empowering the users plays a very important role in de-radicalization, in today's world socially connected through internet can be termed as 'internet social and academic community' in which the content audit, deletion and corrections is done by either ISP corporations or web site managers. Like the example of Wikipedia, "Nowhere is this more obvious than in the case of Wikipedia, the online encyclopedia, whose 12 million entries have all been written by volunteers from across the world and can be edited by any registered user. Wikipedia has been criticized for inconsistencies and for being susceptible to acts of online vandalism, though academic studies have shown that such aberrations are usually corrected within minutes". [26]

Indeed, the power of the user-driven model lies precisely in its ability to detect anomalies, self-correct and, over time, build collective institutional memory.[27] In addition to it the reporting mechanism to the service provider and the prompt action therewith in identification of objectionable content and the accountability identification can help the internet communities for bringing down the radical content online. "Most file-sharing and social networking sites have internal reporting mechanisms which allow community members to flag offensive or potentially illegal content as well as material which contravenes the sites' own community guidelines". [28] also the , " Code of Practice adopted by the Internet Services Providers Association (ISPA) addresses issues such as

legality and decency – including the hosting of ‘material inciting violence, cruelty or racial hatred’. [29] But with these provisions strong international mutually agreeable legal framework is required for cyber domain.

The internet transcends the national and geographical boundaries and the online radicalization content are now meant for transnational communities, in addition to technical solutions like censorship, blocking and surveillance we require international regulatory body for policing and prosecuting the offenders. The international organizations like United Nations, and Non-Governmental Organizations and foundations should also be involved in keeping a check on contents available on the internet to check spread of radicalization.

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CERTIFICATE

Certified that above mentioned paper content are original in nature and this paper has not been published in any form or appeared in any publication therewith.

Forensic Evidence Archiving in Crime Scene Investigation

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ABSTRACT

Representation of photograph tells the story behind the mysterious layers of crime scene. Forensic photography is the most imperative feature of any crime scene investigation as it encloses the power to secure the crime scene in the form of pixels. This could help the prosecution and defense to refresh and reinvestigate the crime scene over and over again.

Forensic photography is the amalgamation of both science and art. The prospective of depiction of crime scene and the technology which could visualize latent evidence secures a very important place in crime scene investigation. The advancements in image editing software's and digital photography have explored various applications in the field of forensic sciences.

The use of UV, IR and oblique lighting in the questioned document examination had been described in many studies. The development of latent pattern with non-destructive photographic methods using excitation filters has given a new dimension to latent evidence development science. Moreover, different types of image processing softwares and instruments can help in better understanding of the crime scene. Therefore, recognition and knowledge of recent advancements in the field of forensic photography is the need of the hour. The present review has been conducted to explain technical aspects utilized to capture multivariate attributes present at the scene of crime.

Keywords: Forensic science, Crime scene photography, Forensic Photography, Crime scene investigation, Criminalistics.

Introduction: Crime rate is increasing day by day, as a result new methodologies and techniques of investigation are also developing to exonerate the innocent and to provide justice to the victim. Modern Forensic photography for the very first time

was reported in 1851 in Belgium and had been further utilized to secure crime scene permanently since 1870s. In 1859, united state supreme court gave ruling for the very first time to use photograph for forensic purposes and the images will be admissible

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in court trials. Afterwards, the advancements in the technology has given more power to photography as forensic tool to secure and stretch its wings in the science of criminal identification as well [1] Smith in 1970 said the photographer is expected to produce “something which will convey to the eye of the viewer an accurate reproduction of the scene as it would appear if the viewer actually saw the scene” [2]. By using modern technology, the investigator could attain photographs by means of different range of wavelengths that are in general obscured from normal human vision. These have been used to reproduce arson, accidental crime scene with the help of lens [3]. The use of Alternative light sources, Ultraviolet, Visible and Infrared light source photography for the examination, processing of latent fingerprinting, detection of seminal stains, bloodstains, wound detection, and bite mark analysis had provided new vision to forensic scientist with non-destructive technology[4,5]. The present review highlights the use of necessary equipment used to archive a crime scene and the advancements in the field to produce high definition evidence photographs. The following table represents the items required in a photography kit to study a crime scene:

ITEMS	USE
Camera	35mm digital camera with ten megapixel image sensor for crime scene & evidence photography.
Wide angle lens	28 mm wide angle lens for 35 mm camera . For photographing in space-constricted areas such as in small rooms.

ITEMS	USE
Normal lens	50 mm lens for 35mm camera for most of the photographs.
Close-up accessories	For photography of small items. It includes 1:1 adapters, extension tubes, close-up filters.
Tripod	Used in still & motion photography to prevent camera movement & gives stability.
Filters	For photographing through glass & water. Color filters for photographing with black & white film.
Electronic flash	For lightning evidence & for indoor, outdoor photography at night.
Scale & tape measure	6 to 36 inches scales for photographing of various evidence. Long tape measures for large items.
ABFO#2 scale	For photography of injuries.
Angle finder	For positioning of camera.
Color charts	In injury photography.
18% gray card	As an aid for getting accurate exposures.
Flash light	Helps to see in dark areas.
Photo log , notebook & pen	For recording information of the photographs taken on a crime scene.
Film speed (ISO)	Medium speed film is mostly used i.e. 400 ISO.
Devices for positioning evidence and Scales	Blocks of woods, clamps for positioning evidence 7 in close-up photography.

Techniques used in Forensic Photography

1. Alternate light sources (ALS):

Photography ALS involves lasers, blue or green lights and colored filters that detect processed latent fingerprints

or other hidden and unnoticeable evidence. In forensic investigation, there is an enormous growth in the use of alternate light imaging for both locating and photographing the latent evidence. Serological fluids such as blood, semen, saliva, different types of ink that used to counterfeit documents, bruises or other pattern injuries left on the human body throughout the crime scene could be detected without difficulty with the help of utilization of ALS. A tunable multi wavelength emitter is used to emit a

specific wavelength of light. The light of specific wavelength selected should be able to result in peak fluorescence of the background of the image to be captured whereas the suitable filters are placed in front of the lens to filter the light emitted, so that the area of focus will be enhanced by emission of lower frequency of light. ALS light sources are used in the analysis and identification of bite marks, fingerprints, serological fluids and identification of white restorative materials such as composites [4]

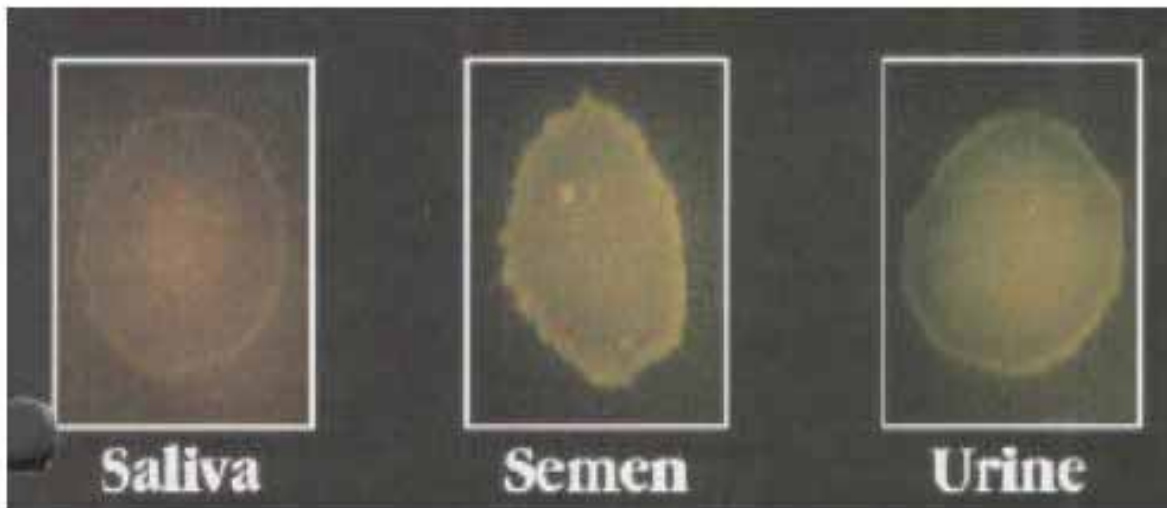


Fig 1 showing latent biological fluids visualized with the help of alternate light sources. After non-destructive visualization, the evidence can be collected from forensic science laboratories for further analysis. Image is cited from <https://dps.mn.gov/divisions/bca/bca-divisions/forensic-science/Pages/forensic-programs-crime-scene-alt-light.aspx>

2. **Oblique light technique:** This technique utilizes one or more lights that are positioned at different angles. If there is only use of one light then a white or silver reflector can be placed on the opposite side of the evidence in order to reflect some of the light back toward

the evidence. It helps in reducing the shadows. The main objective of oblique lighting is to clearly demonstrate the 3 dimensional features of the evidence with high contrast to showcase relevant depth[6]

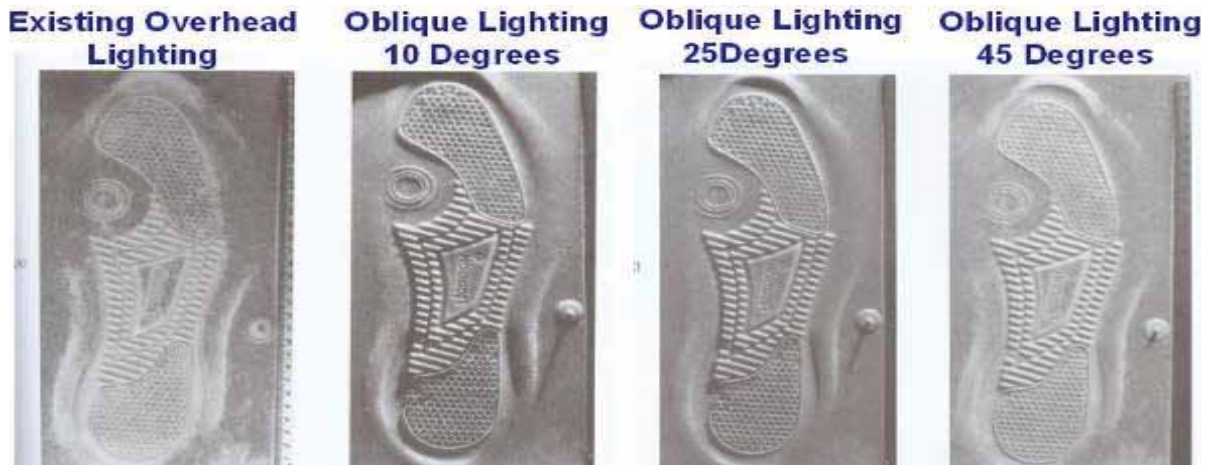
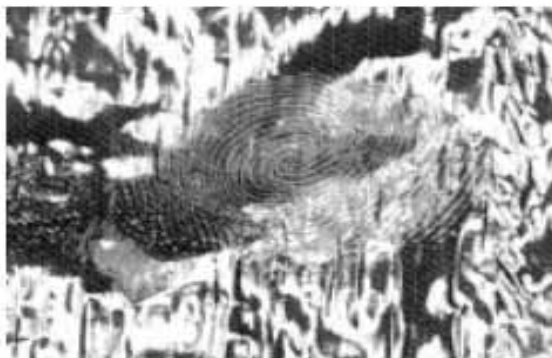


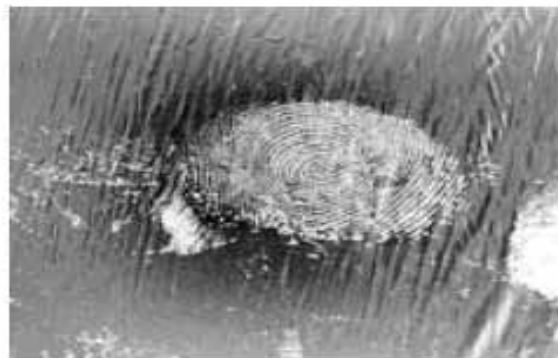
Fig 2 showing the contrast of footprint evidence photographed using oblique light technique overhead, 10°, 25° and 45° angles. Image is cited from <https://tinyurl.com/sl5hv35>

3. Diffused lighting: Diffused lighting is generally used for photographing evidence with shiny or reflective surfaces. In diffused lighting, an opaque material is placed between the light source and the subject to soften the light. It results

in even lighting with reduced reflections and hot spots. The opaque material used can be as simple as a section of a white bed sheet or an empty water bottle, or it can be a commercial device which is designed for laboratory photography[7]



This photograph of a fingerprint on plastic wrap was taken with standard 45-degree lighting. Reflections on the plastic wrap obscure the detail in the fingerprint.



This photograph of a fingerprint on plastic wrap was taken using the diffused lighting provided by the Cloud Dome. The diffused lighting eliminates most reflections.

Fig 3 showing diffused light photography in comparison to oblique light photography. The diffused light photography (right) was able to procure the details better as compared to oblique lighting (left). Image cited from <https://www.crime-scene-investigator.net/closeup.html>

4. Ultraviolet photography is used to capture fingerprints and body fluids such as blood, semen, sweat etc on multicolored surfaces. The ultraviolet photography is usually carried out in three regions i.e UVA (315-400), UVB (280-315) and UVC (100-280). There are some materials that absorb ultraviolet, while others reflect these radiations. A source of ultraviolet is directed at the subject which then reflects this radiation back into the camera. With this technique, it is important to fit an ultraviolet transmission filter over the lens to prevent any visible radiation from impinging on the standard black-and-white film. In this, a filter is used that absorbs all visible light but allows to pass ultraviolet light [4].

5. Infrared photography is used to reveal the contents of documents such as charred

documents, obliterated writings and biological evidence could be captured more effectively with IR photography. This photography is also beneficial to detect health problems like breast tumors, acute abdomen, early diagnosis of severity of burns etc. Photography of gunshot residues on clothing is also done by IR [14, 15]. For, Infrared photography, infrared light is used for image sensors or film. The image sensor is sensitive to infrared light. In infrared photography, wavelength ranges from about 700 nm to about 900 nm. Infrared photography is used to take the photographs of evidence that are invisible to the naked eye. The infrared is longer therefore, it penetrates up to 3 mm below the surface of the skin. Infrared (IR) Light Sources involves Flash Units, Tungsten Lamps, Quartz-halogen lamps[8]

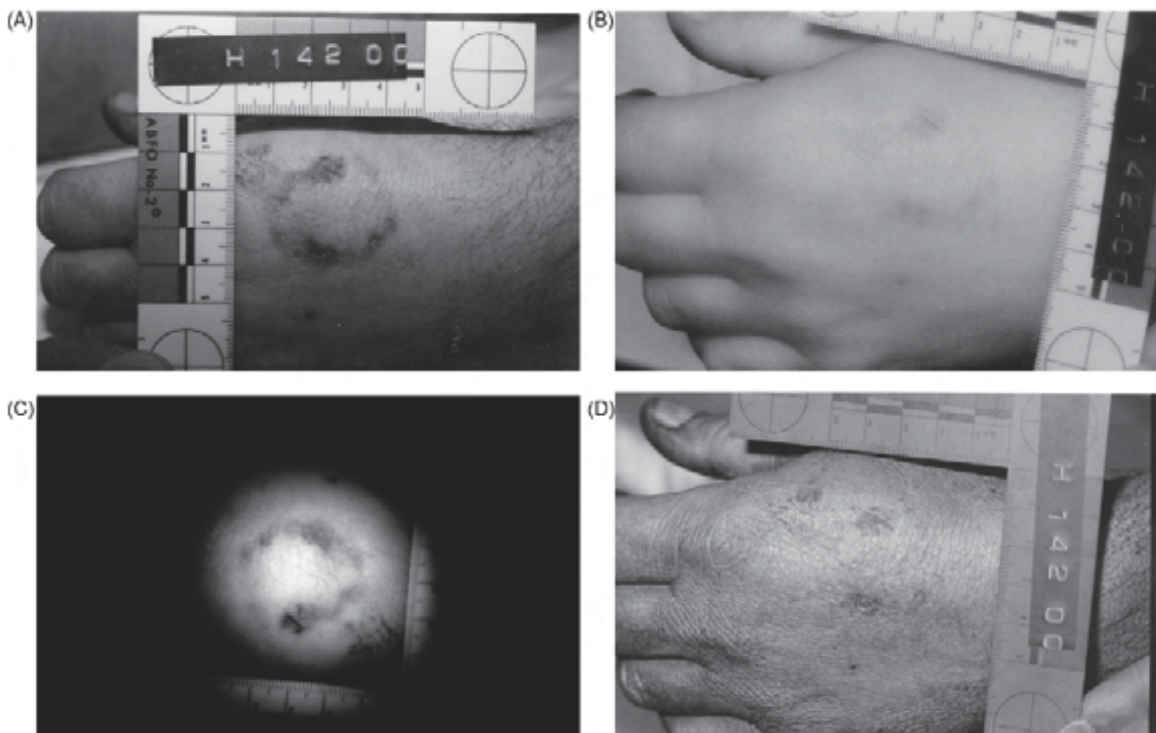


Fig 4 showing (A) Black and White image of bite mark (B) Infrared light photography of same bite mark (c) All images of the same bite mark (D) Uv photograph of bite mark[16]

RECENT ADVANCEMENTS IN FORENSIC PHOTOGRAPHY

The technical names given to drones are unmanned aerial vehicles (UAV), unmanned aerial system (UAS), remotely piloted vehicle (RPV), etc. They are developed in a wide variety of size, shape and functions. They are radio controlled planes or multi-rotor copters. Their programming may be managed either by remote or control systems from the ground. A drone is a sophisticated and an advanced tool in the field of robotics, aeronautics and electronics. The technical names given to drones are unmanned aerial vehicles (UAV), unmanned aerial system (UAS).

- 1. DRONES:** In drones, LIDAR (Light Illumination Detection and Ranging) technology is embedded which could be utilized to digitally map the whole crime scene by emitting highly coherent laser light that hits the surface of evidence and crime scene. The programming of drones can be managed either by remote or control systems from the ground. Investigator has to face so many problems while doing the crime scene investigation due to the complicated nature of crime scene such as crime scene on hilly areas, secondary crime scenes & evidence may be on lower hilly areas. So, in such cases, drones are used for doing photography. The technical names of drone are unmanned aerial vehicles (UAV), unmanned aerial systems (UAS), remotely piloted vehicles (RPV) etc. Evidence are photographed without disturbance such as in lakes, mountains, ponds, slopes etc. It can be flown to a considerable height in rural areas, forest region or over the water bodies. The programming of drones can be managed either by remotes or by the control systems from the ground[9].
- 2. CAD** programme could be useful for forensic scientists in the crime scene documentation to produce 2-D drawings of crime scene to scale sketching in digital format. CAD can help to reconstruct path of bullets and can also be used to construct a 3D-image of an object [10].
- 3. Amped software:** This software is used for the analysis, enhancement and the authentication of images and video for forensic security, investigative and military applications. The application is used for the purpose of authentication and detection of any kind of alteration. It basically helps in examining whether the image is unaltered or in an altered stage. Depending upon the state, whether the photograph can be used in court of law or not [11].
- 4. Forensically:** is a kind of magnifying glass that involves the free set of tools for digital image forensics. It is useful to see the hidden information and details. It involves clone detector that detects whether manipulation has been done with the photograph, the picture or not. It detects and highlights copied regions within an image, noise analysis that included the utilization of a super simple separable median filter to separate the noise. It is beneficial to examine certain types of manipulations for example airbrushing, deformation, warping and perspective corrected cloning[12].

5. **JPEG Snoop** is a window application which is utilized to examine the source of an image to check its authenticity. It examines and decodes the internal particulars of JPEG and photoshop files. A digital photo contains some hidden information and JPEG Snoop used to expose those details[13].
6. **Ghiro** is a software used for digital photo and image forensics .The forensic analysis is a fully automated, report data that can be searched in different perspective. It involves an error level analysis that is to detect an image if edited or not[14].
7. **IzitrU**- It is basic photo forensic software that gives out true or false answer. It verifies the digital photo authenticity. Whenever an image is uploaded to izitrU, standard tests determine whether it is an unmodified original from a digital camera[14].
8. **Fotoforensics** tool utilizes an error level analysis to identify areas of different compression level within an image. It performs the evaluation process. It helps to understand whether the picture has been edited or not. It highlights the artifacts and details that may not be able to identify by human eye[14].
9. **Adobe Photoshop:** The software can be used as work station to analyze fingerprints in juxtaposition for easy comparison without manual loops. Various tools available in the software can help in counting, measuring distances and forming presentable evidence for court room trials [15].

CONCLUSIONS:

The primary standard of crime scene recording is to give visual and permanent record of an accident or crime scene. Forensic photography helps to know the bit and pieces of a scene of crime with exact measurement of sites and evidence. In Forensic photography helps to link the suspect with the scene of crime by analyzing the captured images of evidence and it aids in demonstrating the corpus delicti and modus operandi in certain cases. Forensic photography helps to establish the whole story of any case and to exonerate the innocent. Utilization of forensic photography to its full potential while maintaining a chain of custody can help Indian judiciary system to understand and resolve cases rapidly and more accurately.

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WEB SOURCES

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- <https://www.crime-scene-investigator.net/closeup.html>
- <https://tinyurl.com/sl5hv35>

Public Interest Litigation and Social Change in Society - An Overview



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ABSTRACT

Public Interest Litigation is the need of the hour and a weapon in the hands of public to protect their rights whether fundamental or human. And through PIL, courts can also improve their image because everyone is reluctant to approach courts due to its lengthy procedure according to a famous saying that 'Justice delayed is justice denied and justice hurried is justice buried.' So it is a benevolent piece of justice but it should be used in right perspective only because some persons abuse it for achieving their own missions under the veil of social purpose.

KEYWORDS

Public Interest Litigation, Constitution, Writs, Legal rights, Fundamental rights, administration, Habeas Corpus, Mandamus, Quo-Warranto, Certiorari, Prohibition, Judicial system, Social change, Society.

PRELUDE-

Public interest litigation broadly defined as 'Litigation for the protection of public interest'. Its unambiguous purpose is to pull apart the suffering of all those who have borne the brunt of insensible dealing at the hands of fellow human being. Eloquence in public life is a fair judicial action is the right answer to check increasing risk of infringement of legal rights. It develops a new jurisprudence of the responsibility of the state for Constitutional and legal violations adversely upsetting the interest of the weaker elements in society. The courts in India, in a series of creative steps, responded to the clarion call for justice

to be done. They relied on the wide power in the constitution and other sources such as the Directive principles, in India to develop a proper method to advance and protect fundamental rights and use this power to promote a public interest litigation system to fulfil the constitutional promise of social and economic orders based on equality. Energetic and intellectual members of the judiciary exercised their insight into rebalancing the distribution of legal resources, increase access to justice for the disadvantaged and permeate formal legal guarantees with a substantive and positive content. This trend shows austere difference between the

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traditional justice delivery system and the modern informal justice system where the judiciary is performing administrative judicial role¹.

The marvellous efforts of justice P.N Bagwati and Justice V.R. Krishna Iyer were instrumental in justice revolution of the eighties as a result any citizen of India or any consumer groups or social action groups can approach the apex court of the country for seeking legal remedies in all cases where the interests of general public or a section of public are at stake. Public interest cases could be filed without the investment of heavy court fees as required in private civil litigation.

The charter in its preamble has solemnly resolved to secure to all of us social justice and in its Article 38 has commanded the state to service to promote the welfare of the people by securing and protecting a social order in which social justice reform all institutions of our national life. The main and only focus of such litigation is only 'Public Interest'.² Public interest litigation can be filed when the following conditions are fulfilled there must be a public injury and public wrongful act or omission of the state or public authority.³

MEANING OF PIL

The term Public Interest litigation is made from two words Public Interest and litigation the word Public Interest an expression which indicates something in which the general public or the community at large has some pecuniary interest or some interest by which

their legal rights or liabilities are affected. The world litigation on the other hand means a legal action including all legal proceedings initiated in a court of law with the purpose of enforcing a right or seeking a remedy'.⁴'Public interest' means an act beneficial to public in general. It connotes action necessarily taken for public interest.⁵

Simply, Public Interest litigation means any public spirited citizen can approach the court under Article 32 of the constitution or the High court under Article 226 of the Constitution or before the court of magistrate under Section 133 of the code of criminal procedure 1973.⁶ Public Interest law does not define a body of law or a legal field the term was adopted to define whom the public Interest lawyers were expressive rather than what matters they would work on. A significant current in public interest lawering has always emphasized the need to provide legal services to those living in poverty. A large community of lawyers practices public interest law in the form of providing legal assistance free of charge to those who cannot afford to pay for it.⁷ As per Ramanatha Iyer's, Law Lexicon *pro bono* is defined as litigation for the public good for the benefit of the community as a whole. (*Pro bono publico*) constitutes a significant place in dispensation of justice in the present judicial system.⁸

Public Interest Litigation has been playing a vital role in safeguarding the rights of

1 DR. Mrs. Saroj Bohra Manuputra Article Public interest litigation.
2 Available at: <https://www.laywersclubindia.com/Article-constitutional-law> (Last visited on 20-7-2017).
3 Available at: <https://www.kamayog.org/pil/article/11839.html> (Last visited on 23-7-2017).

4 Available at: <https://www.lawctopus.com/academeke/public-interest-litigation-2711> (Last visited on 15/1/2018).
5 Id. at 15.
6 Pritam Kumar Ghose, 1(1) Galgotia's Journal of Legal Studies GJLS IISN 2321-1997 (2013) Available at: law.galgotiauniversity.edu.in/pdf/issue6.Pdf. (Last visited on 2/2/2018).
7 Supra note 3.
8 Ramanatha Iyer's Law Lexicon. Available at: <https://www.legalblog.com/definitions> (Last visited on 12/2/2018).

a common man, especially women and children. The other matters relating to PIL are normally against pollution, disturbance of ecological balance, drugs, abuse of food adulteration act, against maintenance of heritage and safeguarding culture, forest and wild life and other matters of public importance. Public Interest Litigation is an important mechanism of social variation. It is working for the welfare of the needy living in society. In the traditional adversarial system, the poor, indigent or illiterate person could not enforce the rights given to them by law because of poverty or ignorance nor could they afford to move the court particularly against the living in society rich, mighty or resourceful adversaries. It was so because prior to the herald of PIL in India during 1980 only the aggrieved party could move the court and seek redress for his grievance. In other words, any other person not personally affected could not knock the doors of justice excepting the victim or the aggrieved party himself because only the affected party had the *Locus standi* and persons not affected had no *Locus standi* to do so.⁹

TREATING LETTER AS A WRIT PETITION

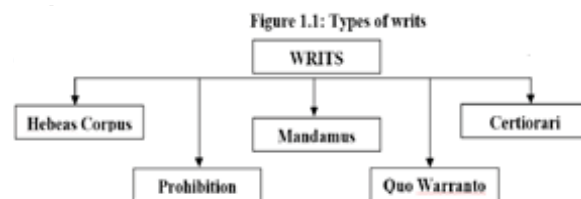
In the early stages of liberalization of *locus standi* the court often has said that the procedure being a handmaiden of justice cannot stand in the way of access to justice to the weaker sections of society. Court would not insist on a regular Writ petition. The letter has been converted into Writ petitions on the logic that Article 32(1) of the constitution does not say as to 'Who' shall have the right to move the Supreme Court nor does it say by 'What' proceedings. The word 'appropriate

proceedings is too wide and so moving the court through a letter can be an appropriate proceeding because it would not be right to expect a person substitute *pro bono publico* to acquire expenses for having a regular writ petition arranged by a lawyer. It has to be appropriate not in terms of any particular form, but appropriate with reference to the purpose of the proceeding.¹⁰ In ***Sunil Batra vs. Delhi Administration***,¹¹ The court accepted a letter written to the court by Sunil Batra, a prisoner from Tihar jail, Delhi complaining of inhuman treatment meted out to fellow prisoners. Court treated the writ petition, allowed the petition and issued directions to the authorities concerned.

There are mainly five types of writs.¹²

- Habeas Corpus.
- Mandamus.
- Quo-Warranto.
- Certiorari.
- Prohibition.

Figure 1.1: Types of writs



Summary- Above figure 1.1 shows the five types of writs. The writ jurisdiction of the Supreme Court and High Court under Articles 32 and 226 respectively has played an important role in development of Public Interest Litigation in India. The writ jurisdiction of higher courts is invariable

¹⁰ Ibid.

¹¹ AIR 1980 SC 1579.

¹² Dr. J.N Pandey 'The Constitution Law of India' (2009) 691.

⁹ Supra note 4.

invoked requesting the court to issue necessary orders directing the executive or the Legislative authorities to desist from continuing its unconstitutional act or perform its Constitutional obligation which it has omitted or neglected to do.

1. **Habeas Corpus**– literally means “you may have the body”. The writ is issued in the form of an order issued by the High Court calling upon a person, by whom another person is detained, to bring the detenu earlier the court and to let the court know by what ability he has detained that person. The object of the writ is to give a quick and immediate remedy to a person for his release from an unlawful detention. In *Kanu Sanyal vs. District Magistrate, Darjeeling*,¹³ the court ruled that in writ of habeas corpus under Article 32, the production of the body of the detenu before the court was not compulsory for hearing besides disposing of the writ petition by the court.

The General rule is that an application for the writ of habeas corpus can be made by a person who is legally detained. However, a friend or a relative or an advocate of the detenu may also file an application for Habeas corpus.

2. **Mandamus**– The term mandamus means “the order”. The writ of mandamus is thus a command issued by the court, asking a public authority, to perform a public duty belonging to its office. It is an order issued by a court commanding a public authority to do some particular act which appertains to its office and is in the nature of a public duty. In the case *S.M. Borkar vs. State of Karnataka*,¹⁴ Mandamus is issued only when a legal

duty is imposed on a public authority in the performance of which the petitioner has a legal right. The writ cannot be issued just like that. The petitioner must have a judicially enforceable right as well as legally protected right. In *Union of India vs. Kishan K. Sharma*,¹⁵ the Apex Court ruled the High Court could not issue a writ of mandamus directing the central Government to grant a scale of pay in favour of the respondents.

3. **Quo warranto**– means “What is your authority” or “Warrant your authority”. The writ of Quo warranto is issued against the holder of a public office calling upon him to show with what authority he holds that office. The writ is issued to oust a person from an office to which he is not entitled. It is issued against the usurper of an office. The object to confer jurisdiction upon the judiciary to control the executive action in making the appointment to public offices and also to protect the public from usurpers of public offices. In *J.D. Karkare vs. T.L. Shavade*,¹⁶ the court issued the writ of Quo Warranto against the Advocate General of the State, who was found not qualified to hold that office. In *P.L. Lakhanpal vs. Justice A.N. Ray*,¹⁷ the petitioner challenge the appointment of Justice A.N. Ray, who was junior to three judges of the Supreme Court, as the Chief Justice of India. Earlier, the court could decide the writ, the persons senior to him had resigned from office; as a result, the respondent became the senior most judge of the Supreme Court. The writ was refused as it had become futile.
4. **Prohibition**– The term prohibition means “to prohibit”. The writ is issued primarily

13 AIR 1973 SC 2684.

14 AIR 2007 (NOC) 1382 (Kar).

15 AIR 2004 (1) 59.

16 AIR 1952 Nag 330.

17 AIR 1975 Del. 66.

to prevent an inferior court or tribunal from exceeding its jurisdiction or acting contrary to the rules of natural justice, and to keep them, within the limits of their jurisdiction. The writ commands the court or tribunals to whom it is issued to refrain from doing something which it is about to do, which is not within its jurisdiction or power. The writ of prohibition is a jurisdictional writ and is issued in both cases, i.e., where there are excess of jurisdiction and where there is want of jurisdiction. In the case ***Sewpujanrai I. Ltd. vs. Collector of Customs***,¹⁸ it might happen that the proceedings of an inferior court to tribunal are partly within and without jurisdiction. In that case, prohibition will lie against doing what is an excess of jurisdiction.

5. **Certiorari**– means “to certify” The writ of certiorari is an order issued to an inferior court or tribunal to transmit to it the record of proceedings pending with them for scrutiny and it is necessary, for quashing the same. The writ of certiorari may be issued whenever anybody of persons having legal authority to determine question affecting the right of subjects, acts in excess of their authority. In ***State of Bihar vs. Ganguly***,¹⁹ the writ of Certiorari lies against Judicial or quasi-judicial authorities. It is issued only if the act done by the inferior body or authority is a “judicial” act which term includes the concept of “quasi-judicial” act.

SOCIAL ISSUES AND PUBLIC INTEREST LITIGATION

There are some social issues in society. Some issues are major problems in society. These problems are protected through the PIL.

18 AIR 1958 SC 845.

19 AIR 1958 SC 1018.

- 1 Child Labour and PIL
- 2 Environment and PIL
- 3 Corruption and PIL
- 4 Public health and PIL

PIL MUST PROMOTE GOOD FAITH AND MAINTENANCE OF SOCIAL BALANCE

So the courts must do justice by promoting good faith, and stop law from crafty invasions. Courts must sustain the social stability by prying where obligatory for the sake of justice and reject to restrict where it is beside the social interest and public good.²⁰ The PIL proceedings of superior courts not only assure enforcement of fundamental rights of the citizens but also make sure that the government and its officials or authorities discharge their constitutional functions. The non-governmental organizations and social activists, through PIL petitions bring to the notice of the court the matters which are of vital public importance with a view to ensuring socio-economic justice to all sections of society irrespective of their social or economic status thereby re-affirming people’s faith in the rule of law.²¹

IMPORTANCE OF PIL IN A WELFARE STATE

India being a welfare state, there are several provisions in the Constitution which have led to the origin and development of the concept of public interest action in India. The preamble of the Constitution seeks to secure all its citizens to socio-economic justice, liberty of thought, expression, belief, faith and worship; fraternity and dignity of the individual and unity and integrity of the nation. Article 38²² of the Constitution directs the states to

20 Ibid.

21 Ibid.

22 State to secure a social order for the promotion of welfare of the people (1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life. (2) The State shall, in particular, strive to minimize the inequalities in income, and endeavour to eliminate inequalities in status, facilities and

ensure every citizen socio-economic and political justice. Similarly Article 39²³ provides for distributive justice so that citizens may enjoy their natural rights and live with dignity. Article 39-A²⁴ further directs the state to provide free legal aid to poor and indigent persons so that they are not deprived of their right to seek justice through a court of law. Public Interest Litigation cover approaches a novel command of human rights by giving a broader elucidation to the right to equality, life and personal liberty guaranteed under part III²⁵ of the Indian Constitution²⁶.

Some of the human rights developed as a result of public interest litigation are; Right to education, Right to live with dignity, Right to clean environment, Right to free legal aid and speedy trial, protection against sexual harassment at work place etc. Public interest litigation has announced new categories of remedies or reliefs under Writ jurisdiction such as Interim compensation to the victim. Public interest litigation also purposes as a device for social change in a developing

country like India PIL functions as an effective device for the social welfare.²⁷

DYNAMIC APPROACH- PIL

The Traditional rule of *locus standi* that a petition under Article 32²⁸ can only be filed by a person whose fundamental right is infringed has now been considerably relaxed by the Supreme Court in its recent rulings. The Court now permits Public Interest Litigations or Social Interest Litigations at the instance of 'Public Spirited Citizens' for the enforcement of Constitutional and other legal rights of any person who because of their poverty or socially or economically disadvantaged position are unable to approach the Court itself.²⁹

SOCIAL CHANGE AND PUBLIC INTEREST LITIGATION

Professor Upendra Baxi, former Vice-Chancellor of Delhi University and a well-known legal academician as also a social activist prefers to call 'public interest litigation' as 'social action litigation' because these cases are generally brought to the notice of the court by social activists or organizations who are working for the welfare of society. It must be stated that public interest litigation involves cases relating to welfare of the poor and marginalized sections of society by protecting social, legal and Constitutional rights and interests. Thus the Public Interest Litigation has played an important role in bringing courts nearer to the people and therefore, earned sufficient validity and credibility over the years. The decisions of the courts in PIL cases have been highly praised by one and all being in the interest of the public welfare and socio-economic development of the nation. For example, the dispute between the state of Tamil Nadu and Karnataka over the Cauvery river water was

opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

23 Article 39 of Constitutional law provides. Certain principles of policy to be followed by the State: The State shall, in particular, direct its policy towards securing; (a) that the citizens, men and women equally, have the right to an adequate means to livelihood; (b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good; (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment; (d) that there is equal pay for equal work for both men and women; (e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength; (f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

24 39A. Equal justice and free legal aid-The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

25 Part III of the Constitution contains long list of fundamental rights.

26 Available at: www.learninglaw.in/2016/07/nature-and-importance-of-public-Interest-litigation.html (Last visited on 9/9/17).

27 Ibid.

28 Supra note 4.

29 Supra note 13 at 355

settled by Public Interest Litigation wherein the mighty and powerful chief Minister of the state of Tamil Nadu Miss Jai Lalitha had to ask the court for an unconditional pardon for raising this prolonged dispute with the neighbouring state of Karnataka.³⁰

Social change is the necessity of any society. In India it is complete through Public Interest Litigation. The Jurisprudence of PIL is essential to appreciate the nature of PIL in India. PIL is working as an Instrument of social change. It is working for the safety of each unit of society. It's the sword of every one used only for seeking justice. The modernisation of this legitimate gadget proved beneficial for the developing country like India. PIL has been used as an approach to combating the atrocities prevailing in society.³¹ PIL puts emphasis on law as influential and purposive— a site and vehicle for assessing and matching official prerogatives and limits to state policy. The idea of the rule of law/ legal system as an agent of social change and development is contested terrain.³² The rule

30 Ibid.

31 Available at: www.ngosIndia.com/article8/3/2015 (Last visited on 16/3/2018).

32 In one view, Ghai (1991) sees law as a dependent and not an independent variable, a reflection of underlying socio- economic realities and legal change is not viewed as a fruitful way of effectuating social change. In another view, Brenner (1990) argues that economic problems emanate from a weak tradition of law generally and the rule of law specifically and that the legal system should be accorded a high development priority. He assumes that the legal system can play a transformatory role, despite the pervasiveness of social/economic /cultural forces antithetical to such a role. An intermediate position is taken by Cooter (1994, 1995, 1996) states that developing countries should rely less on "top-down" statutory and regulatory law and more on judicial and statutory codification of selective existing social norms that are conducive to efficient forms of cooperation rather than appropriation. (Trebilcock, "What makes poor countries poor?"). Tamanaha holds that modern law is necessary, though not sufficient for economic development. Legal reform was important because the world market system was gradually resulting in a global homogenization of commercial laws. To partake in this system required a minimum infrastructure of the laws and institutions necessary to enforce them. He also feels that the quality of life of developing countries will improve if they develop their own variant of the minimum content of the rule of law— such as ensuring that the government acts according to the rules produced in the political arena and respects the civil rights of citizens, and that there is a judicial body to resort to that embodies the ethic of treating all cases before it neutrally and fairly. (Brian Tamanaha, "The lessons of law and development

of law to the extent that it guarantees human freedoms, has an intrinsic value independent of its effect on various other measures of development. By interpreting parts III³³ and IV³⁴ of the constitution together it has created a normative foundation for establishing a linkage between law and social change.

The court has also evolved new remedies to induce an affirmative action on the part of the state, better enforce constitutional or statutory guarantees that specifically promote developmental goals, and to set the direction for change and monitor its implementation.³⁵ The Court now permits Public Interest Litigations or Social Interest litigations at the instance of 'Public spirited citizens' for the enforcement of their poverty or socially or economically disadvantaged position are unable to approach the court for relief. Under the Indian scenario, this is an effective remedy available to an ordinary person, to seek redressal for the harm suffered. As an effect of this broad view of *locus standi* permitting Public Interest Litigation or social action Litigation.³⁶

Studies") Carothers finds that rather than mere enactment of laws, considerable investment in changing the conditions for implementation and enforcement of laws and government compliance with laws are necessary. (Thomas Carothers, "The rule of law revival"). Trebilcock concludes that incremental reform in the interstices of institutional structures/subsystems of developing countries is likely to be more effective than promoting changes in entire regime types. He asserts along with Tamanaha and Carothers, that a minimalist, procedurally oriented rule of law is a necessary, albeit not sufficient, condition for a just legal system. He finds that there are important connections between legal institutional reform and political reform since the effectiveness of legal institutions are contingent upon the effectiveness of a number of other institutions. (Trebilcock, "What makes poor countries poor?").

33 Supra note 26.

34 Part IV of the Constitutional law of India-Directive principles of state policy (Article 36-51).

35 Kerry Rittich, "The future of law and development: second generation reforms and the incorporation of the social" in David, M. Trubeck & Alvaro Santos, eds., 'The new law and economic development: a critical appraisal' (Cambridge University Press, Cambridge, 2006).

36 Sammaiah Mundrathi, Law on Compensation to Victims of Crime and Abuse of Power 135 (Deep & Deep Publications, New Delhi, 2007).

Table 1.1: Changes under the society by writs pre-position through the PIL

S. no.	Name of cases	Citation	Pre-position	After position
1	Sunil Batra vs. Delhi Administration	AIR 1980 SC 1579	Inhuman treatment meted out to fellow prisoners	The court observed prisoners are persons not animal as such their fundamental right to do not cease to exist, however certain reasonable restrictions may be imposed on them. Court issued direction, allowed the petition and issued direction to the authorities concerned.
2	Bandhua Mukti Morcha vs. Union of India	AIR 1984 SC 802	Inhuman, intolerable, Miserable conditions of Labourers, unfortunately the workers who are emplaced as bonded labourers at as distant place deprive of their fundamental rights.	The Letter was written by a dedicated organization and was that the worker in the petition, Bandhua Mukti Morcha, is an organization dedicated to the cause of release bounded labourers. The petitioner conducted a survey of some of the quarries in Faridabad district near the city of Delhi. Proper implementation of Bonded Labour System (Abolition) Act, 1976
3	Vishakha vs. State of Rajasthan	AIR1997SC3011	Sexual harassment of women at workplaces. Gang rape of Social Worker in village of Rajasthan.	Guidelines issued by Supreme Court in all work places for the Preservation and enforcement of the right to gender equality of the working women.

S. no.	Name of cases	Citation	Pre-position	After position
4	M.C, Mehta vs. State of Tamil Nadu	AIR1997SC669	Child working in match factories	The Apex Court held that children cannot be employed in match factories. Article 39(f) of the Constitution provides that the state should direct its policy towards securing that children are given opportunities and facilities to develop in a health manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment. Article 45 meant to be subjected to free and compulsory education until they complete the age of 14 years.
5	Mukesh Advani vs. State of Madhya Pradesh	AIR1985 SC 1363	Children work in hazardous places like mines construction.	The Apex court held that children cannot be employed within the meaning of Child Labour Act 1986.
6	Sheela Barse vs. State of Maharashtra	AIR 1983 SC 1213	Custodial violence against women prisoners	The court issue guidelines for the safety and security of women suspect or prisoners. The term life in Article 21 covers the living conditions of the prisoners prevailing in jails. The prisoners are also entitled to the benefit of the guarantees provided in the Article 21 subject to reasonable restriction.

S. no.	Name of cases	Citation	Pre-position	After position
7	M.C. Mehta vs. Union of India	AIR1988 SC 2963	IT Involved in violation of the right of the citizens to pollution free water and air for enjoyment of life.	The court observed that despite comprehensive law on prevention of water pollution and protection of environment. There are water pollution controls Act 1986 for the protection of environment. The Supreme Court ordered immediate closure of those tanneries of Jajamhow, near Kanpur which had filed to treat their dirty water before discharging it into the river of Ganga.
8	Hussainara Khaton vs. State of Bihar	AIR1979 SC 1360	In this case, the attention of the court on the Incredible situation of undertrial in Bihar. The court expressed grave concern at the distressing conditions of under trials in jails of Bihar and observed that incarceration of under trials that had virtually spent their whole period of sentence was clearly illegal and a blatant violation of their fundamental right guaranteed under Article 21 of the Constitution.	The court not only proceeded to make the right to a speedy trial and passed the order of general release of close to 40,000 under-trials who had undergone detention beyond such maximum period. The court held that Speedy trial is a constitutional mandate and the state cannot avoid its constitutional obligation by pleading financial or administrative inability.

S. no.	Name of cases	Citation	Pre-position	After position
9	Parmanand Katara vs. Union of India	AIR1995SC2039	Newspaper report concerning the death of a scooterist after an accident with a speeding car	Supreme Court held that preservation of human life is a paramount importance. Every doctor at a government hospital or otherwise has the professional obligations to extend his/her services to protect life.
10	ADM vs. Shivekant Sukla	AIR 1976 SC	Fundamental right case	Supreme Court held that the right of citizens to move the court for violation of Article 14, 21 and 22 would remain suspended during Emergency.
11	Laksmi Pandey vs. Union of India	AIR 1984 2 SCC 244	Adoption of Indian children they were subject to harassment and abuse in that country	Supreme Court issued the directions to government and various social- service agencies dealing with the matter to follow these guidelines as it was their constitutional obligation under Article 15 (3) and Article 39 (c) and (f) to ensure the welfare of children who were being adopted by foreign parents in order to protect them against any possible exploitation.

S. no.	Name of cases	Citation	Pre-position	After position
12	Delhi Democratic Working Women Forum vs. Union of India	AIR 1995 1 SCC 14	Realising the psychology and mental torture of victims of Sexual exploitation	Supreme Court issue the guidelines. The court observed that the National Commission for women should frame scheme for compensation and rehabilitation in order to ensure justice to rape victims. Thereafter, the Union Government should implement the scheme drawn by the national commission for women.
13	D.K. Basu v. State of W.B.	AIR 1997 SC 610	PIL filed against custodial torture or inhuman treatment by the police.	Supreme Court issued the guidelines for preventing the custodial violence and not to deprive the prisoners of human rights.
14	People Union for Civil Liberties vs. Union of India	AIR 1997 SC 1203	Fake encounter by the police is violation of Article 21 of the Constitution	Court held state may be directed to pay compensation and the state shall not be allowed the plea of sovereign immunity
15	Indian Council for Environment Legal Action vs. Union of India	AIR 1999 SC 1502	Pollution case	Supreme court gave directions for the prevention of Industrial pollution
16	M.C. Mehta v. Union of India	AIR 1998 SC 2963	Vehicle pollution case	Supreme Court issued direction for checking vehicle pollution
17	Mohan Lal Sharma vs. State of UP	AIR 1989 2 SCC 609	Petitioner sent a letter to Supreme Court alleging that his son was murdered by the police in the lock-up and the police were trying to hush-up the case.	Supreme court treated this telegram as a writ petition and ordered a CBI Investigation in the case.

S. no.	Name of cases	Citation	Pre-position	After position
18	Sushila Gothala vs. State of Rajasthan	AIR 1995 RAJ.90	Child marriage case	The High court of Rajasthan held that there is no point in issuing fresh directions to government to prevent such marriages. The court noted that child marriage is a social evil. There is already existence of child marriage Restraint Act, 1929. There is need to implement properly.
19	Bharatlar Kumar vs. State of Odisha	AIR 1989 SC 1793	Case of sexual exploitation of a girl student	The court gave the suitable directions for rescue and rehabilitation of the prosecutes and children of fallen women
20	Gaurav Jain v. Union of India	AIR 1997 SC 3048	Case of women and children rights	The court issued directions for rescue and rehabilitation of 2 prosecutes and children of fallen women.

Source; Supreme Court cases

The table no. 1.1 exhibits the social change in society through PIL. This table is based on only 20 landmark case laws which are taken on a random basis. Further, it is divided into two major heads i.e. pre-position and post position of society after filing PIL. There are number of cases through which power of PIL can be noticed such as Bandhua Mukti Morcha, Sexual Harassment of women in the workplace, D. K. Basu Case, M.C. Mehta Case (related to pollution). In these cases, mostly the Supreme Court had issued the guidelines for the protection of human rights and had appealed for humane behaviour of them irrespective of their class whether they belong to labour class, women, prisoners, children etc.

SUGGESTIONS

Thus, the introduction of Public Interest Litigation in India in the late seventies was indeed a new technique, but later on the pit-falls and shortcomings of the PIL system came to be noticed. As everything has its pros and cons. The courts found that it was being misused by the so called social service organizations and publicity minded social workers. So it has some flaws but can be cured by following precautionary measures as 'Prevention is better than cure.' Some suggestions are as follows:

1. Need of Government Corporation check on filling of false and frivolous PIL Petitions.

2. There being no codified Law on Writ jurisdiction of Higher Courts, the field of PIL particular, has remained wholly unregulated.
3. To expand the sphere of old rights rather than creating new rights according to the need of social change.
4. Established NGOs to provide knowledge about fundamental rights.
5. To make stringent laws which prevent and punish the persons who wasted the courts by misusing these benevolent provisions.
6. To impose heavy fine on the person who files a frivolous PIL.

CONCLUSION

Thus, it may be stated that the PIL proceeding of superior courts not only give surety enforcement of fundamental rights of the citizens but also make sure that the government and its official or authorities release their constitutional functions properly. The non- government organisation and social activists, through PIL petitions bring to the notice of the court the matters which are of vital public importance with a view to ensuring socio-economic justice to all society irrespective of their social or economic status thereby re- affirming people's faith in the

rule of Law. Social changes play a vital role in development of growth of Public Interest Litigation.

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Effects of COVID-19 Lockdown on Psychological Health (Implications on Police Personnel)



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ABSTRACT

Worldwide the COVID-19 pandemic has posed a very serious challenge to humanity with the virus infecting and causing the death of millions across 215 countries and damaging the economy to inconceivable levels. In India, the virus has caused havoc as the number of infected and causality cases continue to increase with every passing day. A nationwide lockdown with strict preventive measures are imposed by the Indian government. Within this backdrop, the present study was planned to examine the efficacy of precautionary measures and psychological health related consequences on respondents who are confined in their dwelling environment during this emergency lockdown. Furthermore, how male and female respondents of different age groups, marital status, education level, employment status respond to the lockdown and what are its social and psychological health related consequences are also investigated. The data was retrieved from the questionnaire prepared using Google Forms. Of the total sample of 489 respondents, 196 males and 293 females located in 70 cities covering 19 states of India volunteered to participate in the survey. The data collected on these participants was subjected to descriptive and inferential statistical analyses. The results revealed that an overwhelmingly large percentage of respondents have understood and have strictly abided by the precautionary and preventive guidelines issued by the government. Most of the respondents have reported that they are facing problems during the lockdown while a sizeable percentage of respondents were moderately involved in various educational, social and household activities in their residential environment. Finally, approximately fifty percentage respondents reported that they have never and rarely experienced any psychological health problems. In contrast, twenty percentage respondents have often and very often reported psychological health related problems. Implication of the results with special reference to police personnel is highlighted.

Keywords: COVID-19, Pandemic, Lockdown, Quarantine, Preventive measures, Residential Activities, Psychological Health.

Introduction:

A pandemic is an epidemic overstretching its reach across nations and continents. The world has witnessed a number of pandemic

cases such as smallpox and tuberculosis. Before COVID 19, the most devastating pandemic was the Black Death or Plague which killed an estimated 75–200 million people in the 14th century. Other notable

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pandemics that appeared were Influenza (1918), H1N1 (2009) and HIV/AIDS. In the past, pandemics have adversely affected the physical and psychological health and caused death and casualties to a large number of people. However, for the first time in hundred years, humanity has witnessed a very strange and an invisible enemy; the novel COVID-19 (coronavirus) which got noticed at the end of 2019 from the sea food market of the Wuhan province of China (WHO, 2020). It is currently spreading at a fast pace around the world, eliminating hundreds and thousands of humans besides continuously threatening, the psychological well-being of millions. This highly contagious virus, which has the potential to cause severe respiratory disease, has quickly impacted governments and public health systems. The WHO declared COVID-19 as a pandemic in March 2020. Across the world different countries have initiated various measures to prevent the contagion and limit its outbreak.

To deal with the pandemic, a large number of health care, clinical, academic and social service institutions have opened online platforms to provide services for affected people. However, it seems very likely that both the physical and mental health of COVID-19 patients (including confirmed patients, patients with suspected infection, quarantined family members, and health care workers) has been adversely affected. From the social and psychological perspective, millions of lives across the world have been significantly altered. Professional counseling, positive health and well-being enhancing protective measures are needed to combat this ongoing crisis.

Visualizing this threat, the Government of India has adopted extraordinary measures to prevent its transmission and minimize casualties. Addressing the nation, Prime Minister Modi urged the citizens to initiate a disciplined fight against an invisible enemy by locking themselves inside their residential settings and abiding by social distancing norms. To start this comprehensive fight, the PM in his address asked all people across India to follow "Janta Curfew" on March 22 from 7 A.M to 9 P.M. Subsequently, on March 23, an unprecedented lockdown of 21 days was imposed. The PM stressed "Samyanam and Sankalp" or restraint and resolve to deal with this global crisis. Proactive measures like travel restrictions, community surveillance, contact tracing, social distancing, rapid clinical care and self-quarantine were planned and implemented. The central government, statutory bodies and subsequently the state governments have issued comprehensive advisories and emphasized the precautions to be taken like social distancing, washing hands at periodic intervals, wearing a mask while going out, sanitizing all items purchased and so forth to flatten the exponential growth curve of infection. To educate the masses, awareness campaigns were launched by the Ministry of Home, Health, Police departments, educational institutions, NGOs and all the public and private sector institutions which got comprehensive coverage by media.

This pandemic has posed a challenge globally. The WHO in its dashboard reported on May 11, 2020 that the virus had infected (confirmed cases) 4013728 people and caused the death of 2,78,993 in more than 215 countries. The real damage, both in terms

of loss of lives and economic loss, is expected to be much more than what is being observed at present (who.int/emergencies/disease/novel-Coronavirus-2019). In India, almost all states and Union territories have faced the brunt of the problem to varying degrees. On May 12, Indian COVID-19 dashboard had reported approximately 46008 confirmed cases of which approximately 22454 people have recovered and 2293 died. (mygov.in/Covid-19, 2020)

REVIEW OF LITERATURE:

The recent Lancet review, conducted by Brooks, Webster, Smith et.al (2020) based on the 24 most quoted studies, has broadly concluded negative psychological effects of quarantine. Some of the major adverse effects include post-traumatic stress symptoms, confusion and anger. Furthermore, a few common symptoms found in the people during quarantine include fear, sadness, numbness, insomnia, anger, depressive symptoms, low mood, irritability, emotional disturbance and exhaustion. Some other studies have reported that quarantine has contributed to the increase in feeling of loneliness, social isolation, alcohol and substance abuse, entrapment and relationship breakdown. (O'Connor & Kirtley, 2018) Psychological researches conducted during the outbreak of SARS indicated that quarantined individuals experienced immediate and short term psychological consequences (Hawryluck et. al. 2004). The result of one study reveals that social isolation was found to increase the feeling of isolation and depression. The study conducted by Hawryluck et al (2004) found that 29% of the people felt that other people avoided them

after they had been in quarantine which indicates attachment of social stigma which further contributed to the increase in mental distress following quarantine.

A large number of empirical studies have unequivocally reported the negative effects of stress on health (Schwarzer, R., & Gutierrez-Dono, B, 2000). However, to reduce the adverse effects of stress on health, social support, coping strategies and perceived feeling of control are found to be helpful (Lazarus & Folkman, 1984). If people are provided some control to terminate the stressor, the adverse effects on psychological health are very likely to reduce. (Dalal, & Ray., 2005., Nagar, 2006). To reduce or overcome the adverse effects of stressors supportive relationship with friends, family and acquaintances is beneficial (Baron & Kerr, 2003) and has been linked to different aspects of health and wellness. Research has also shown the correlation between high social support and reduction in consequences of trauma induced disorders. The effect of social support has been linked to boosting the immune system which further decreases the stress experienced by people or reduce the amount of health risks involved (Uchino, et a;, 2012). The findings of relatively similar studies indicate that social support is connected to favorable health outcomes due to beneficial physiological effects produced by it and adhering to the possibility of better health behavior (Uchino, 2009).

The COVID-19 pandemic has dramatically changed the way we live and is causing major interruptions and disruption in our routine life style. This interference coupled with the threat of contracting the potentially deadly virus is leading many people to experience

stress, anxiety, depression and other mental health challenges. Against this backdrop, the major objectives of this research is to examine the social, psychological and health related consequences of respondents who are confined in their dwelling environment during this emergency lockdown. Furthermore, how male and female respondents of different age groups, marital status, education level, employment status respond and cope with it and what are its consequences on psychological health have also been investigated.

METHODOLOGY

The final draft of the present survey, entitled as "Novel COVID 19: A Psychological Survey on Lockdown" was designed after analysing the results of the pilot study conducted on ten participants. Based on the results, some items were revised or deleted. Minor changes were made in the instructions to enhance the clarity and eliminate errors. The data collection of the survey started during the remaining last few days of the first lockdown declared by the government of India. An online platform was used and the survey was sent to various WhatsApp groups three days before the first lockdown period was over. During the remaining days of the end of the first lockdown, an overwhelming number of 489 responses were received. A brief discussion of the methodology is given below:

Sample and Design: The sample comprised 489 respondents. Of the total sample, 196 males and 293 females located in 70 cities covering 19 states of India participated in this survey. Furthermore, the sample consisted of

207 married and 282 unmarried respondents.

Measures: A brief four page questionnaire involving five sections was designed by the investigators using Google forms. Through this survey, personal and demographical information about the respondents was collected. Information about the respondent involvement in various activities in their dwelling environment, precautions for protecting one from infection, problems faced and assessment of psychological health during the lockdown period was noted. A brief description of the measures is given below:

Demographical information: In the first section, personal details of the respondents like age, gender, educational qualification, marital status, employment status, number of occupants residing under one roof and information about any existing medical illness were obtained.

Assessments of preventive measures: The third section constitutes eight items based on the major precautions that had to be followed by the people during lockdown. The items were focused on measuring the degree to which the respondents washing their hands with soap, sanitizing the goods which are delivered from outside, covering their mouth and nose while sneezing or coughing and throwing the tissue or mask in a closed bin immediately after using. Some of the items also dealt with restricting oneself to their residences, maintaining more than 1 meter distance from others while moving outside for needful purchases and washing the hands properly after returning from outside. The score on this scale ranged from

8 to 40 with the high score indicative of high level of compliance on precautions taken by the respondents during lockdown.

Assessment of Problems Encountered:

The fourth section encompasses 12 items depicting problems faced by the people during the lockdown period. This section attempts to assess the respondents financial loss, adverse effects on regular studies, health facilities and unhealthy lifestyle. The items also dealt with increase in the urge to consume alcohol. Finally, other items were related to the perceived fear of administrative action if norms pertaining to lockdown were broken, fear of isolation from society and fear of judgement by society in case they contact the virus. The section also deals with likelihood of respondents to warn the neighbours if someone arrives from outside the city and seek medical help for them. The total score on this scale ranged from 12 to 60 with the high score indicative of more problems faced by respondents during lockdown.

Assessment of Residential Activities:

The second section comprised 20 items which tapped a range of major activities being performed by individuals in their home environment. The respondents were required to rate their involvement in these activities on a 5 point Likert type rating scale ranging from never to very often. The high score is indicative of the respondent's high involvement in activities at home during the lockdown. The score on this scale ranged from 20 to 100 where high score is indicative of more involvement of respondents in various major activities in their home setting.

To reduce the number of items exploratory

Factor analysis with varimax rotation was performed. The item loadings with a minimum cut-off of 0.50 were used to retain the items for the formation of subscales. Results of factor analysis indicated presence of seven distinct factors labelled as online entertainment, watching news and spiritual TV shows, working online, household activities, chatting with friends, engaging in hobbies and physical activity. Two items which showed low loadings were dropped from the final analysis. The seven subscales together explained 69.28 percentage of variance. A brief description of these subscales is given below:

Online Entertainment: The scores on four items which showed high factor loadings were summed up to form the subscale. The items included in this scale dealt with watching web series and movies through online streaming, playing indoor and online games. The scores on this scale ranged from 4 to 20 where high score is indicative of more entertainment.

News and Serials: The three items which showed high loading for the formation of subscale were related to watching news and serials and reading newspapers. The scores on this subscale ranged from 3 to 15 where high score is indicative of more involvement in watching and reading news and light entertainment.

Working Online: The two items which formed this subscale were focused on working from home and attending online classes. The score on this scale ranged from 2 to 10 where high score is indicative of more involvement with working online.

Household activities: The two items which formed this subscale were focused on cleaning up the uncluttered places and investing time in doing household activities. The score on this scale ranged from 2 to 10 where high score is indicative of more engagement in doing household activities.

Chatting with friends: The two items which formed this subscale were focused on having a heartfelt conversation and chatting with friends on the mobile phone. The score on this scale ranged from 2 to 10 where high score is indicative of more involvement in interacting with friends on mobile.

Hobbies The two items which formed this subscale were focused on pursuing hobbies and learning to cook new dishes. The score on this scale ranged from 2 to 10 where high score is indicative of more investment in pursuing hobbies and interest.

Fitness activities: The two items which formed this subscale were focused on doing yoga/meditation and investing time in physical activity. The score on this scale ranged from 2 to 10 where high score is indicative of more involvement mental and physical activities.

Assessment of Psychological Health: The fifth section composes 20 items related to assess the health of the participants currently put under lockdown. The respondents were required to rate the items on a five point Likert type rating scale. The score on this scale ranged from 20 to 100 where low score indicates good psychological health.

All the twenty items belonging to psychological health were subjected to

exploratory factor analysis with varimax rotation. For the formation of subscales the item loadings with a minimum cut-off of 0.50 were used to retain the items. The results of factor analysis indicated evidence of three subscales which were labelled as emotional health, social health and cognitive health. Only one item which showed low loadings was dropped from the final analysis. The subscales together explained approximately 70% variance. Brief descriptions of these subscales are given below:

Emotional Health: The thirteen items which formed this subscale dealt with anxiety, unable to control worry, sleep disturbance, irritation, aggression, hopelessness, depressive thoughts and so forth. The score on this scale ranged from 13 to 65 where low score is indicative of good emotional health.

Cognitive Health: The three items which formed this subscale were focused on checking news updates about virus, believing unforeseen circumstances will be tackled and overwhelmed by watching news. The score on this scale ranged from 3 to 15 where high score is indicative of good cognitive health.

Social Health: The three items which formed this subscale were focused on measuring connectivity with family, enjoying with family and feeling energetic and rejuvenated. The score on this scale ranged from 3 to 15 where high score is indicative of good social health.

Procedure: The survey instrument designed was transferred in the google form format. A general instruction was written to appraise the respondents about the objective and purpose of the survey. The confidentiality of

the responses given by the participants and their identity was assured. The respondents were asked for their consent to participate in the survey. For each section, separate instructions were written which focused on the major theme covered while describing the procedure to record the response. The investigators used their contact list and forwarded the survey to various individuals and WhatsApp groups and other online forums to participate in the survey. The responses submitted by the participants were copied in Excel and subsequently after cleaning the data was transferred to SPSS for analysis. The participants were thanked for their cooperation.

RESULTS AND DISCUSSION:

To analyse the results on major demographical and outcome measures for the total sample descriptive statistics including means and percentages was used. However, to examine the means differences of major predictor variables like age, gender, marital status, education and employment status on outcome measures pertaining to precautions taken to deal with the possibility of infection, activities performed by respondents at their residence and psychological health, analysis of variance was used. Major results are systematically presented below:

Demographical Findings: The demographical information revealed that 51% of respondents were pursuing their graduation and were below the age of 25 while 49% of respondents belonged to the remaining three age groups with only 3.8% respondents were above 56 years. With regard to gender, sixty percentage of female

and forty percentage of male participated in the present survey. A slightly more than eighty percentage of respondents were either pursuing their under graduation or were holding the UG degree with only 6.4% were pursuing their PhD degrees. Of the total sample, 41% of the respondents were unemployed while 34% of the respondents were employed. House makers and businessmen shared a very small percentage of 8.2% and 7.5% respectively. During the period of lockdown 65% of the respondents were residing with 2 to 5 members, 10% of respondents were residing alone while the remaining 25% respondents were living with more than 5 family members in their dwelling environment. With regard to pre-existing disease, 81% of respondents were physically healthy while 19% had a history of major diseases including diabetes and health. The major demographical information reveal that a very high percentage of respondents were young, educated, physically healthy with no prior history of major disease. More than 90% respondents were residing with their family members during the period of lockdown.

Involvement in Residential Activities: The descriptive analysis of the activities performed by the respondents in their home environment during lockdown period indicated that 34.7% of the respondents often watched news but 1.3% never watched the news which indicates that most people are aware and updated about the happenings around the world. TV Serials like Ramayana and Mahabharata are viewed by 54.8% while 22.4% of the respondents avoid watching these serials. Online streaming platforms like Netflix, Hotstar, Amazon Prime, etc

has been quite in demand with 58% of the respondents viewing it while 22.4% reported never using these platforms. The results further illustrate that a large percentage of respondents reported watching more comedy and positive content based serials on the media. The results reveal that 55.2% of the respondents are reading newspapers, magazines or books as a way to spend their time. Around 32% of the people went through their old photos and albums and a large number of 38.4% of respondents de-cluttered their houses. The period of lockdown has definitely given more time for the people to pursue their hobbies and around 50% spend their time in kitchen learning to cook new dishes. During prolonged lockdown 69% respondents spend their time chatting with their friends. The results further indicate that 38.2% respondents are attending online classes. In contrast, 50.2% of respondents are devoting their time to self-study. During lockdown domestic help is not available thus 67.9% of the respondents are helping their family members in the household chores. Interestingly, while respondents are spending time at home yet 35.6% are not often playing online games. In contrast 37% respondents are playing indoor games. Finally, 30.1% and 31% of the respondents are doing yoga and meditation.

The major results on home activities clearly suggest that more than fifty five percentages of respondents spend their time watching spiritual serials, news and were using online streaming platforms like Netflix, Hotstar, Amazon Prime. Furthermore, the results indicate that during lockdown overwhelmingly high percentage of

respondents were spending their substantial amount of time interacting with friends and helping their family in household chores. Finally, around fifty percentage respondents have reported spending their time in pursuing their hobbies and involving themselves in self-study.

Assessment of Precautions: The results of the survey based on guidelines and precautions are comprehensively presented in table 1. The result reveals that of the total respondents 54.4% very often, 38.5% often, 6.5% sometimes and 1% rarely washed their hands with soap at regular intervals. More or less the same trends of results are seen on other seven items on precautions. For instance, 58.5% of the people are vigilant and sanitize all the products they get from outside while only 2% of the respondents declared that they never sanitized the products being purchased. The results further reveal that over 60% of the people are frequently following the orders and guidelines provided during the lock down period. Even after strict instructions by the administration, there are 14% of the respondents who are going outside their homes without any urgent purpose. Physical distancing norms prescribed by the government are clearly maintained by respondents as over 75% of the participants stated that they maintained more than 1 metre distance norm while stepping out of their houses. Finally, 91.3% of the respondents reported that very often, 7.3% often and 1% sometimes wash their hands after returning home from outside. Thus, the results clearly indicate that the massive awareness campaigns initiated nationwide relentlessly particularly by the

health, police and education departments have proven to be very effective with regard to spreading awareness to the masses about the precautions to be taken to protect themselves from viral infection. Most of the respondents have overwhelmingly abided

by the precautions and guidelines issued by the government. In other words the results clearly indicate that the awareness campaign launched by the Government was highly successful.

Table1: Percentages depicting respondents adhering to precautionary measures for protection against Covid -19 infection.

Precautionary measures taken by	Never	Rarely	Sometimes	Often	Very Often
Washing hands with soap regularly	0	1%	6.5%	38.1%	54.2%
Sanitizing all items	2%	2.6%	8.7%	28.4%	58.2%
Covering mouth & nose while coughing or sneezing	1%	3.2%	6.1%	24.9%	64.7%
Discarding tissue immediately after coughing	4.3%	4.3%	5.5%	25.8%	60.2%
Avoiding eyes, ears & nose touch	0.6%	6.9%	19.7%	34.1%	38.7%
Avoiding outside movement during lockdown	3.2%	3.4%	4.3%	14.4%	74.6%
Maintaining 1 meter distance	0	1%	3.7%	20.1%	75.1%
Washing hands after getting back from outside	0	0	1%	7.3%	91.5%

Problems encountered: The major results on problems encountered by respondents reveal that during the complete lockdown, only 7.4% of the respondents suffered financial losses and 29.6% stated that they did not suffer any loss at all. However, 39% of the respondents stated that they paid more money for essential goods. The result clearly indicates that 40.6% of the respondents reported that their own studies or their children’s studies have suffered. Furthermore, 37% of the respondents feel that regular health facilities have been affected due to the lockdown. While during lockdown the alcohol supply was shut down completely but only a very small percentage of respondents reported any urge to consume alcohol. The

results show a positive outlook on the lifestyle of the respondents as 34.9% state that there has been no increase in an unhealthy lifestyle even after the lockdown. Fear of administrative action and public harassment is not felt by 32.1% of the respondents and most of the respondents did not fear being isolated from society during quarantine. The results indicate that 42.1% of the respondents are very much likely to warn the neighbours if someone arrive their house from outside the city and 50.8% claimed that they would seek medical help for the same. The analysis of the responses also indicate that 11.1% of the participants were worried about being negatively judged by society if they get infected by the virus which is more than the

fear of administrative action taken against them and remaining in isolation. The overall results seem to suggest that on average more respondents have reported about the various problems they have faced during the lockdown.

Psychological Health: Inspection of table 2 reveals psychological health of the respondents on all the nineteen items individually and on the three subscales dealing with emotional, cognitive and social health. The results reveal that 29.62, 21.83 and 29.21 percentage of respondents never, rarely and sometimes perceived emotional health related problems. Furthermore,

11.44 and 7.9 percentage respondents often and very often perceived emotional health related problems during lockdown. The results further reveal that on average approximately 9.7, 11.8, and 33.3 percentages of respondents never, rarely and sometimes perceived cognitive health related problems. Furthermore, 26.6 and 18.47 percentage respondents often and very often perceived cognitive health problems. Finally, the results reveal that approximately 10.8, 11.5, and 25 percentages of respondents never, rarely and sometimes perceived cognitive health related problems. Furthermore, 28 and 25 percentage respondents often and very often perceived cognitive health related problems.

Table 2: Percentages depicting respondents Perceived Psychological health during lockdown

Factors	Never	Rarely	Sometimes	Often	Very Often
Emotional Health					
Nervous & Anxious	26.4%	21.1%	37.1%	9.5%	5.9%
Unable to control worrying	30%	21.1%	33.9%	10.8%	4.3%
Trouble Relaxing	30.8%	22.3%	32.3%	9.3%	5.3%
Difficulty in Sleeping	37.1%	17.4%	27.4%	9.1%	8.9%
Afraid of something bad might happen	27.4%	25.4%	33.1%	8.5%	5.7%
Irritated	21.7%	24.5%	33.1%	11.6%	9.1%
Lonely	38.1%	20.5%	22.5%	8.9%	9.9%
Angry	25.8%	27.2%	27.6%	10.1%	9.3%
Hopeless	46.2%	19.5%	21.1%	6.9%	6.3%
Depressive thoughts	35.2%	23.3%	29.2%	6.3%	5.9%
Difficulty adjusting indoor	10.1%	13%	25.8%	33.9%	17.2%
Unable to concentrate	27.2%	23.1%	29.6%	12.6%	7.5%
Stressed	29%	25.4%	27%	11.2	7.5%
Average Emotional Health	29.62%	21.83%	29.21%	11.44%	7.9%
Cognitive health					

Factors	Never	Rarely	Sometimes	Often	Very Often
Check updates related to Covid – 19	4.5%	7.3%	24.3%	29.4%	34.5%
Feeling unforeseen circumstances could be tackled	8.3%	6.1%	37.7%	34.7%	13.2%
Overwhelmed by watching news & media	16.4%	22.1%	37.9%	15.8%	7.7%
Average Cognitive health	9.7%	11.8%	33.3%	26.6%	18.47%
Social Health					
High connectivity with family	4.5%	9.3%	22.5%	38.3%	25.4%
Enjoying family time	2.4%	7.1%	19.7%	31.6%	39.1%
Feeling energetic and rejuvenated at home	25.4%	18.1%	32.9%	13.4%	10.3%
Average Social Health	10.8%	11.5%	25%	28%	25%

The major descriptive results on demographical characteristics reveal that during lockdown all the precautionary measures were taken by the respondents to protect themselves from infection. The awareness campaign aggressively initiated by various implementing agencies of the government was very successful in changing the attitude and behaviour of respondents. A large number of respondents have taken the lockdown in a very positive manner and have invested their time engaging themselves in various activities ranging from investing time meaningfully with family members, interacting with friends, utilizing their time in household activities and so forth. All these factors have probably contributed to a reasonable good psychological health for a reasonably big number of respondents. However, over one-fifth of respondents did report problems pertaining to psychological health.

The analyses of variance results of major predictor variables pertaining to age, gender,

marital status education, occupation on major outcome measures are presented.

Main effect of Age Groups on Major Outcome Measures: Mean difference on outcome variables with regard to five age groups are presented in table 3. Inspection of the table reveals that respondents of all age groups were taking all precautions to keep themselves away from infection. However, the results do suggest that respondents who were from the age group of 36 to 45 were taken slightly more precautions than their counterparts. The respondents who were youngest were found to be spending significantly more time in online activities and were spending more time playing games than their counterparts who were in the senior age brackets. Furthermore, very modest but significant difference was found on work related activities with respondents who were under 25 and those who were aged in between 36 and 45 exhibited spending significantly more time in work related activities related to their counterparts

particularly those who were from the senior age groups. No significant difference was found on the remaining components of social activities. Finally, respondents belonging to

higher age groups reported better emotional health. In contrast, the young respondents reported better cognitive and social health.

Table 3: ANOVA results depicting Mean differences on outcome measures and health as a function of age groups

Outcome measures	Age Groups					F(4,484)
	Under 25	26 to 35	36 to 45	46 to 55	Above 55	
Precaution taken	35.71	35.84	37.02	35.63	33.76	3.41*
Problem encountered	23.68	23.56	23.84	23.52	21.0	1.09
Residential Activities						
Online entertainment	13.14	10.87	10.26	9.58	7.95	37.12**
News and Serials	10.46	9.87	10.36	10.43	10.85	.90
Working Online	6.61	5.68	6.21	5.62	4.05	6.25*
Household activities	4.60	4.00	4.27	4.25	4.66	1.35
Chatting with friends	10.76	10.59	10.91	10.34	10.24	.35
Hobbies	7.38	7.22	7.40	6.64	6.80	1.35
Fitness activities	2.15	2.50	3.45	2.70	2.15	5.10*
Psychological Health						
Emotional health	33.73	31.56	28.18	27.47	28.0	7.03**
Cognitive health	9.56	8.92	8.69	8.93	8.90	4.57*
Social health	7.17	6.74	5.90	6.49	7.23	5.70**

Main effects of Gender and Marital Status on Major Outcome Measures: Mean difference on outcome variables with regard to Gender and Marital status are presented in table 4. Inspection of the table reveals that female respondents were taking significantly more precautions to keep themselves away from infection than their male counterparts. The results further reveal that female respondents reported significantly more involvement in work related activities, online chatting with friends and interaction with family members relative to their male counterparts. In contrast the males reported significantly more engagement in yoga and physical exercise than females. No significant

difference across gender was found on other major activities like watching news, online games, performing household work. Finally, males reported significantly better emotional and social health than females. However, no difference was found across gender on cognitive health.

No significant difference between married and unmarried respondents was found on precautions taken to deal with infection and problems encountered by respondents during lockdown. However, as compared to married, the unmarried respondents significantly reported playing more online games and reported spending more time

in doing yoga and physical activities. No significant differences was found on remaining five activities been performed by respondents in their dwelling environment during lockdown between married and unmarried respondents. Finally, significantly better emotional, cognitive and social health was reported by unmarried respondents relative to their married counterparts.

Main effects of Education on Major Outcome Measures: A close inspection of table 5 reveals that post graduate respondents reported taking slightly better precautions than their counterparts.

Respondents pursuing graduation are significantly more involved in various online activities and games. Furthermore, very small but significant differences were seen in other activities being carried out by respondents with students pursuing graduation reporting more involvement in work related activities, chatting with friends, interacting with family members and doing physical exercises and yoga relative to their counterparts. Finally, post graduate and Ph.D. respondents reported significantly better emotional health whereas those pursuing graduation reported better cognitive health and social health than their counterparts.

Table 4: ANOVA result depicting Mean differences on outcome measures and psychological health as a function of gender and marital status

Outcome measures	Gender		F (1,487)	Marital Status		
	Male	Female		Married	Unmarried	F (1,487)
Precautions taken	34.90	36.43	19.69**	35.95	35.72	.44
Problem encountered	23.76	23.39	.46	23.40	23.65	.22
Residential Activities						
Online entertainment	11.52	11.61	.08	9.93	12.79	98.12**
News and serials	10.18	10.51	1.89	10.35	10.40	.03
Working online	5.71	6.46	9.17**	5.60	5.55	.86
Household activities	4.37	4.42	.08	4.32	4.48	.81
Chatting with friends	6.84	7.51	15.69**	7.17	7.30	.51
Hobbies	10.12	11.01	17.83**	10.56	10.72	.56
Fitness activities	2.30	2.10	3.29*	2.00	2.55	8.33**
Psychological Health						
Emotional Health	29.72	32.37	6.14**	28.85	33.12	16.65**
Cognitive health	9.11	9.27	.86	8.99	9.37	5.07*
Social health	7.16	6.58	5.58**	6.36	7.15	10.69**

Table 5: ANOVA result depicting Mean differences on outcome measures and health as a function of Education

Outcome measures	Education				
	Pursuing	Graduation	Post Graduation	Ph.d	F(4,484)
Precautions taken	Graduation				3.41*
Problem encountered	23.68	23.56	23.84	23.52	1.09
In Dwelling Activities					
Online entertainment	13.92	12.62	10.52	8.70	30.16**
News and serials	10.95	10.26	10.44	10	1.07
Working online	7.32	6.23	5.90	5.86	3.48*
Household activities	4.36	4.52	4.38	3.90	1.07
Chatting with friends	8.05	7.12	7.27	6.86	3.24*
Hobbies	11.50	10.42	10.74	10.46	2.68*
Fitness activities	2.54	2.20	2.04	2.00	3.05*
Psychological Health					
Emotional health	35.25	33.92	28.54	27.46	10.73**
Cognitive health	9.95	9.44	8.91	8.73	5.50*
Social health	6.77	7.38	6.26	6.86	6.30*

Main effects of Employment Status on Major Outcome Measures: The mean difference across five types of occupational status on outcome variables is presented in table 6. No significant difference was noticed on precautions taken to deal with viral infection and problems encountered during lockdown among respondents differing on occupational status. The students and housewives were significantly more involved in online activities and games than their counterparts. The

students and unemployed were significantly more involved in work related activities while respondents doing business reported more involvement in physical activities and yoga relative to their respective counterparts. Finally, respondents who were doing business reported significantly better emotional health than their counterparts. In contrast, students who were pursuing their graduation reported better cognitive and social health relative to other group members.

Table 6: ANOVA result depicting Mean differences on outcome measure and health as a function of employment status

Outcome measures	Employment Status					F(4,484)
	Student	unemployed	Employed	Business	Homemaker	
Precautions taken	35.81	36.10	34.05	36.70	36.46	2.99
Problem encountered	23.93	23.07	25	22.12	23.65	1.69
In Dwelling Activities						
Online entertainment	12.42	10.85	10.73	10.56	12.27	6.95**
News and serials	10.52	10.18	10.34	10.70	10.31	.52
Working online	6.46	6.75	4.51	3.78	5.82	14.73**
Household activities	4.50	4.30	4.63	4.23	4.45	.46
Chatting with friends	7.27	7.19	7.36	7.27	7.24	.15
Hobbies	10.67	10.13	10.50	10.48	10.57	.16
Fitness activities	2.62	2.98	2.34	3.42	2.55	3.52*
Psychological Health						
Emotional health	34.52	29.0	30.0	27.5	30.68	6.94**
Cognitive health	9.65	8.96	8.73	9.02	9.45	2.93*
Social health	7.49	6.40	7.10	5.26	6.74	7.93**

Implications of the Study for Police Personnel

Police personnel are required to coordinate their duties with doctors, paramedical staff and health officials who are all at the front line while dealing with this unprecedented and strenuous exigency. While undertaking these formidable responsibilities, they find themselves at a greater risk of exposure and infection. Police officials are tasked with explaining and enforcing preventive measures such as social distancing, isolation, quarantine, travel restrictions, contact tracing so as to protect the masses, contain the spread of infection and maintain public order.

Police officials are required to continuously do patrolling in “containment zones” and hot spots to ascertain that the citizens abide by the safety norms to reduce the spread of the viral infection. Given the person-to-person spread of COVID-19 through respiratory

droplets, law enforcement officers are at heightened risks of exposure due to their close contact with members of the public. Thus, the police personnel are likely to be over-exposed to the infection and are likely to be stressed. Evidence exists that during the pandemic a large number of police personnel were not only being infected but also losing their lives while discharging their duties. In addition to this, because of an acute shortage of police personnel, the existing staff has to work beyond their duty hours even without any weekly break in highly risky conditions to maintain law and order. There have been several instances when the crowd defying lockdown attacked, pelted stones and injured the police personnel in many Indian states including Maharashtra, Punjab, Madhya Pradesh and Delhi. All these factors are very likely to generate stress which subsequently may adversely affect the mental health of police personnel. A large number of studies

conducted before the ongoing pandemic have consistently reported that occupational stress have contributed to mental health problems in police personnel (Nagar, 2007). Thus, it is very likely that during heightened stress conditions emanating from COVID-19 mental health problems are very likely to increase.

The nation was not professionally equipped and prepared for the vast effects of COVID-19. After being exposed to the pandemic for several months, the leadership and executive authorities have gained a lot of experience to deal with medical emergencies and handling of law and order situations. To protect the police officials from infection, personal standard protective equipment (PPE), masks etc. are also not always available in adequate numbers. The overburden of work accompanied with the fear of infection might result in poor psychological health. To overcome this burden, a few crucial steps need to be taken. Provision of proper PPE and psychological aid in the form of counseling or workshops to help the stressed personnel cope better with these stressful conditions can lead to the betterment of the physical and mental health of these policemen. Online capsule training.

SUMMING-UP

The distinctive feature of the sample is its representativeness across nineteen states of India with a large percentage of respondents being young, educated and sharing their home with more than one family member during the nationwide lockdown. The result revealed that during lockdown almost all the respondents have taken adequate

precautions to minimize the possibility of the infection. Thus, it can be concluded that the forceful, emotional and emphatic appeal of the Honorable Prime Minister Modi during the start of Janta Curfew and lockdown and subsequently the Government of India's awareness campaign for educating and convincing the masses to adopt preventive and precautionary measures to minimize the possibility of viral infection has proven to be very successful.

The results further indicate that the respondents have explicitly stated the problems which they have faced. However, they moderately engaged themselves in a wide range of activities like watching news and spiritual episodes, working online, playing online games, doing household chores, interacting with friends and family members and revisiting their hobbies in their residential settings. Finally, approximately half of the total respondents reported that they never or rarely faced any psychological health related problems. In contrast, thirty percent reported that they had sometimes while the remaining twenty percentage respondents felt that they often and very often faced psychological health related problems during lockdown. The respondents who belonged to the younger age group reported relatively more emotional health problems than their older counterparts. In contrast, the young respondents perceived better social and cognitive health relative to the ones in the older age groups. The result on psychological health seems very understandable. The young respondents are mostly students who are under the age group of twenty five and usually spend

considerable amount of time attending their universities/ colleges besides many students also attend prolonged hours of coaching largely because they are on the threshold of building their career. The students might have perceived the sudden lockdown of prolonged duration as an impediment to their career. Further, the educational institutions were also not professionally prepared to deal with the challenge of delivering the educational inputs effectively online through e-learning platforms. While a large number of educational resources are available free of charge online but the educational atmosphere of the classroom setting is missing and cannot be substituted by monotonous online lectures. All these factors might have contributed to emotional health related problems for students. However, the availability and accessibility of laptops and mobiles have made the communication easy and that students are connected to their friends. Even the feeling that everyone in the same boat might have provided social and cognitive health related relief to the students. Currently, the number of infected cases is on the increase both in India and across many countries of the world. It is very plausible that people have to change their life styles and have to take all precautions to minimize the possibility of infection till some permanent medical solution is achieved. Educational institutions should now prepare themselves professionally to create online learning platforms so that the teaching and learning process is made more students centric, lively and interesting. A proper mix of online education and classroom driven lectures may be worked out to reduce the presence of number of students at one point in time. In

a similar vein both government and private sectors work may be shifted from off line to online to reduce the density of people in service centered organizations. Online marketing and shopping is gradually picking up. People have to restrict themselves more and more to their residential settings and will have to take extra precautions while leaving their premises at least till a concrete and permanent method for the eradication of this virus is devised.

The programmes of short duration on stress management, counselling and emotional intelligence with special reference to enhancing their adversity quotient may equip the police personnel to enhance their wellness indicators.

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Changing forms of Cyber Violence against Women and Girls



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Abstract: The problem of violence against women is pervasive, ubiquitous and widespread, It is assuming new dimensions with the changing forms of society globally. The new forms of violence against women are equally alarming as the old ones, with an exponential rise in the former. Cybercrime is the new age crime of knowledge and information society which is taking hideous proportions. Women and children both are the most vulnerable group due to the high chances of anonymity in cybercrimes. It is a myth that online crimes are a problem of the developed world and the rest of the world is immune to it. The present paper is an attempt to understand the changing forms of cyber violence against women prevalent in society and the vulnerability of women to this form of crime. This paper digs deep into the menace of cyber violence against women and girls by exploring the magnitude and types of cybercrime against women. It moves on to discussing the existing legal provisions in India to combat cybercrime against women and girls and then concludes with suggestions to counter and prevent cyber violence.

Keywords: Cyber violence, Online violence, Violence against women, Crime against women, Changing forms of crimes, Legal provisions, Cyber Stalking, Cyber Bullying, Hate Speech, Doxing.

Online crimes were believed to be a problem of the First world only, but penetration of the Internet has driven it to third world countries as well. In the early days of the emergence and development of the Internet, it was believed that away from the social discriminatory inequalities of society it would be a platform to provide equal opportunities for all sections. But over time, the nature of the Internet is also becoming unequal, offensive

and scandalous like real-world. Most women face multiple forms of misconduct from their infancy to death in the physical world which is reflected in the cyberspace as well. Along with technological progress, the nature of violence and crime has further evolved. In the era of the social internet, when the mobile phone is a medium to make instant contacts, it is difficult to stay away from online communication and network, making

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women easy prey for online criminals.

Many incidents that have surfaced recently, such as making objectionable comments in social media, broadcasting obscene pictures, using threatening words and/or threatening to intimidate women all have been designated in the category of cyber violence against women and girls by the United Nations. Cyber Violence against Women and Girls includes hate speech (publishing a blasphemous libel), hacking (intercepting private communications), identity theft, online stalking (criminal harassment) and uttering threats. It can entail convincing a target to end their lives (counselling suicide or advocating genocide). The Internet also facilitates other forms of violence against women and girls including trafficking and sex trade[1]. According to United Nations Declaration on the elimination of violence against women, violence against women is, any act of gender-based violence that results in, or is likely to result in, physical, sexual, or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.”[2] Giving the extension of this definition, cyber violence has also been included, which encompasses acts like trolling, hacking, spamming and harassment [3]. According to a report of the United Nations “Combating Online Violence against Women & Girls: A Worldwide Wake-up Call”[4], the Internet is being used for violent behaviour and harassment against women and girls. Due to this, the physical and emotional health of women is at stake. This report has been broadcast in the context of Wake up Call. As per data, every third woman

in the world faces violence in her life [5], but this report takes this fact a step further, reveals that approximately 73% of women aged 18 - 24 years have faced online violence and crime.

Cyber violence is as harmful as physical violence to life and health of women and girls. Under-Secretary-General (UN Women) Phumzile Mlambo-NGCUKA had equated death due to cyber violence with death by physical violence. Incidents of suicides committed by teenagers due to provocation by “Blue-Whale” an online game or cyber bullying, trolling supports her view.

According to an estimate, only 1 per cent of the population of the world was connected to the Internet in 1995, this number has increased to 40% now out of which 25% of users are women [6]. In India, it is reported that a total of 143 million women use the internet which is 30% of the total user base in India, with rural areas witnessing a growth of 14.11% [7]. It highlights the importance to understand the vulnerability of women towards cyber crimes in India.

To cause direct or indirect harm to the people using telecommunication and electronic devices such as computers, mobile, internet etc. comes under the category of cybercrime. According to the National Crime Record Bureau 2016 figures a total of 7.7% of cases of cybercrimes in India, including the cases of cyber violence against women and girls were registered [8]. The number of cybercrimes increased dramatically in 2017 as compared to 2016, and nearly every fifth cybercrime in 2017 was committed against a woman, as shown by official data for that year released

by the National Crime Records Bureau (NCRB). A total 21,796 instances of cybercrime were recorded in 2017, an increase of 77% over the previous year's number of 12,317[9]. The total number of cybercrime in India has reached to 27248 in 2018 with more than 22% (6030) cyber crimes directed towards women. During 2018, 55.2% of all cyber-crime cases registered were for the motive of fraud (15,051 out of 27,248 cases) followed by sexual exploitation with 7.5% (2,030 cases) and causing disrepute with 4.4% (1,212 cases). Figure1 illustrates the rise in the cases of cybercrime in India during the last five year. From 9,622 cases in 2014, it has risen to 27248 cases in 2018 with a rise of more than 180% in less than a decade[10]. This is only a tip of the iceberg, as most of the cases still go unreported. This rise is also due to the increased awareness of citizens toward reporting them.

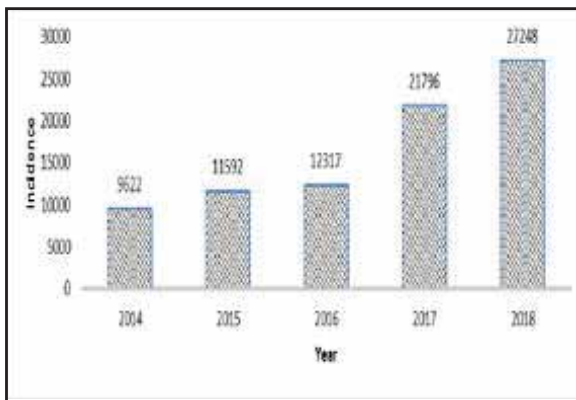
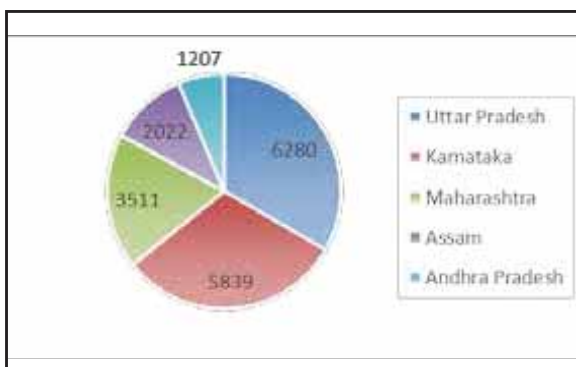


Figure 3: Rise of cyber crime in India



Uttar Pradesh tops the chart with 6280 cases of cyber crimes reported followed by Karnataka (5839) and Maharashtra (3511) as shown in figure 2. Among the metropolitan cities having a population of more than two million, the highest number of cybercrimes are reported in Bengaluru (5253) followed by Mumbai(1482) in 2018 [11].

If we consider the specific cyber crimes against women the picture is no better. Table 1 presents data reported in Crime in India in 2017 and 2018 under various categories of blackmailing, pornography, stalking/bullying, fake profile and other crimes. These categories are together reported as online crimes against women. A comparative analysis reveals that there is a sharp escalation in the number of cases as reported from 2017 to 2018. Maharashtra reports the highest number of cyber crimes against women in both 2017 and 2018, with majority crimes under "Other crimes" subheads. A large number of cases are also reported in the category of "Stalking and bullying" which are constantly on a rise, clearly showing the vulnerability of woman and girls to online stalking.

It can be seen in table no.1 that cases of pornography (172) and Fake profile (94) were reported in a big number in Assam during the year 2018. Both these categories had reported only 76 and 21 cases in 2017, respectively. All the data discussed until now clearly reveals that cybercrime against women in India has already taken monstrous dimensions.

	Blackmailing		Pornography		Stalking/Bullying		Fake Profile		Other crimes		Total	
	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018
Maharashtra	8	5	15	31	304	398	9	13	809	815	1146	1262
Assam	70	29	76	172	12	18	21	94	199	357	380	670
Telangana	12	10	24	42	27	18	3	12	130	254	196	336
Uttar Pradesh	5	2	18	11	6	24	6	6	233	217	268	340
Andhra Pradesh	11	12	1	5	48	82	3	16	110	96	173	217

Table 2: Online crimes against women and children in top 5 states of India

The cases of cyber stalking and bullying are also witnessing a steady rise in almost all the states in the country led by Maharashtra, followed by Andhra Pradesh and others.

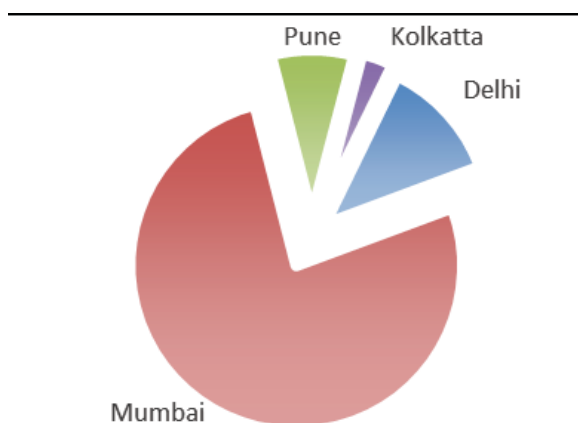


Figure 3: Reported cyber stalking and bullying cases against women & children in four major cities (2018).

When the individual categories of Cyber stalking and bullying against women are considered in Metropolitan cities, Mumbai can be seen to top the charts with 171 cases followed by Delhi with 27, Pune with 18 and Kolkata with 7 cases as reported in 2018[11].

As far as cyber crimes against women and children are considered, data show Mumbai topping the charts in the majority of categories. The data discussed herewith leads us to the finding that there is an exponential rise in cyber crimes in India

over the past decade and it has led to an equal escalation in cyber crimes against women.

Types of cybercrime against women:

Many types of cybercrimes can be marked in India, including crime against an individual, the crime against an organization and the crime against society. While the abusers use different tactics and means, the goal remains the same: embarrassing, humiliating, scaring, threatening and silencing women. Following are types of cybercrime against women, which are required to be discussed for assessing the gravity of the situation:

Sexist hate speech: Council of Europe defines it as “expressions which spread, incite, promote or justify hatred based on sex”[12]. These are typically the threats of rape, death and torture that women and girls can receive because they carry the stereotypes enforced by the culture of rape and patriarchy

Tactics: Attacks women who assert their opinions online.

Habitat: Offline public places, Comments section, Reddit, dedicated websites, social networks.

Cyber bullying: Cyber bullying is the use of technology to bully a person or group with the intent to hurt them socially,

psychologically or even physically [13]. Cyber bullying is defined by Smith et al. as an “aggressive, intentional act carried out by a group or individual, using electronic forms of contact, repeatedly and overtime against a victim who cannot easily defend himself or herself”[13]. It takes place over digital devices like cell phones, computers, and tablets. Cyber bullying can occur through SMS, Text, and apps, or online in social media, forums, or gaming where people can view, participate in, or share content. Cyber bullying includes sending, posting, or sharing negative, harmful, false, or mean content about someone else. The Global Youth Online Behaviour Survey conducted by Microsoft ranked India third in cyber bullying, with 53% of the respondents, mainly children admitting to having experienced online bullying, falling behind only China and Singapore[14]. Suicide cases related to cyber bullying have increased significantly in the last decade. The seriousness of cyber bullying came to the forefront after Amanda Todd, a 15-year-old schoolgirl from Canada committed suicide because of being continuously cyber bullied and posted a video of her story. Freedom House and Feminism in its report “Violence Online In India: Cyber Crime Against Women and Minority on Social Media 2015”[16] has reported that about 58% of respondents in India face cyberbullying, trolling and other forms of harassment online.

Tactics: Repeatedly sends hurtful messages and start rumors to shame and humiliate.

Habitat: Social networks, communication applications.

Cyber Harassment: It is harassment by

means of email, text (or online) messages or the internet. It can take many forms, including but not limited to: unwanted sexually explicit online messages; inappropriate or offensive advances on social networking websites or internet chat rooms; threats of physical and/or sexual violence by online messages; Hate speech, de-meaning language that denigrates, insults, threatens or targets an individual based on her identity (gender) and other traits (such as sexual orientation or disability).

Tactics: Targets women who assert their opinions online.

Habitat: Comments sections, forums, chat rooms.

Cyber stalking is the act of online spying, fixing or compiling somebody’s information and communicate with them against their will. This is one of the most popular crimes in the online world.

Tactics: Spies, fixates on and compiles information about women online to scare them and sometime blackmail them.

Habitat: Social network

Doxing refers to the online researching and publishing of private information on the internet to publicly expose and shame the person targeted.

Tactics: Researches and publishes private information online as to publicly expose, out, and shame victims.

Habitat: Victim’s social networks profiles, google searches

Digital voyeurism or Creep shots: “Creep

shots consist of perpetrators surreptitiously taking photos or videos of women's private areas for the purpose of sexual gratification. In some cases, the act of taking the image without the victim's knowledge, and the subsequent violation of their privacy and agency, is what provides the sexual gratification". Creep shots are then posted on the web, sometimes with hash tags such as #up skirting.

Tactics: Photographs women and girls without their consent and publishes their photos online

Habitat: Offline public places, Reddit, dedicated websites, social networks

Revenge porn: Revenge porn has been defined by the government as "the sharing of private, sexual materials, either photos or videos, of another person without their consent and to cause embarrassment or distress"[17]. Additional personal information will often be included with the published images or videos. This combination may leave a person vulnerable and may endanger them. It is psychologically harmful to the victim at least. The numbers speak for themselves: in January 2017 alone, Face book had to evaluate 54.000 potential cases of revenge

porn and close more than 14.000 accounts [17].

Tactics: Posts private pictures or videos of a sexual nature to shame and humiliate the victim. Extension of intimate partner violence.

Habitat: Social networks

Online impersonation is the use of someone else's name or identity with the intention of harming, defrauding, intimidating or threatening anyone. The impersonation can be used to discredit targeted women with their social and professional peers or for criminal purposes similar to theft of offline identity.

Tactics: Uses new technologies and a propaganda tool to steal online identities

Habitat: Social networks

Legal provisions to combat cyber crimes against women and girls

Most cybercrimes are not covered by existing laws in the country. The perpetrators are booked under various sections as understood to be appropriate by the police personnel. Table 2 presents various legal provisions for combating cyber crimes against women in India[19, 20, 21].

Cyber crime type	Legal provisions applicable
Sexist Hate Speech	<ul style="list-style-type: none"> • The Indian Penal Code, 1860: Section 124A; Section 153A, Section 153B, Section 153 C, Section 295A, Section 298, Section 505(1) and (2) (penalizes promotion of enmity between different groups and people on grounds of race religion, place of birth, residence, language and disturbing harmony) • The Representation of the People Act, 1951: Section 8; Section 324; Section 123(3); 123(3A) and Section 12 (Prohibits promotion of enmity between different groups and people on grounds of race, religion, place of birth, residence, and language in relation to elections) • The Protection of Civil Rights Act, 1955: Section (penalizes un touchability through the word; spoken written, symbols or otherwise)
Cyber bullying	<ul style="list-style-type: none"> • IT act 2000: Section 67, 70 and 72 (publishing or transmitting obscene/sexually explicit material against women and children) • The 2013 Criminal Law Amendment Act: 354, 354 A, 354 B, 354 C & 354 D (Criminal force against woman outraging her modesty)
Cyber Harassment	<ul style="list-style-type: none"> • IT act amendment 2008: 67A to C (publishing or transmitting of material containing sexually explicit act and child pornography in electronic form.) • IPC: Section 292A (printing or publishing grossly indecent or scurrilous matter or matter intended to blackmail), Section 509 (uttering any word or making any gesture intended to insult the modesty of a woman)
Cyber Stalking	<ul style="list-style-type: none"> • IT act 2000: Section 72 (remotely for breach of confidentiality and privacy) • IPC: Section 441(Criminal trespass) and • Section 509(Outraging the modesty of women)
Doxing	<ul style="list-style-type: none"> • IPC Section 354C(Voyeurism) and D(Stalking), • Section 292(Obscene content) • Section 499(Defamation) and IT act amendment 2008

Cyber crime type	Legal provisions applicable
Digital Voyeurism	<ul style="list-style-type: none"> • IT act amendment 2008: Section 66E (Capturing, Publishing or transmitting the image of the private area without a person's consent or Knowledge) • IPC Section 292 (sale, hire, distribution of obscene content)
Revenge Porn	<ul style="list-style-type: none"> • 67 A of IT act 2000 (publishing or transmitting obscene/sexually explicit material against women), • Section 354C, IPC (Voyeurism), Section 66E, IT Act (violation of privacy) and Section 509, IPC (harming the modesty of women).
Online Impersonation	<ul style="list-style-type: none"> • IPC Section 464 (forgery), Section 465 (making false documents), Section 468 (forgery for purpose of cheating), Section 469 (reputation), Section 471 (using as genuine a forged document), and Section 474 (possession of a document known to be forged and intending to use it as genuine) • IT act 2000, Section 43(damage to computer systems without permission of the owner) Section 66 (sending offensive messages through the electronic device), 66B-D (dishonestly receiving stolen computer resources, cheating by personating by using computer etc.)

Suggestions to counter Cyber Violence and Cyber Crime

Crime on the Internet can be financially, physically, and emotionally harmful to any person. To avoid this, the following measures should be taken while using the Internet[22].

The user must keep her security settings in an active state. A friend request from an unknown person should not be accepted.

User should not share personal information on the Internet. If necessary, keep the setting private.

Keep privacy settings for your photos, personal information, locations, on your online account, so that only user's friends can see them.

User should never respond to messages by an unknown person and avoid flirting and arguing with an unknown person.

Avoid using provocative screen names or email addresses.

Protect online information using a password. The password should always be a combination of digits and special symbols, such as # &%, with upper and lower case letters. Change

the password from time to time and do not share this password on unknown websites.

Avoid using the same password in many places.

Use computer and laptop safely. Be cautious about using a cyber cafe etc. Always close the website by signing out or log out.

Do not open an anonymous email as far as possible.

Do not click on the attached attachments and do not try to delete it by the removal link provided in it.

If a user faces any kind of cyber violence even after the above caution, then family members must be involved and informed. User should contact the police in case of any online threat listed earlier. One can also approach various institutional mechanisms set up by the government to deal with such crimes. These institutional mechanisms may be helplines, one-stop centres or cyber cells of police, or any website established to counter cyber violence.

In sum, it can be said that according to the United Nations report there are 3 ways to prevent and prevent cyber violence. First, Sensitize: giving information about cyber violence to society, there is a need to be sensitization to prevent such behaviour. Second, Safeguard: To make all sections of women and society aware of cyber violence and ways to prevent and protect them. And last, Sanctions, violence cannot be allowed in civil societies, so the laws which prohibit cyber violence are required to be constituted and be strictly adhered.

Conclusion

The cyber-violence abnormality can be controlled only by ensuring the participation of the individuals, society and government. Thus, it can be concluded that the magnitude of cyber violence against women and girls is rising at an alarming pace. A closer look at this augmentation can lead us to state that it is expected to grow further in future with the advent and progress of latest technological devices. In this paper it was attempted to illustrate the forms of violence against women and girls are evolving in form of cyber stalking, cyber bullying, trolling, hate speech and online sexual solicitation. The physical forms of violence against women and girls are increasingly combined with cyber violence against women and girls giving birth to hybrid violence. As far as the existing legal provisions for online violence are concerned, there is a great deal which needs to be done at the level of not only social media platforms but also police and the individual user as well. It is worth mentioning here that the National Crime Records Bureau of India has recently started segregating gender based data on cyber violence and further categorization still to be done for specifics. It is need of the hour to recognize the severity of cyber violence against women and girls and treat it with the same intensity as any physical form of violence is done.

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India ups the ante on Money Laundering: Consequences and Countermeasures



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ABSTRACT

Money laundering is the process by which criminal proceeds earned from illegal sources are laundered and disguised by making it appear as it has been derived from a legitimate source. Globalisation has made it into a menace which is not confined to any specific country and India is no exception to it. Money laundering is not only against our country's economic growth but also undermines the rule of law. This article focuses on the far reaching impact money laundering has on our economy and recent countermeasures taken against the crime in India with special focus on 2019 amendment to Prevention of Money Laundering Act.

KEYWORDS: Money laundering; Economy; Anti Money laundering regime; KYC Guidelines; Proceeds of Crime;

INTRODUCTION

Money laundering is the process by which criminal proceeds earned from illegal sources are laundered and disguised by making it appear as it has been derived from a legitimate source (The United Nations Office on Drugs and Crime, n.d.). The term "money laundering" has originated from the United States, Where the mafias and criminals laundered their illegally earned money into lawfully earned money. With globalisation and developments in technologies money laundering has become a global menace (Mehanathan, 2017, p.3) which is no longer confined to any specific country. And our country is no exception to it rather India serves as a lucrative destination

for launderers (Retharekar, n.d.). The plain meaning of launder is to wash or clean dirty clothes and the term Money Laundering is used for cleaning the illegally earned dirty money by disguising or concealing its origin and presenting it as rightfully earned legal money. The extent, magnitude and intricacies of money laundering have evolved significantly. The modes and methods of operation keep changing with changes in technological development, techniques and policy approaches (Mehanathan, 2017, p.3).

Money laundering let the criminals encash the profits of their crimes and illegal activities, and bestow them with power, influence and

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stature in society. (Mehanathan, 2017,p.2). These crimes not only threaten the economic stability but also hamper government's role of delivering basic facilities and services for the public (Brown, 2018). Money Laundering is a crime not against a specific individual, but against countries, their governments and rule of law (The Associated Chambers of Commerce and Industry of India, n.d., p.7). Though in recent years India has intensified the fight against money laundering to ensure financial stability of the country but the battle is far from over. India needs to be consistent and more vigilant in its commitment to combating money laundering.

HOW MONEY LAUNDERING WORKS

Although Money laundering is a single process but it is divided into three stages named Placement; Layering and Integration, which are explained below:

1. **Placement-** In this stage illegally earned money is positioned in to the financial system. This stage is the riskiest as placing huge amounts of cash into the system may attract suspicion of the authorities and they might get caught. So it is mostly done by placing smaller amounts to evade unnecessary attention from the law keepers (Mehanathan, 2017, p.21).
2. **Layering-** This stage disguises the true origin of the illegally earned money. Layering cuts off the link of unlawful money from its illegal source. It involves multiple financial transactions to baffle authorities. During this stage, the money may be transferred through different accounts within the country or to different countries or money may be

converted into financial instruments like money orders, insurances, stocks, bonds etc, Electronic Funds Transfer (EFT) is also very popular and many other modes are used to disguise the trail of money (Mehanathan, 2017, p.23).

3. **Integration-** The last and final stage of money laundering is integration. In this stage the money arrives back to the criminal from a legitimate looking source. For example money is received from any business, trade etc bought with the laundered money and is following all rules and regulations and carrying on a legitimate lawful purpose. So, technically the money coming from a lawful business or source following all laws and regulations is lawful money. This way money can be used by criminals for any purpose and can be integrated into the economy without violating any laws (The United Nations Office on Drugs and Crime, n.d.).

CONSEQUENCES OF MONEY LAUNDERING IN INDIA

Money laundering strikes at the very foundation of a society and deeply impacts so many aspects of economic development as well as law and order in a country deteriorating the social fabric and values of nation. The so called cleaned or laundered money gives criminals that needed power and stature in a society making them even stronger. They use this laundered money to further expand their criminal activities (Mehanathan, 2017, p.1,2) not only which jeopardizes not only security but also national interests, as the illicit proceeds of laundering are invested in

criminal activities like drug trafficking, arms dealing, supporting terrorist groups and funding them, human trafficking (Jamal, 2018) smuggling etc. Money laundering also impacts the government revenues and fills up loss of revenue because of untaxed money, the tax rates go up, which has direct bearing on honest taxpayers, increasing their burden (McDowel,2001,p.7,8). Money laundering assists the rise in crime and corrupt practices, which hampers the economic sustainability and depresses the growth, discourages foreign direct investment (Bartlett, 2002, p.22,24), also causes instability of inflows and outflows of capital, damages the reputation of financial institutions and the country associated (The International Monetary Fund,2019, p.6). Money laundering harms the private sector by offering products at low prices as their aim is not profit but laundering the money making the competition difficult and negatively impacting the legitimate businesses. Instability of exchange rates, unstable financial markets leads to financial crisis in the country. This way the economic power shifts from government and economy to criminal masterminds, which can be devastating for any country. Hence the smooth functioning of financial sector of a country is crucial for its prospering economy (Financial Intelligence Unit -Republic of Mauritius, n.d.). The impacts of money laundering are manifold and are summed up into following:

- Loss in Government Revenue
 - Weakens economy
 - Increase in crimes like terrorism, drug trafficking etc

- Discourages foreign direct investment
- Unfair competition in private sector
- Instability of financial markets
- Financial crisis owing to unstable economy
- Damages reputation of a country internationally

COUNTER MEASURES: ANTI MONEY LAUNDERING (AML) REGIME IN INDIA

The Prevention of Money Laundering Act, 2002 (PMLA), together with the rules, is the primary legislation dealing with money laundering in India. Act criminalises money laundering with imprisonment up to 10 years and provides for confiscation of tainted properties acquired from proceeds of money-laundering. It defines Money laundering as the process of cleaning criminal proceeds earned from illegal criminal activities and making it appear as it has been gained from a legitimate source. The PMLA mandates banking companies, financial institutions and intermediaries to keep account of transactions, verify details of all its clients and report all doubtful transactions or transactions above a specified value to Financial Intelligence Unit-India (FIU-IND). Financial Intelligence Unit-India has power to impose fines on all reporting entities .i.e. banking company, financial institution, intermediary for not complying with provisions of the act. It also empowers Enforcement Directorate (ED) to investigate the offence, arrest an accused and attach tainted property involved in money laundering without seeking any permission from court or government (The Prevention of Money Laundering Act, 2002).

With increase in the number of financial crimes and scandals the Central Government amended the Prevention of Money Laundering Act, 2002 through Finance Act, 2019 by inserting explanations to sections and cleared the ambiguities existing in the act and made the provisions stricter to contain money laundering in India. By these amendments the scope of the “*proceeds of crime*” has been expanded and now (a) Concealment (b) possession (c) acquisition (d) using (e) projecting /claiming tainted property as untainted property in any manner shall be guilty for the offence of money-laundering under section 3. It has also been made a continuing offence by the amendment as the offence will continue till the time the person enjoys the benefits of laundered money in any way.

The 2019 Act deletes the proviso of Sections 17 (1) and 18 (1) and gives power to the ED to conduct search and seizure without pre existing FIR or permission from court. *Proviso* inserted under Section 44(1)(b) of the PMLA for submitting Closure Report to the Special Court when upon investigation no offence is determined. Amended Section 45(2) also clarifies that offences under the Act are cognizable and non-bailable offences, independent of anything contained in The Code of Criminal Procedure, 1973 (CrPC). Hence, the accused can be arrested by authorised officers without a warrant, subject to the fulfillment of conditions under Section 19. Section 12AA, which compels every Reporting Entity to increase monitoring and due diligence for any doubtful transactions and take all necessary due steps mentioned under the act (Amendment in PMLA by The

Finance Act, 2019). The amendments to the PMLA gives clarity on various ambiguous aspects of money laundering and brings in more reporting obligations for the reporting entities for detecting and foiling suspicious money laundering attempts (Kumar,2019). Apart from Prevention of Money Laundering Act the RBI KYC Master Directions, the SEBI AML Guidelines, IRDAI AML Guidelines based on Anti-Money Laundering standards (Anti-Money Laundering Forum, n.d.) and recommended by the Financial Action Task Force (FATF) are instrumental in fighting money laundering in India and are updated from time to time. This way making the anti-money laundering regulations in India stricter and updated for the current scenario.

FEW MAJOR RECENT MONEY LAUNDERING CASES IN INDIA

INX Media Money laundering case

The 2019 amendments to Prevention of Money Laundering Act, 2002 will bring more troubles to former finance Minister P Chidambaram. He was arrested in the INX Media money-laundering case on charges of irregularities in a Foreign Investment Promotion Board approval to the INX Media group for receiving ₹305 crore in 2007 as overseas funds during Chidambaram’s tenure as finance minister. Currently CBI has filed a chargesheet against former Union minister P Chidambaram, his son. With new amendments now scope of section 3 has been expanded and other explanations added to existing sections in the act will strengthen position of Enforcement Directorate and CBI in the case against Chidambaram.

Vijay Mallya Money laundering case

Vijay Mallya is wanted in India over alleged ₹ 9,000 crore frauds and money laundering charges. He was the first person declared a fugitive economic offender under the Fugitive Economic Offenders Act 2018 after he fled India avoiding prosecution. Currently he is set to be extradited to India soon after losing appeal against India's extradition demand in UK Supreme Court in 2020.

Nirav Modi fraud and Money laundering case

Nirav Modi is involved in biggest fraud in banking history of India. He defrauded Punjab National Bank of ₹11,400 crore by fraudulently acquiring letters of bank guarantees and laundered the proceeds of the funds using his fake companies. Nirav Modi and his relatives fled from India to United Kingdom in early 2018 and is the second person declared a fugitive economic offender under the Fugitive Economic Offenders Act, 2018. In the ongoing extradition case, he is contesting his extradition to India. The Indian government submitted further evidence in the London court in May 2020.

Apart from the Prevention of Money Laundering Act, 2002 the main bodies responsible for enforcing and regulating anti-money laundering framework in various other sectors in India are:

Financial Intelligence Unit - India (FIU-IND): at <https://fiuindia.gov.in/>. Financial Intelligence Unit – India is an independent body, set up on November, 2004 by the Government of India. It is responsible for collecting, analyzing, processing and sharing the

information regarding suspicious financial transactions. FIU-IND reports directly to the Economic Intelligence Council of India headed by the Finance Minister and work towards strengthening efforts, intelligence and measures to combat money laundering in India.

Enforcement Directorate (ED): Enforcement Directorate at http://www.enforcementdirectorate.gov.in/index_home.html?p1. can exercise special powers regarding investigation, prosecution of cases and also attachment of the property under the Prevention of Money Laundering Act 2002.

Reserve Bank of India (RBI): at <https://www.rbi.org.in/>. RBI, the central bank of India regulates financial institutions like banks and various financial markets and sets anti-money laundering guidelines and policies and has regulatory powers to combat money laundering in India. RBI also updates KYC rules from time to time as per recommendations made by the Financial Action Task Force (FATF) and directions by government of India.

Securities and Exchange Board of India (SEBI): at <https://www.sebi.gov.in/>. SEBI regulates intermediaries and investors in the securities market to curb money laundering.

Insurance Regulatory & Development Authority of India (IRDAI): at <http://www.irdaonline.org/>. The IRDA regulates the insurance sector and ensures compliance with Anti-Money Laundering guidelines applicable to certain insurers.

CONCLUSION AND SUGGESTIONS

Money laundering has become a matter

of grave concern not only for India but for the world as well. It not only dampens the productivity of an economy but also spoils the image of the nation which adversely affects the economic growth. For an effective implementation of Anti-Money laundering regime, the government should make sure that all concerned institutions comply with anti money laundering rules and laws, follow the KYC Policy .i.e. "Know Your Customer", immediately report doubtful transactions (Sarigul,2012, P.299), strict Customer Due Diligence must be applied which includes proper identification and verification of clients and keeping proper records of them (The International Monetary Fund, n.d.): The stern enforcement of laws and stronger penalty for non compliance are the most effective measures to fight money laundering (Bartlett, 2002, p.33). Clearly, money laundering cannot be contained and controlled by a single country but collective efforts and cooperation in technologies, information sharing and strategies among countries is the need of the hour (Shah et al., 2006, p.1127). Mere enactment of Anti-Money Laundering Laws and regulations are not suffice, keeping pace with new technologies, techniques and ways is imperative (The Associated Chambers of Commerce and Industry of India,2013), as money launderers keep on finding new modes and methods to launder money and bluff authorities.

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Dermatoglyphics of Criminals and Effects of Social Environment: A Study



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ABSTRACT

Intro—Dermatoglyphics start developing in the human fetus from third month of pregnancy and are formed fully by the sixth month and are genetic in nature. Mental retardation, schizophrenia, leprosy were observed on the basis of dermatoglyphics. It can act as a predictor tool of criminal tendency as the youth displaying the tendency were found to have low IQ. It is opined by researchers that criminal behavior is influenced both genetically and environmentally. **Aim:** The present study's objective was to determine the role of dermatoglyphics in detection of the genetic criminal tendency. **Method & materials:** 100 hand prints of criminal and control were obtained and digital parameters and palmar dermatoglyphics were studied. **Result:** PII, Furuhatta's indexes were low and Whorl patterns were more prominent in criminals than control group, and palmar creases and ABRC, Mean at dangle were found statistically significant.

Keywords—Criminal tendency; Dermatoglyphics; genetics; Low IQ; Social Environment; Delinquency

INTRODUCTION TO DERMATOGLYPHICS

The analysis of epidermal lines on the palmar and plantar surface is termed dermatoglyphics. The term Dermatoglyphics, a Greek word, was coined by Cummins which meant skin carvings. Historically, fingerprints in ancient culture were used for adornment or as a signature on documents. Fingerprints were also found on clay seals, clay tablets and pottery in Babylon. Malphigi observed presence of spirals, ridges in fingerprints. J.C. Meyer was the primary to ascertain the

distinctiveness of fingerprints. Later the work was taken up many researchers like J.E.Purkinje, Sir William Herschel, Dr. Henry Faulds, Sir Francis Galton, Cummins, Henry and others. Two Indians pioneers, Azizul Haque and Hem chandra Bose worked with Henry to arrive at the present classification system.[1]

Faces change with time but dermatoglyphics never change as they are formed within the intrauterine life of a foetus and are permanent

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and individualistic. They are epidermal friction lines fused with sweat pores. The ridged skin is found on all primates and also the main function of it is creating traction and forming an interface between the object and the hand. Now, it is being used by investigators to ascertain the identity of an individual, especially at the scene of crime.

Dermatoglyphics has always interested scientists as having link to syndromes and diseases. Researchers studied medical disorders as down syndrome, mental retardation, Schizophrenia, epilepsy, diabetes, Leprosy, TB and many others. [2]-[8] Student counsellors with observation and experience found that talent of a student can be explored by the study of dermatoglyphics.[9].

Bali and chaube [10] applied dermatoglyphics to study criminal tendency and it was found that Palmar flexion creases, ATD angle on palm and patterns on hypothenar showed variation in experimental group to control group. With the advancement of technology, the character of crimes and therefore the number of criminals are increasing. New methods are required to predict criminals in the early stages and stop growth of criminal tendency. Large numbers of studies were conducted in various fields linking dermatoglyphics but not much research has been done in the detection of criminal tendency using dermatoglyphics as a predictor tool. Researchers derived that dermatoglyphics are inheritable and genetic in nature [11]-[12], so the possibility of inheriting criminal behavior exists.

The aim of the present study was to investigate qualitatively and quantitatively, dermatoglyphics as predictor tool of criminal

tendency, by applying various digital and palmar parameters. The obtained information can often be employed in forming an information database. The delinquent children, who are at a risk and are prone to anti-social behavior and violence, can be detected from the database and taken care of by providing suitable and safe environment.

DIGITAL DERMATOGLYPHICS

A fingerprint is the reproduction of the ridges of the first phalange portion of a digit. It comprises elevations and depressions, as in a crop field. The elevations and the depressions, termed ridges and furrows respectively, tend to create a pattern. The central part of a pattern is named 'core' and the external edge is termed the 'delta'. There are different patterns formed but the only three are most important and they are Arch, Loop, and Whorl. [13].

Arches: The ridges run from end of the finger to the other end and called a plain arch. Sometimes, a tent like formation is found in the centre and is named as tented arch.

Loops: The ridges recurve and exit from the same side of entrance. There are two types. Radial and Ulnar loops, depending on the point of origin and exit of the hand. If the exit is from Ulnar bone side, they are called Ulnar loop and if the exit is from radial bone side, they are called Radial loop.

Whorl: In this pattern, the ridges appear either in concentric circles, spiral formation, combination of two loops or a mixture of two patterns within the central area. The variations are termed i) concentric whorls, ii) spiral whorls, iii) Double loop whorls, iv)

central pocket whorls v) Accidental whorls. Figure 1 exhibits common patterns.

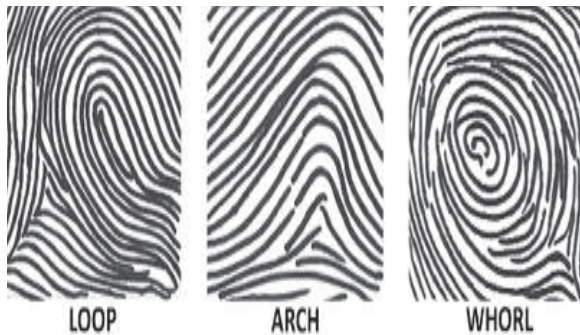


Fig:1. Common Fingerprint patterns (courtesy Research gate)

PALMAR DERMATOGLYPHICS

The palm is larger in area than a finger and has more characteristics. It is divided into three areas: Hypothenar, Thenar and Triradiate / Inter digital area. The palm has triradii, Palmar flexion creases, atd angle, a-b ridge count (ABRC) as some parameters for study. A triradius is a meeting of three ridges stepping into three different directions, mostly at 120° to each other. The triradii occur below the index finger, middle finger, ring finger, and the little finger and are marked as 'a', 'b', 'c' and 'd'. One more triradius is found at the base of the palm and is called axial triradius 't'.

ABRC: The number of ridges between the triradii 'a & b' are counted by drawing an imaginary straight line from a-b points.

ATD angle: It is obtained by drawing a line from the digital 'd' triradius to axial 't' triradius and from there to 'a' triradius in the ID area. The angle so formed is measured by keeping centre of protractor at T. The position of 't' changes and accordingly it is given values as (t', t'').

Palmar Flexion Creases: The palmar lines are folds of the epidermis. They are called

Heartline, Headline and Life line. They are again classified into SRBC, DRBC, TRBC based on the point of origin on the Radial side of the palm: Single Radial Base Crease (SRBC), Double Radial Base Crease (DRBC); and Triple Radial Base Crease (TRBC). Figure 2 exhibits palmar parameters.

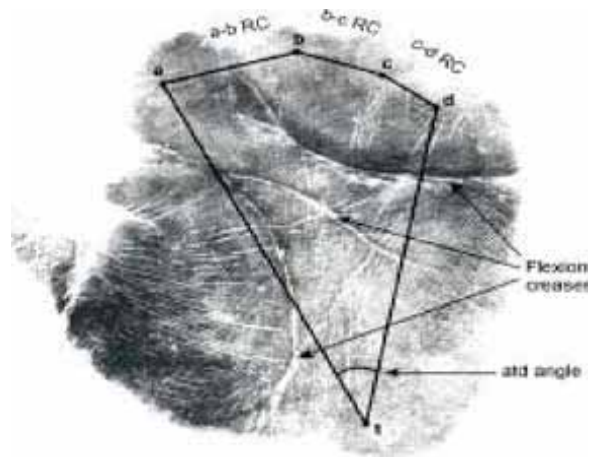


Fig:2 Palmar parameters..ATD, AB,Creases (courtesy Research gate)

Fig:2 Palmar Parameters

Abbreviations

- ABRC: a-b ridge count
- RH; Right hand
- LH: Left hand
- DTC: Distal Transverse crease
- PTC: Proximal Transverse crease
- RLC: Radial Longitudinal crease
- ATD: atd angle
- PII: Pattern Intensity index
- F I: Faruhatta's index
- DI : Dankmeijer's Index

METHODS AND MATERIALS:

For the study, a convenient sample study of 100 criminal and control group was selected. 100 clear hand print slips of RH & LH of criminals were obtained from fingerprint department, National Crime Records Bureau, India. The prints so obtained were sought

for clarity of details through light source and magnifier. Hand prints of control group were obtained from willing normal individuals known to author in the age group of 18-70. The materials used were finger and palm inking system, Standard black printers ink, roller, LCD magnifier, sheets of paper and cleaning solution.[14]

INCLUSION CRITERIA: REGISTERED CASES OF CRIMINALS WITH THE BUREAU

Exclusion criteria:

1. Deformed fingers and palm
2. scars and burns on palms
3. Partial and incomplete handprints

Procedure: Dermatoglyphics were taken by manual method suggested by Cummins. To get hand prints, the subjects were asked to scrub their hands well with soap and water. Little amount of ink was taken and spread evenly on the plate. The subjects then placed their palms facing down on the plate and inked their palms and fingers by pressing them hard. The inked hand was then placed on fingerprint sheets and hand prints were recorded. The names and sex details were noted down.[15]

Data handling: The information of criminals and control was entered within the excel sheets. The criminal group hand prints were given a separate serial number and the control group was given a separate serial number. Employing a 5 X magnifier and a light source, the hand prints were analyzed and the data found was entered against their allotted number.

Statistical analysis: The digital and palmar parameters were analyzed and tabulated.

Calculations were done to find observed values as well as expected values. Statistical tools as arithmetic mean, Chi square were applied wherever necessary.

QUALITATIVE ANALYSIS:

- i) Fingertip patterns: Arches(A), Loops(L), Whorls(W) frequency was studied
- ii) Palmar analysis: Presence of triradii a,b,c,d & t was observed. Similarly the nature of origin of palmar lines was noted.

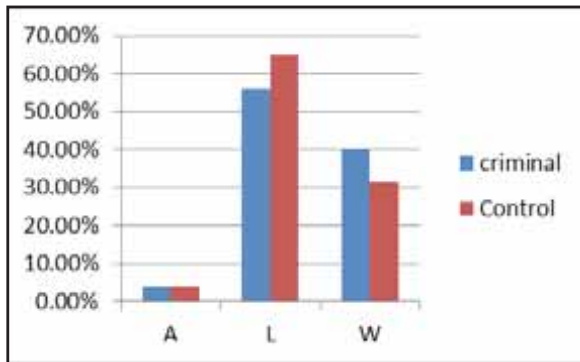
QUANTITATIVE ANALYSIS:

- i) Pattern Intensity Index=
$$2x \text{ whorls} + \text{ loops}$$
$$N(\text{where } n = \text{total number of samples})$$
- ii) Furuhatta's Index=
$$\frac{\text{Whorls} \times 100}{\text{Loops}}$$
- iii) Dankmeijer's Index =
$$\frac{\text{Arches} \times 100}{\text{Whorls}}$$
- iv) ATD angle: Values obtained through geometric measurements
- v) ABRC: Values obtained by counting ridges between a-b triradii

RESULTS & DISCUSSION

Digital parameters:

- a) FP Patterns: Whorls were found more in criminals and less in controls (40.29% : 31.22%). Loops and arches were more frequent in control groups than study group (loops 65%: 56.05% & arches 3.77%: 3.66%). Chi square values were statistically significant @0.05 level of significance. Detailed distribution of Fingerprint patterns is shown in Graph.1 below.



Graph1. Distribution of Fingerprint patterns in both the groups

- b) **Pattern Intensity Index:** The mean PII values of criminal group (13.67) were found to be higher than Control group(12.74).
- c) **Furuhatta’s Index:** The mean values of whorl-loop index for criminal (72.02) were found to be more than control group (48.03).
- d) **Dankmeijer’s Index:** The values of arch-whorl index for criminal (9.09) were found to be less than control group (12.09). Table.1.shows values of digital Dermatoglyphic indices.

Table:1 Digital Dermatoglyphic indices		
Index	Criminal group	Control Group
PII	13.67	12.74
F I	72.02	48.03
D I	9.09	12.09

PALMAR PARAMETERS:

- a) **ABRC:** It had been observed that the mean

values for ABRC in criminal group (36.40 with SD 5.4) were higher than control RH (35.27 with SD of 5.6) and mean AB-RC on left hand of control group (37.21 with SD 6.42) was marginally beyond LH criminal group (37.07 with SD 5.01). The chi square values for both hands were found to be statistically significant @0.05 level of significance.

- b) **Creases:** Single radial base creases were found more in criminals than non-criminals groups. SRBC shows higher values in criminals (8.34%) as compared to the Control group (0%) whereas Double Radial Base Crease (DRBC) & Triple Radial Base Crease (TRBC) show greater values in control (86.1% & (13.9%) than criminals group (78.33%) & (13.3%). The Chi-square values are significant for both right and left hand @ 0.001 and support crease association with criminality.
- c) **ATD angle:** It was observed that ATD angle was in right hand was @ 41.56 with SD 7.37 and left hand @ 41.90 with SD 7.53 in criminal group whereas RH of control was @39.63 with SD 5.40 and LH @ 39.90 with SD 5.34. The value of chi square. was statistically significant @0.01 level of significance. All the palmar dermatoglyphic values are displayed in Table 2.

S. no.	Parameter	Control		Criminal		X2 Value
		RH	LH	RH	LH	
1	FP Pattern (Whorl only)	31.98%	30.46%	44.62%	35.96%	Significant @0.05
2	ATD angle	39.63 with SD 5.40	39.90 with SD 5.34	41.56 with SD 7.37	41.90 with SD 7.53	significant @0.01
3	A-B RC	35.27 with SD of 5.6	37.21 with SD 6.42	36.40 with SD 5.4	37.07 with SD 5.01	Significant @0.05
4	Flexion Crease	SRBC -0% DRBC-86.1% TRBC-13.9%		SRBC- 8.34% DRBC-78.33% TRBC-13.3%		significant @0.001

DISCUSSION

In the present study, whorl pattern was found as the more frequently occurring pattern among criminals. It had been observed by Madhumitha et al, [16] that the whorl patterns of finger prints were found more in low intelligence quotient group. The results of our study were in accordance to the studies conducted by some researchers who found whorls more common than loops and arches. [17] -[19]

Pattern intensity index (PII) indicates presence of triradii in the sample group. Arch doesn't possess triradii, so it had not been considered. Increased value of PII indicates higher number of triradii, which occur more in whorl patterns. Within the present study, criminal group exhibited higher values of triradii than control group.

Higher values of Furuhatta's Index (whorl-loop index) in criminal group indicated more number of whorl patterns and fewer numbers of loops within the study group. Lower values

of Dankmeijer's Index in criminal group indicated less number of arches and higher number of whorls in study group than control group. The current study is in accordance with the study done by Biswas, [17] Banik et al.[18]

The mean values for ABRC were found to be were higher in RH of criminal group than control. Madhumitha et al observed that intelligence inversely varies with ABRC and reduces with increase in values of ABRC. [16]. Palmar flexion creases when studied, showed that single radial base creases were more prevalent in criminals than Double Radial Base Creases & Triple Radial Base Creases. Bali & Chaube observed the same in their study [10].

ATD	Criminal		Control	
	RH	LH	RH	LH
<30	1	2	1	0
51-55	4	5	2	2
56-60	1	2	0	1
61-65	2	2	0	0
66-70	2	1	0	0

It had been found [3] that standard values of ATD are between 30°-60° and ATD values <30° and >60° revealed mental retardation and also that if the value of ATD is smaller and in the range of 30°-60°, brain responded faster. In the present study it was observed that in criminals the atd values exhibited <30 and >60 were more in number than in the control group, as shown in Table.3. It was observed by Madhumitha et al that ATD angle was highest in low IQ group [16].

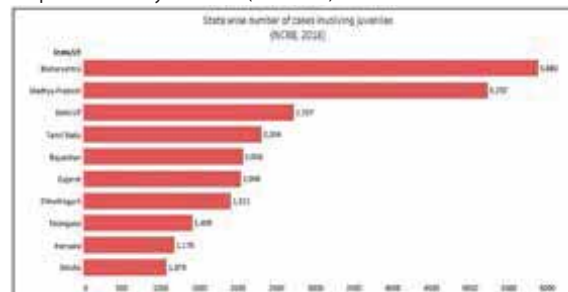
It can be corroborated by the above results that IQ and criminal tendency are related. Karestan C. Koenen et al [20] observed in his study that low IQ results in anti social behavior. The anti social behavior becomes a criminal act when it harms others.

SOCIAL ENVIRONMENT AND EFFECTS ON CRIMINAL BEHAVIOUR

Most violent behavior shown by juveniles is behavior witnessed either at home or school. As per statistics of 'Crime in India 2018'

published by NCRB, 31,591 crimes were committed by juveniles and Maharashtra & Madhya Pradesh topped the list as shown in Graph.2.[21] and also that 99.3% of the juveniles were boys within the age group of 16 to 18. Early childhood exposure to violence increases the danger of violent behavior by an adolescent. It had been observed that about 1% of the juveniles, as per statistics, were below 12 years. Majority of the crimes by juveniles were offences affecting human body and property.

Graph 2: Crimes by Juveniles (statewise)



REASONS FOR JUVENILE CRIME:

- 1) **Home environment:** Family has a stabilizing or disturbing influence on an individual. It either teaches children to care for others, respect their needs and rights or teach to be aggressive, anti-social and not caring. Children who grow up in homes, with conflicting parents, poor family management, excessive discipline by parents, high family mobility, mal-nourishment, no emotional attachment towards any parent or maltreatment, the child develops negative behavior as a way of life. A child who has grown up in happy family surroundings learns to develop positivity as a way to unravel problems. Positive parenting helps and acts as a buffer to forestall development of delinquent behavior. A child of law abiding parents has greater likelihood of becoming a law abiding citizen than a child with criminal parents.[22]
- 2) **School environment:** School is sort of a second home for the child. He comes to school to flee the monotony of the house and also to sharpen his skills. But because of high student/teacher ratio, excessive syllabus and other work pressures, teachers tend to ignore children who are underachievers. As a result, the child is on his own to deal with bullying, harassment

by peer group and hence, stays less attached to the school. [23]

- 3) **Poverty:** A powerful association had been found between poverty and crime. Children grown up in poor atmosphere find disharmony within the family, a daily feature. Parents lack time to bond with children and are inattentive to their emotional and physical needs. Income inequality is alleged to be the mother of crime. [24]
- 4) **Neighborhood/Community:** High levels of crime within the neighborhood, easy availability of arms and ammunition, poor housing, lack of mentors are a number of the factors contributing enhancement of deviant behavior. Limited education, lack of coaching/ training, less job opportunities pushes the youth towards violent behavior to survive.[23]

CONCLUSION

With the assistance of dermatoglyphics, the criminal behavior can often be predicted within the early stages of life of an individual. The growth of the criminal tendency is related to the available environment. Emotional and behavioral disorders (EBD) coupled with learning disabilities, poor problem-solving skills, poor social skills were enhancers of criminal behavior. The cumulative effect of the social environment and the higher the risks to which a child is exposed, the greater is the influence on the criminal behavior.

Prevention is the most plausible strategy to curb delinquency of children.[25]-[26] Children, who are at-risk for delinquency may be detected with the assistance of the

predictor tool .In the present study, though absolute proof could not be obtained because of small sample size but results do support the hypothesis that dermatoglyphics plays a role in detecting criminal tendency. Dermatoglyphics could be a preventive, non-invasive tool to explain, compare and contrast, and predict events. Conducting additional studies involving larger samples of dermatoglyphics can give the required outcome.

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Lying and Lie spotting: Can brain waves detect lying and whether the use of EEG for theta band analysis is proficient in catching liars?



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ABSTRACT

Some people can lie confidently and never get caught, but a few are gifted with abilities to catch such people. The exciting question, asking how people are even capable of doing such things is explored in this research. In experiment-1 of the study, 40 students participated in an experiment where their skills to lie and catch liars was explored; an effort was made to relate them to their personalities. In experiment-2, 10 students were asked to lie while they were equipped with an EEG apparatus. Results confirmed that it is not necessary for a liar to be a lie spotter in all the cases and that the presence of a video teaching how to catch a liar could not affect the natural abilities of a person. An idea of relating a human's short term memory to the theta brain waves was highlighted and then the results were compared to verify the presence of the same particular band while lying.

Keywords: Deception, Personality, lie spotting, Brain signaling, Electroencephalography

INTRODUCTION

We have several decades worth of studies and theories on lie detection and related fields. Listening and analyzing speech, observing behavioral cues are widely used to try and detect lying and deception. But from the score of knowledge present, we can come to a conclusion that these tests are not reliable and do not form the basis for irrefutable conclusions. Do lies often remain undetected because people never even attempt to uncover it? Do they even

know what to look for if they do try? An aptly named phenomenon, the *ostrich effect* (Vrij, 2008a) by Paul Ekman (1985/2001), suggests much the same. It is again emphasized that certain so-called wizards have extraordinary lie spotting skills but others don't (O'Sullivan and Ekman, 2004). The objective of this present work is an attempt to know whether people can be trained to do so and even more importantly if they can relate this to extraversion or similar common personality traits?

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According to Gonza et al.(2001) people are expected to be good actors if they are likely to lie every day and be successful in doing it. They made a reasonably justifiable hypothesis that the personality constructs of *Acting, Manipulativeness, Anxiousness, Impression Management and Sociability* could have an effect on how people may lie, and was supported to a certain extent. The correlation between personality and deceptive ability is proven by well-documented works which go back up to the late 80s (Riggio et al., 1988) by a simple 16 personality test. The stratification of personalities and their relationship with deception can be observed with ease if one has more scales (16 in this case) to point them out. It was conclusive on correlating guilt (O scale) and self-control (Q3 scale) but failed to comment on the more common *extraversion* and reserved scales. An old research relating to '*extraversion and detection of deception*' (Bradley and Janisse, 1980) concluded that extroverts were more likely to be identified whether they are innocent or guilty as compared to introverts who were equally sensitive to past and present crime related events, unlike extroverts.

A videotape experiment carried by Johnson et al. (2005) was done on premature actors throws some interesting light on the *theory of mind*, concluding that individuals with high self-awareness were more effective in deceiving others. This particular finding verifies the results of Riggio et al. (1988), but had the same drawback, one of relating deception to a more common trait (like extraversion or neuroticism) as pointed out by Gudjonsson (1982) on the findings of Bradley and Janisse (1980). Vrij et al. (2010) suggested

that pitfalls and opportunities in nonverbal and verbal lie detection were more than a guide on deception and more over they excellently bridged the gap that had come between the present generation and Paul Ekman's study with a pervasive domain. Much earlier the same researcher in (2007), tried to explain the facilitation of cognitive load using the techniques of recalling an event in reverse order and explored it adequately.

Gudjonsson (2011) reasonably argues that the personality traits like suggestibility, compliance and acquiescence have an observable amount of correlation with deception, irrespective of whether it is done by you or to you. This is interesting as his traits were more general, but their capabilities to catch a liar was untouched. Explored in Ein-Dor et al. (2017) with the help of two experiments, the "*Bullshit*" game and a study which checked whether a partner catching an extramarital affair had any affair before, is the age old cliché "*it takes a thief to know a thief*". This begs the question whether it is really so, in a general sense?

Discovery of brain waves shook the conventional lie detecting and it has been argued that one could detect deception by studying brain activity. As of now, revolutionary and conclusive literature findings are not eminent on deception and brain activity in a more suggestive and definite way. A very recent article (Khadelwal et al., 2016), which points out various different existing and upcoming deception detection techniques and technologies. These include the famous *Polygraph testing, Functional magnetic resonance imaging, Heart rate variability, Radar based lie detection and*

finally EEG (electroencephalogram). Out of all these techniques, only a few like EEG do not depend on non-specific physiological vectors (e.g., heart rate) and the doubt is certain that people having *Dark Triad* personalities would challenge the accuracy of existing Polygraph or any other techniques that have come to rely on non-specific physiological vectors for detection of deception though studies like Lykken, (1978) beg to differ.

Hence, there is a need to understand a simpler and reliable cue in brain activity when a person is deceiving, similar to the way a person sneezes during a cold. Just from the idea that lying demands more of our cognitive attention than does truth telling (Vrij et al., 2008), it would be reasonable to hypothesize that the formulated lie is dealt by the short-term memory in the liar's mind. This assumption of short-term memory related to lying may lead to more scope of future research if proven, as there are at least a few articles which talk about the relationship between *theta* waveband and short term memory like (Vosskuhl et al., 2015). An exciting work had been already shown by Kubo & Nittono (2009), where using EEG and P300 it was shown how the intention to conceal has a huge impact on deception detection.

The first experiment of this study focuses on relating both the lying and lie-spotting abilities of a person to his personality using the more common and famous test, the *Big Five Personality* questionnaire. As one can see many findings illuminate on the abilities to lie or deceive but the findings do not say much on the lie-spotting skills of a person. Hence, further relation to their personality

and lie-spotting ability is out of the question. Whereas, the second experiment of this work tries to explore the presence of *theta waveband* in the EEG tests done on a lying subject.

METHOD

Experiment 1

In Experiment 1, we tried to analyze and understand a pattern between the personality of a person and deception using more common traits like extraversion. The ability of a person to lie and catch liars was equally explored using the experiment which aptly designed to achieve the aim. The early studies by Riggio et al. (1987) and Gudjonsson (1981) discuss this aspect, but later many other studies like the videotape experiment by Johnson et al. (2005), facilitation of cognitive load using the techniques explained in the literature review by Vrij et al. (2007) and the experiments of Ein-Dor et al. (2017) all of these point to the fact that there indeed exists a certain pattern, a correlation between the personality of a person and deception. The experiment design also challenges the findings of the study (Ein-Dor et al., 2017), whether it is true that it takes an insecure liar to catch another liar. For that, we took a subject pool, randomly divided them into two groups, control and experimental, verified how well they could lie or catch a lie in the presence and absence of a helping agent.

Participants

The participants were 40 students from the Indian Institute of Technology located in Kharagpur, West Bengal, India. They were the undergraduate and post graduate students

who belonged to the age group of 19-28, (M = 19.54, SD = 1.324). They volunteered to participate in the study with proper consent.

Materials and procedure

The students were at first given a *Big Five Personality* questionnaire for personality assessment. We have selected *Big Five* not just because it is widely used. It also directly concludes the scores of the required personality traits (i.e., *extraversion, agreeableness, neuroticism, openness and conscientiousness*) as we aimed.

Students from both the control and experimental groups were given serial numbers and were paired with each other after completing the questionnaire. Instructions were given to the students about how to proceed with the experiment. They were given a set of 8 questions each and were clearly instructed that they needed to ask and answer the same. The condition present was that odd serial numbered students would lie for the odd numbered questions and even serial numbered students to the even questions. It was made sure that all the participating students were not aware of this control condition. The experimental and control groups were separated; the control group was taken to a separate room where they continued the experiment, whereas the experimental group was shown a video (10 min) that instructed them on how to spot liars and were paired to complete the experiment.

RESULTS AND DISCUSSION (EXPERIMENT 1)

The scores from the *Big Five personality test* are calculated and the means and standard deviation for all the personality traits are

estimated as follows: *Extraversion* (M = 18.70, SD = 7.154) , *Agreeableness* (M = 26.12, SD = 6.734) , *Neuroticism* (M = 22.12, SD = 4.675) , *Openness* (M = 16.52, SD = 5.67) and *Conscientiousness* (M = 24.7, SD = 6.454).

Later on, these scores and the number of uncaught lies told and lies caught were correlated to arrive at various inferences. From **Table 1** it can be seen that there was a significant negative correlation between lies told and lies caught. It implies that more is the ability to lie, less is the ability to catch lies. This is totally in contrast with previous studies (Ein-Dor et al. 2017). Secondly, the lies caught and uncaught lies told by each person is observed and noted. Briefly speaking, in a nut shell, we know which person was asked to lie for which particular question and if he was successful doing that he is a better liar and if he wasn't there the other person was a better lie spotter. The individuals who were able to lie or catch liars at least 75% of the time were separated and analyzed.

Table 1

Correlation among Personality traits, Lies uncaught and Lies caught (N=40) (Experiment 1)

Correlation	Uncaught Lies	Lies caught
Extraversion	-0.222	0.049
Agreeableness	-0.207	0.019
Conscientiousness	0.020	0.058
Neuroticism	-0.003	-0.275
Openness	0.020	-0.002
Uncaught Lies Told	1	-0.475**
Lies caught	-0.475**	1

**p <0.01

A minute increase of 1% was seen in the

experimental group as a whole while lying when compared with the control group. Whereas in lie spotting, surprisingly control group showed an increase of 1% than the experimental group. The peculiar result which was seen among the people who succeed in lying for at least 75% of the question is that few subjects (59 % among the class of 40) in the experimental group have used the video for better lying than lie spotting.

To test the significance of the difference between the two groups in terms of the effect of priming by the video on the ability to lie as well as spot lies, Mann-Whitney U test was performed. The results clearly showed that there was no significant effect of the video on the ability to either lie well or to catch a lie well, as there was no difference between the two groups.

The entire results of experiment 1 were as follows: Out of 11 participants who did lie perfectly 75% of the time, only 2 had very low scores on the scale of Extraversion (below 15 from a maximum of 40). Out of 9 participants who caught lies 75% of the time, only 1 had a low score on Extraversion scale while 3 of them scored very high (above 30). It might be an indication that extroverts are better liars and lie-spotters than introverts.

An interesting observation made was that 7 out of 20 students of the experimental group (30% approximately) were better at lying than spotting a lie (they lied 75% of the time), whereas there were only 4 in the other group who did better lying than spotting a lie. The video, in this case, might have acted as an agent to increase the ability to deceive well. Does this show the importance of one's self-

concern about hiding their facts well more than to check the same in others?

EXPERIMENT 2

The second experiment of this article tries to explore the presence of *theta waveband* in the EEG (*electroencephalogram*) tests performed on a lying subject. Though lie detection using EEG is not a novel idea but the study of *theta waves* for the same is not as familiar compared to the former. The experiment was aimed to search for any possible and new observational methods for lie detection. The possible connection between *theta wavebands* and short-term memory was also explored by many others like Vosskuhl et al. (2015). An exciting work had been shown by Kubo and Nittono (2009), where using EEG and P300 it was shown how Intention to conceal has a huge impact on deception detection. The recent work by Khandelwal et al. (2016), also points out that in upcoming techniques on deception detection an EEG will be very useful.

PARTICIPANTS

The sample comprised 10 participants (5 men and 5 women), who were the undergraduate and post graduate students between the age group of 20 and 25 years, (M = 25.45, SD = 2.477). They volunteered with proper knowledge of the experiment and consent.

INSTRUMENTS

An electroencephalogram (EEG) was used to find the electrical activity of the brain and data were collected from 64 scalp sites. The sampling rate was 256 Hz. The data from each participant was recorded with the help of a computer.

MATERIALS AND PROCEDURE

The experiment was designed to mimic the present day's polygraph test, but was never aimed at catching liars. As the study of how *theta waveband* is directly related to short term memory of a person is not yet quite strong, none can say that the presence of *theta waves* can be fully indicative as to whether the person is only using his short term memory or lying as a matter of fact.

The participants were equipped with the EEG apparatus and they were provided with two sets of questions. Utmost care was taken in keeping the participant unaware of the questions until the apparatus was installed. The experiment was quite simple, in that the first set of questions they were asked were simple questions. For example, "do you believe that the earth is flat?," "do you believe in God? ". The second set consisted of more personal questions like "No offense!, Are you a virgin?"," would you hit your children in future?" and so on.

The only instruction given to them was to lie in every alternate question starting from the first one in the first set and select any four questions which they preferred in the second set. As there were 8 questions in each set the total number of truths and lies told were equal in each and every case. Sufficient gap was given between set one and set two, and participants were requested to restrict their movement. The questions were answered in only Yes and No, so that later it could be easy to analyze the data without significant noises or artifacts.

The sample rate was 256Hz and as *theta band* exists only within 4-7 Hz, the current results

were evaluated for the presence of the same. For the first set, it was known that for which questions the participant was lying and the choices were ticked on the paper by the participant for the second set. As declared earlier, we were only interested in observing the presence on the assumed band when the person was lying so the result for the rest of the questions was ignored.

RESULTS AND DISCUSSION (EXPERIMENT 2)

The experiment roughly took 2-3 minutes for each participant. We had at least 30,000 data points to analyze and so Wavelet Analysis was used given the sampling rate of (256 Hz). The purpose of this Wavelet analysis was to analyze and compress a signal. In this process, the signals were first analyzed and representations of simplified versions were produced in MATLAB. The data were reconstructed with approximations at given levels and the data were clustered for comparing with each question. As removal of the noises was unavoidable, it was done much before the entire analysis for accuracy.

Once the *theta band* was separated, the data was approximated with higher order polynomial fitting and partitioned into two sets of 8 questions each and then compared to the choices made by the participant.

The probability of congruence of the choices made and the presence of the *theta waveband* was at least 50% in all the cases and 75% for 8 out of 10 participants with (mean= 2.9, SD= 0.567). But the possibility of occurrences of false positives was inevitable and was at least 1 in each case and went up to 3 for one subject whose (mean= 1.5 and SD= 0.707). A sample data and analysis are shown in **fig 1**

for a brief idea.



Fig 1: Comparison of the results from the choices given by the individuals.

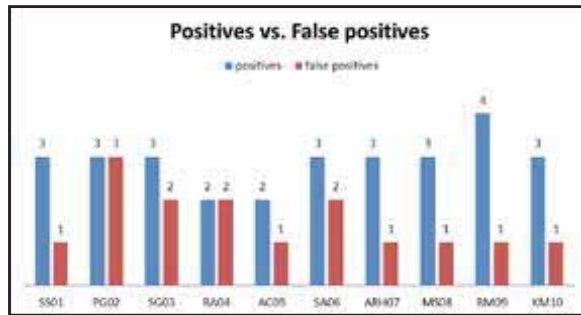


Fig. 2: Plot showing Positives and False positives observed among the subjects (N=10) (Experiment 2)

The idea of the experiment was never to read EEG for clues of deceit rather understand why the participant was anxious or in this case using his short term memory. If at all the answer to the question was decided well in advance it should be in his long term memory. Though this particular experiment was built on the basis of some infant findings we believe that there would be a huge scope of future study along this perspective. From **Fig. 2**, one can see that just the idea of why the false-positives present in the first place itself are definitely fascinating and thought-provoking.

Discussion

No appropriate connection was found between a liar and a lie spotter which was repudiating the discoveries of Ein-Dor et al, (2017), as his research was more on a concise topic, where people either know each other or

the game very well. Our first experiment gave equal chance to each and every individual to show whether the participant got skills to lie well or catch a liar. The act of using the lie-spotting tips for better lying rather than catching suggests that one's self-awareness comes way earlier than any motivation to understand or suspect others.

The article on *Dark Triad and deception* by Azizli et al. (2016) helped reasonably to gain a perspective but was relatively incongruent with our study as we were not specific on personality standouts. Individuals who used their instincts performed equally well compared to those who were educated before at lie-spotting. Concluding that both lying and lie-spotting are mostly based on natural instincts and cannot be easily taught, would be as presumptuous as commenting that the nature of a person is more prominent than nurture in the above context.

As expressed earlier, the desire of the investigation in experiment 2, was never to peruse EEG for pieces of information of double dealing rather comprehend why the member was on edge or for this situation utilizing his short-term memory. On the off chance that at all the response to the inquiry was chosen well ahead of time it ought to be in his long term memory and simply, why the false-positives exhibited in any case are certainly entrancing and interesting.

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FOOTNOTES

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ILO Convention on the Elimination of Violence and Harassment in the World of Work: A Much Awaited Step



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ABSTRACT

The Convention on the Elimination of Violence and Harassment in the World of Work was adopted on 21 June 2019 with non-binding guidelines to make the “world of work free from violence and harassment”. The Convention has been drafted in a comprehensive manner in terms of the meaning of violence and harassment, worker, world of work, etc. A workplace which is free from violence and harassment ensures equality, respect, dignity, non-discrimination, etc. A robust system regarding workplace at a national level will help States to fulfil their human rights obligations under human rights treaties.

KEY WORDS

Violence and harassment, victims, world of work, domestic violence, vulnerable groups, ILO, workers, Convention, Recommendation, workplace policy, awareness

INTRODUCTION

“What we have adopted today is a roadmap, a compass to take us forward in the future of this Organization, because the future of work is the future of our Organization”.

-Guy Ryder
ILO Director-General

The increasing reaction from international community against “violence and harassment in the world of work” made it clear that international action in the form of a legally

binding instrument was imminently required as a safe workplace ensures equality and dignity among other things. According to an estimate, women are not protected from sexual harassment in the workplace in 59 countries. Further, legal protection is lacking for them in 70% of economies in the “Middle East and North Africa, half in East Asia and the Pacific, and one-third in Latin America and the Caribbean”. About 500 million women have been potentially affected around the world.¹ According to another estimate, 35%

¹ Paula Tavares and Quentin Wodon, “Sexual Harassment – Where do we Stand on Legal Protection for Women?” available at <https://>

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of women over the age of 15 years have experienced “sexual or physical violence at home, in their communities or in the workplace.”² It was realized that higher level of protection was needed to women workers than what has been provided under various treaties on human rights more particularly the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

With an objective to make the workplace “free from violence and harassment”, the ILO took a concrete step in 2009 by publishing its special report on “Gender Equality at the Heart of Decent Work”. The Report called for the prohibition of violence and harassment at workplace. Subsequently, many reports were adopted at ILO to end violence and harassment for all the workers. It was decided by the Governing Body of ILO in October 2015 to bring on the agenda of the 107th Session of its Conference the item “Violence against women and men in the world of work”. The Conference was scheduled to be held in the month of June 2018.

The ILO published a *Brown Paper* report on “Ending Violence and Harassment in the World of Work” in August 2018. The report included the “proposed texts of the Convention and its complementing Recommendation”. Comment and feedback were invited on the report by the ILO member States. After receiving comments and feedback, the second discussion on Convention took place in June 2019 and the Convention on the

Elimination of Violence and Harassment in the World of Work was adopted on June 21, 2019.³

At the same General Conference of ILO, it was decided to adopt certain proposals in the form of Recommendation. The provisions of “Violence and Harassment Recommendation, 2019” so adopted was to supplement the Convention. In other words, the Recommendation “*should be considered in conjunction*” with the Convention. It is however to be noted that Convention is *legally binding* instrument that may or may not be ratified by States, whereas Recommendation serves as *non-binding guidelines*.⁴ In other words, Violence and Harassment Recommendation which is non-binding in nature and accompanies the Convention provides guidance only on the Convention’s obligations.⁵

The Preamble to Convention recognizes the “right of everyone to a world of work free from violence and harassment, including gender-based violence and harassment”. It also recognizes that such violence and harassment which can “constitute a human rights violation or abuse” and is also a “threat to equal opportunities”, is “unacceptable and incompatible with decent work”.

blogs.worldbank.org/voices/sexual-harassment-where-do-we-stand-legal-protection-women last visited on 18 June 2020.

2 <https://www.ituc-csi.org/GBV>

3 See Yuliia Ostrovskaya, “ILO Convention on Combating Violence and Harassment at Work: History and Significance” available at <https://legal-dialogue.org/iilo-convention-on-combating-violence-and-harassment-at-work-history-and-significance> last visited on 12 June 2020.

4 See also https://www.ilo.org/ilc/ILCSessions/108/media-centre/news/WCMS_711366/lang-en/index.htm last visited on 15 June 2020.

5 See Human Rights Watch, “ILO: New Treaty to Protect Workers from Violence, Harassment” available at <https://www.hrw.org/news/2019/06/21/iilo-new-treaty-protect-workers-violence-harassment>, last visited on 15 June 2020; See also “We did it! New ILO Convention on Violence and Harassment at Work” available at <http://www.industrialunion.org/we-did-it-new-ilo-convention-on-violence-and-harassment-at-work> last visited on 12 June 2020.

Members are responsible “to promote a general environment of zero tolerance to violence and harassment”. The Preamble acknowledges that “gender-based violence and harassment disproportionately affects women and girls” and also recognizes that “an inclusive, integrated and gender-responsive approach” is required to end such violence and harassment.

DEFINITION AND SCOPE OF CONVENTION

The term “violence and harassment in the world of work” is defined in the Convention to mean “a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment”.⁶ A pragmatic approach has been adopted in the Convention while defining the term *violence and harassment*. The definition will cover *inter alia* “physical abuse, verbal abuse, bullying and mobbing, sexual harassment, and threats and stalking.”⁷

The Convention gave a comprehensive meaning to the term *violence and harassment* which need not be *gender-based* in all the cases. The term, however includes “gender-based violence and harassment”. Further, “gender-based violence and harassment” is defined to mean “violence and harassment directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately, and

includes sexual harassment”.⁸ The “gender-based violence and harassment” may also target the transgender as the term includes *sex or gender*.

The Member States are required to bring their national laws in conformity with the Convention provisions. The definitions of “violence and harassment in the world of work” and “gender-based violence and harassment” are to be included in the national laws to comply with Article 1. The Convention however, provides that the aforesaid definitions in national laws “may provide for a single concept or separate concepts”.⁹

The scope of Convention is very wide as *inclusivity* is the central point of it. In other words, the Convention protects each and everyone who works, whatever his status may be, and irrespective of the sector - whether “public or private”; kind of economy - whether “formal or informal” and the areas - whether “urban or rural”, in which he works.¹⁰

According to Article 2, the persons who are protected by the Convention are “workers and other persons in the world of work, including employees, persons working irrespective of their contractual status, persons in training, including interns and apprentices, workers whose employment has been terminated, volunteers, jobseekers and job applicants, and individuals exercising the authority, duties or responsibilities of an employer”. The persons who are entitled for protection under the

6 Article 1 (a), ILO Convention, 2019.

7 Shauna Olney, “ILO Convention on Violence and Harassment: Five Key Questions” available at https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_711891/lang-en/index.htm last visited on 12 June 2020.

8 Article 1 (b), ILO Convention, 2019.

9 Id., Article 1 (2).

10 Shauna Olney, “ILO Convention on Violence and Harassment: Five Key Questions” available at https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_711891/lang-en/index.htm last visited on 12 June 2020.

Convention include those persons also who are not a part of the organization yet such as job seekers as well as job applicants. The provision therefore has been drafted in the most comprehensive manner to rule out any possibility of misinterpretation of provision.

The Convention is applicable to “violence and harassment in the world of work” which occurs in the course of work; which is linked with the work; or which arises out of the work - (i) “in the workplace”; (ii) “in places where the worker is paid, takes a rest break or a meal, or uses sanitary, washing and changing facilities”; (iii) “during work-related trips, travel, training, events or social activities”; (iv) “through work-related communications, including those enabled by information and communication technologies”; (v) “in employer-provided accommodation”; and (vi) “when commuting to and from work”.¹¹

The Convention thus, is applicable to violence and harassment which occurs in the “course of work”; which is “linked with the work”; or which arises “out of the work”. Not only that, the Convention is also applicable to violence and harassment which takes place “during work-related trips, travel, training, events or social activities”. Realizing the fact that work need not necessarily take place at a physical workplace and there may be work through virtual platforms, the Convention has rightly covered “work-related communications, including those enabled by ICT”.¹²

CORE PRINCIPLES

Each Member is required to “respect, promote

¹¹ Article 3, ILO Convention, 2019.

¹² Shauna Olney, “ILO Convention on Violence and Harassment: Five Key Questions” available at https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_711891/lang-en/index.htm last visited on 12 June 2020.

and realize the right of everyone to a world of work free from violence and harassment”. In this regard, Members are also obligated to adopt “*an inclusive, integrated and gender-responsive approach*” in accordance with their national law and “in consultation with representative employers’ and workers’ organizations”. The approach which will be so adopted, is to take into account violence and harassment involving “third parties”, e.g. “clients, customers, service providers and patients” because they can also be “victims as well as perpetrators”.

The aforesaid approach is to include - (i) “prohibiting violence and harassment in law”; (ii) ensuring that “violence and harassment” are addressed by relevant policies; (iii) “adopting a comprehensive strategy in order to implement measures to prevent and combat violence and harassment”; (iv) “establishing or strengthening enforcement and monitoring mechanisms”; (v) “ensuring access to remedies and support for victims”; (vi) “providing for sanctions”; (vii) “developing tools, guidance, education and training, and raising awareness, in accessible formats as appropriate”; and (viii) “ensuring effective means of inspection and investigation of cases of violence and harassment”.¹³

The Violence and Harassment Recommendation, 2019 suggests that “in adopting and implementing the *inclusive, integrated and gender-responsive approach*” as aforesaid, the Members should, where appropriate, “address violence and harassment in the world of work in labour and employment, occupational safety and health, equality and non-discrimination law,

¹³ Article 4, ILO Convention, 2019.

and in criminal law”¹⁴

The Convention thus, obligates Members to adopt a comprehensive approach to ensuring a “world of work free from violence and harassment”. The approach not only includes prohibiting violence and harassment, access to remedies and support for victims, provisions for sanctions, inspection and investigation, but also “education and training, raising awareness in accessible formats”. *Accessible formats* means in an alternative manner or alternative form. By using the words, in *accessible formats*, the Convention has also taken care of the *visually impaired people* (VIP). The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who are Blind, Visually Impaired, or Otherwise Print Disabled, 2013 (Marrakesh VIP Treaty) defines *accessible format copy* as “a copy of work in an alternative manner or form which gives a beneficiary person access to the work, including to permit the person to have access as feasibly and comfortably as a person without visual impairment or other print disability ...”¹⁵ The term may include various formats such as Braille, talking books, Daisy, digital formats, large print, etc.¹⁶

In addition, Article 5 also requires Members to “respect, promote and realize the fundamental principles and rights at work, namely freedom of association and the effective recognition of the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour and the elimination

of discrimination in respect of employment and occupation, as well as promote decent work.”

The Violence and Harassment Recommendation, 2019 provides that it should be ensured by Members that all employers and workers that are “more exposed to violence and harassment”, should fully “enjoy freedom of association and the effective recognition of the right to collective bargaining consistent with the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98)”. In other words, the Recommendation suggests that Members of this Convention should also take into account the provisions of aforesaid Conventions of 1948 and 1949 irrespective of the fact whether they are parties to these two Conventions or not. Since the Violence and Harassment Recommendation, 2019 is not a binding instrument as such and only recommendatory in nature, therefore Members are at liberty to accept or not to accept the provisions of the Recommendation.¹⁷

In addition to above, as per Recommendation, Members should “promote the effective recognition of the right to collective bargaining at all levels as a means of preventing and addressing violence and harassment”. They should also mitigate “the impact of domestic violence in the world of work”. They should also support such type of collective bargaining; and for this purpose they should disseminate all relevant information, trends and practices of collective agreements.¹⁸

14 Provision 2, Violence and Harassment Recommendation, 2019.

15 Article 2(b), Marrakesh VIP Treaty, 2013.

16 V.K. Ahuja, “Marrakesh Treaty to Facilitate Access to Published Works for Visually Disabled: Putting an End to Global Book Famine” in Manoj Kumar Sinha and Vandana Mahalwar, Copyright Law in the Digital World (2017), 97-107 at p. 99.

17 Provision 3, Violence and Harassment Recommendation, 2019.

18 Id., Provision 4.

The Members also have the obligations to ensure through their laws and policies, “the right to equality and non-discrimination in employment and occupation, including for women workers”, as well as for workers belonging to vulnerable group(s).¹⁹ It is recommended by Provision 13 of Violence and Harassment Recommendation, 2019 that “the reference to vulnerable groups and groups in situations of vulnerability” should be interpreted “in accordance with applicable international labour standards and international instruments on human rights”. Vulnerable groups may include e.g. migrant workers, disabled persons, transgender, old age person who are working.

The Recommendation further adds that instruments of the ILO on *equality and non-discrimination* should be taken into consideration by Members in their national legal regime. These ILO instruments may include the Equal Remuneration Convention (No. 100) and Recommendation (No. 90), 1951, and the Discrimination (Employment and Occupation) Convention (No. 111) and Recommendation (No. 111), 1958.²⁰

PROTECTION AND PREVENTION

Article 7 of the Convention requires Members to “adopt laws and regulations to define and prohibit violence and harassment in the world of work, including gender-based violence and harassment”.

Appropriate measures for preventing violence and harassment in the world of work are required to be taken by Members. The aforesaid measures to be taken by Members

¹⁹ Article 6, ILO Convention, 2019.

²⁰ Provision 5, Violence and Harassment Recommendation, 2019.

will include:

- (i) To recognize for public authorities the important role in the case of informal economy workers;
- (ii) To identify the sectors/occupations and work arrangements in which workers as well as other concerned persons are more exposed to violence and harassment²¹; and
- (iii) To take measures to protect such persons effectively.²²

The Convention obligates Members “to adopt laws and regulations” which will require “employers to take appropriate steps commensurate with their degree of control to prevent violence and harassment in the world of work, including gender-based violence and harassment”. The employers shall also be required to do certain acts to the extent reasonably practicable - (i) to adopt and implement a “workplace policy on violence and harassment”²³; (ii) to take into account “violence and harassment and associated psychosocial risks in the management of occupational safety and health”; (iii) to “identify hazards and assess the risks of violence and harassment”²⁴ and “take

²¹ As far as identification of sectors/occupations is concerned, this has to be done in consultation with the organizations of employers and workers concerned. Provision 9 of the Violence and Harassment Recommendation, 2019 recommends that appropriate measures should be adopted by Members for those works in which there is likelihood of more “exposure to violence and harassment”. These works may include “night work, work in isolation, health, hospitality, social services, emergency services, domestic work, transport, education or entertainment”.

²² Article 8, ILO Convention, 2019.

²³ This is to be “done in consultation with workers and their representatives”.

²⁴ Regarding “workplace risk assessment” Members should take into consideration factors that “increase the likelihood of violence and harassment, including psychosocial hazards and risks”. The emphasis should be on the “hazards and risks” that - (i) “arise from working conditions and arrangements, work organization and human resource management”; (ii) “involve third parties

measures to prevent and control them”; and (iv) to “provide to workers information and training” on the “identified hazards and risks of violence and harassment and the associated prevention and protection measures”.²⁵

Regarding *occupational safety & health*, the Recommendation suggests that the “occupational safety and health instruments” of the ILO, such as the “Occupational Safety and Health Convention, 1981 (No. 155), and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)” should be taken into consideration by Members in their national legal regime.²⁶

Regarding the *workplace policy*, Members should encourage by specifying in their national laws that workers as well as their representatives should participate in the “design, implementation and monitoring” of such policy. The policy should – “(a) state that violence and harassment will not be tolerated; (b) establish violence and harassment prevention programmes; (c) specify the rights and responsibilities of the workers and the employer; (d) contain information on complaint and investigation procedures; (e) provide that all internal and external communications related to incidents of violence and harassment will be duly considered, and acted upon; (f) specify the right to privacy of individuals and confidentiality, while balancing the right of workers to be made aware of all hazards; and (g) include measures to protect complainants,

such as clients, customers, service providers, users, patients and members of the public”; and (iii) “arise from discrimination, abuse of power relations, and gender, cultural and social norms that support violence and harassment”. See Provision 8, “Violence and Harassment Recommendation, 2019”.

25 Article 9, ILO Convention, 2019.

26 Provision 6, Violence and Harassment Recommendation, 2019.

victims, witnesses and whistle-blowers against victimization or retaliation”.²⁷

Measures, legislative or otherwise, should be taken by Members for the protection of migrant workers from violence and harassment, regardless of “migrant status, in origin, transit and destination countries”. Further, in order to prevent and address “violence and harassment in the informal economy”, resources and assistance should be provided by Members to “informal economy workers and employers, and their associations”. Measures adopted by Members to prevent violence and harassment should not result “in the restriction of the participation” of women and the other vulnerable groups “in specific jobs, sectors or occupations”.²⁸

ENFORCEMENT AND REMEDIES

Article 10 requires Members to take certain appropriate measures regarding enforcement of laws regarding violence and harassment in the world of work and remedies with respect to their violations. Appropriate measures are to be taken first of all to “monitor and enforce national laws and regulations” in this regard.

Further, in cases of violence and harassment, Members are required to ensure “easy access to appropriate and effective remedies and safe, fair and effective reporting and dispute resolution mechanisms and procedures”. Such mechanisms and procedures include - (i) complaint and investigation procedures, and “dispute resolution mechanisms at the workplace” where appropriate; (ii) “dispute resolution mechanisms external

27 Id., Provision 7.

28 Id., Provisions 11 and 12.

to the workplace”; (iii) courts or tribunals; (iv) “protection against victimization of or retaliation against complainants, victims, witnesses and whistle-blowers”; and (v) “legal, social, medical and administrative support measures for complainants and victims”.

Members are required to protect the privacy and confidentiality of the individuals who are involved and also to ensure that “requirements for privacy and confidentiality are not misused”. Where appropriate, sanctions are also to be provided in violence and harassment cases.

Members are also obligated to provide that “victims of gender-based violence and harassment” have “effective access to gender-responsive, safe and effective *complaint and dispute resolution mechanisms, support, services and remedies*”.

Members shall also recognize the *domestic violence effects* and “mitigate its impact in the world of work” to the extent reasonably practicable. It is therefore noteworthy that under the Convention, States are required not only to recognize the “effects of domestic violence”, but also to “mitigate its impact on the world of work”; and for this purpose, the Recommendation provides that “measures to mitigate the impact of domestic violence” may include – (i) “leave for victims of domestic violence”; (ii) “flexible work arrangements and protection for victims”; (iii) “temporary protection against dismissal for victims”; (iv) “inclusion of domestic violence in the workplace risk assessments”²⁹; (v) a “referral system to public mitigation measures for

29 Workplace risk assessments is extremely important as it “can take into account factors that increase the likelihood of violence and harassment (such as gender, cultural and social norms)”.

domestic violence”; and (vi) “awareness-raising about the effects of domestic violence”.³⁰ The domestic violence is a worldwide problem and therefore this is really a welcome provision in the Convention in the sense that the effects of domestic violence on work have been taken care of and obligations have been created for the Members in this regard.

The Convention secures the workers the right “to remove themselves from a work situation which presents an imminent and serious danger to life, health or safety due to violence and harassment, without suffering retaliation or other undue consequences”. They are however, required to inform management in this regard.

The labour inspectorates/relevant authorities,³¹ in Member States must be empowered to deal with such violence and harassment. They should also have the power to issue “orders requiring measures with immediate executory force, and orders to stop work in cases of an imminent danger to life, health or safety”. An appeal however, may be made against such an order to a judicial/administrative authority.

The remedies under Article 10 may include – (i) the right of resignation with compensation; (ii) reinstatement; (iii) compensation which is appropriate for damages; (iv) discontinuation of certain conduct or change in policies or

30 See Provision 18, Violence and Harassment Recommendation, 2019.

31 It is recommended that Labour inspectors and other officials should undergo “gender-responsive training” so that they could identifying and address inter alia “psychosocial hazards and risks, gender-based violence and harassment, and discrimination against particular groups of workers”. Further, “violence and harassment in the world of work” should be covered in the “mandate of national bodies responsible for labour inspection, occupational safety and health, and equality and non-discrimination, including gender equality”. See id., Provisions 20-21.

practices; and (v) legal fees as well as costs. Further, compensation should be provided to victims in cases of “psychosocial, physical or any other injury or illness which results in incapacity to work”³²

As far as the “*complaint and dispute resolution mechanisms*” is concerned, it should include measures such as (i) “courts with expertise in cases of gender-based violence and harassment”; (ii) “timely and efficient processing”; (iii) “legal advice and assistance for complainants and victims”; (iv) “guides and other information resources”; and (v) “shifting of the burden of proof” in proceedings but excluding criminal proceedings.³³

The “*support, services and remedies*” for “victims of gender-based violence and harassment” as obligated by Article 10 should include measures *inter alia* - (i) “support to help victims re-enter the labour market”; (ii) counselling & information services; (iii) 24-hour hotlines; (iv) emergency services; (v) “medical care and treatment and psychological support”; (vi) “crisis centres, including shelters”; and (vii) “specialized police units or specially trained officers to support victims”.³⁴

The Recommendation states that “perpetrators of violence and harassment” should be held “accountable and provided counselling or other measures” with a view to preventing “the reoccurrence of violence” and to facilitate “their reintegration into work”.³⁵ The statistics should be collected and published on “violence and harassment in the

world of work”³⁶

GUIDANCE, TRAINING AND AWARENESS-RAISING

The Convention also emphasizes the need of providing due guidance, training, etc. to “employers and workers, their organizations, and relevant authorities”. This has to be done in accessible formats, so that the visually impaired persons also get the benefit of the same. The Convention thus, requires Members to ensure that in their national policies, particularly “those concerning occupational safety and health, equality and non-discrimination, and migration”, the issue of violence and harassment is addressed. The Members are also required to provide to “employers and workers, their organizations, and relevant authorities, with guidance, resources, training or other tools, in accessible formats, on violence and harassment” including gender-based violence and harassment. Further, it will also be ensured by Members that “initiatives, including awareness-raising campaigns, are undertaken”.³⁷

The Recommendation states that with respect to the issue of violence and harassment in the world of work, Members should “fund, develop, implement and disseminate” - (i) programmes on various aspects of the issue; (ii) “gender-responsive guidelines and training programmes” for judges and all other officials concerned, employers, workers, and organizations; (iii) “model codes of practice and risk assessment tools” on the issue; (iv) “public awareness-raising campaigns in the

32 Id., Provisions 14 and 15.

33 Id., Provision 16.

34 Id., Provision 17.

35 Id., Provision 19.

36 Id., Provision 22.

37 Article 11, ILO Convention, 2019.

various languages” on various aspects of the issue; (v) “gender-responsive curricula and instructional materials” on the issue; (vi) “materials for journalists and other media personnel”; (vii) “public campaigns aimed at fostering safe, healthy and harmonious workplaces free from violence and harassment”³⁸

The Recommendation has rightly guided Members to “fund, develop, implement and disseminate” the guidance programmes, training programmes and awareness programmes in their territories to sensitize judges, law enforcement officials, employers and public at large.

THE PREVENTION OF SEXUAL HARASSMENT OF WOMEN AT WORKPLACE IN INDIA

India has a robust system for the prevention of the sexual harassment of women at workplace. In order to give effect to the provisions of Convention on the Elimination of All Forms of Discrimination against Women, which was ratified by India in 1993, the legislature adopted the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereinafter “Act”). The Act not only provides for the prevention and prohibition of sexual harassment of women at workplace, but also deals with the redressal of sexual harassment complaints.

The genesis of the Act can be traced to a landmark judgment of Supreme Court, *Vishaka vs. State of Rajasthan*.³⁹ In this case, Vishaka filed a public interest litigation (PIL) in the Supreme Court after a woman Bhanwari

Devi who was working for State of Rajasthan was gang raped after she tried to prevent the marriage of a girl child. The Supreme Court discussed the right to equality and dignity of women as provided by the Constitution of India. The Court also referred to human rights instruments particularly the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and laid down legally binding guidelines. Those guidelines remained in force till the 2013 Act was brought into force.

The term *sexual harassment* is defined broadly under the Act to include “any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely:— (i) physical contact and advances; or (ii) a demand or request for sexual favours; or (iii) making sexually coloured remarks; or (iv) showing pornography; or (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature”.⁴⁰ It is noteworthy that the term is defined in an inclusive manner and it is not exhaustive. Any other similar conduct not mentioned in the definition may also be covered in the definition provided it falls within the four corners of the term *sexual harassment*.

The term *workplace* includes (i) governmental establishments, government companies, local authority, co-operative society, etc.; (ii) private sector units, NGOs, etc.; (iii) hospitals or nursing homes; (iv) sports venue, stadiums, sports institutes, etc.; (v) place visited by employee during the course of employment, transportation provided by the employer

38 Provision 23, Violence and Harassment Recommendation, 2019.

39 AIR 1997 SC 3011.

40 Section 2(n), Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

for such journey; (vi) a dwelling place.⁴¹ Like *sexual harassment*, the definition of the term *workplace* is also inclusive and not confined to what has been mentioned in the definition. The aforesaid terms have been defined broadly and in an inclusive manner to rule out any possibility for the accused of sexual harassment to take advantage of any loophole of the drafting.

The Act prevents sexual harassment of women at any work place. Section 3 lays down the circumstances, the occurrence of which may amount to sexual harassment. The Act also provides for the constitution of *Internal Complaints Committee*(ICC) by the employer at the workplace. The ICC is to consist of (i) a woman Presiding Officer; (ii) at least two Members from employees; (iii) one member from NGO committed to the cause of women. Half of the ICC Members are required to be women under the Act.⁴² The Act also provides for the constitution of Local Committee for the purpose of receiving “complaints of sexual harassment” from those establishments where ICC could not be constituted due to the fact that there were less than 10 workers or where the complaint was made against the employer.⁴³

COMPLAINT TO ICC/ LOCAL COMMITTEE

A complaint of sexual harassment at workplace may be made by any aggrieved woman or her legal heir to the ICC/Local Committee, as the case may be, within 3 months from the date of incident. At the request of woman and before initiating an inquiry, the Committee may try to settle the issue between the woman

and the respondent through conciliation. Monetary settlement is not to be made on the basis of conciliation. In case the settlement is arrived between them, it will be recoded and no inquiry will be conducted.⁴⁴

Where no settlement is arrived at, and the respondent is an employee, the Committee is to make an inquiry into the allegations as per service rules applicable to such person. Where the respondent is domestic worker and a case exists against him *prima facie*, such complaint is to be forwarded to police for registering the case under section 509 and other relevant provisions of the Indian Penal Code (IPC). Where the respondent does not comply with the terms and conditions of the settlement as discussed above, the Committee may make the inquiry or forward that complaint to the police. Where both of them are employees, an opportunity of being heard is to be provided to them in the course of inquiry.

Where the respondent is convicted, the court may order the payment of compensation to the woman by the respondent in accordance with section 15. Section 15 provides that while determining compensation, regard is to be had to –“(a) the mental trauma, pain, suffering and emotional distress caused to the aggrieved woman; (b) the loss in the career opportunity due to the incident of sexual harassment; (c) medical expenses incurred by the victim for physical or psychiatric treatment; (d) the income and financial status of the respondent; (e) feasibility of such payment in lump sum or in instalments”. The Committee, while making an inquiry, has the same power as vested in a civil court under Civil Procedure Code (CPC). The inquiry is to

41 Id., section 2(o).

42 Id., section 4.

43 Id., sections 6-7.

44 Id., section 10.

be completed by the Committee within 90 days.⁴⁵

When the inquiry is pending, the Committee, on the request of woman, has the power to recommend to the employer to (i) transfer either the woman or the respondent; (ii) grant additional leave up to 3 months to woman; or (iii) grant some other prescribed relief.⁴⁶

When the inquiry is completed, the Committee will provide its report to the employer/District Officer within 10 days. The report will also be provided to both the parties. Where the allegations have not been proved, the Committee will not recommend any action. But where the allegations have been proved, it is to recommend to the employer/District Officer – (a) to take action as per service rules or in the prescribed manner for sexual harassment as a “misconduct”; (b) to deduct salary/wages of the respondent to pay compensation to the woman as aforesaid.⁴⁷ A provision for filing an appeal has also been made in the Act. The appeal may be filed within 90 days of the recommendation to the Court/Tribunal.⁴⁸ In order to prevent its misuse, the Act also makes provisions for the punishment for a making false or malicious complaint under section 14.

DUTIES OF EMPLOYER UNDER THE ACT

Section 19 lays down detailed duties of the employer under the Act. Every employer is under an obligation to – (i) ensure safe working environment at the workplace; (ii) display constitution of ICC and the penal consequences of sexual harassments;

(iii) sensitize employees by conducting workshops/awareness programmes from time to time; (iv) provide essential facilities to ICC for handling complaint and inquiry; (v) secure the attendance of respondent and witnesses before ICC; (vi) provide necessary information to the Committee regarding the complaint; (vii) provide assistance to file a complaint under IPC/other laws, if so desired by woman; (viii) cause to initiate action against the perpetrator under the law; (ix) initiate action for sexual harassment as a misconduct; (j) monitor timely submission of reports by the Committee. The Act also provides for the penalty for employer for non-compliance of the Act.⁴⁹

CONCLUSION

The adoption of ILO Convention is a historic event as the entire world was waiting for a legally binding international instrument to make the workplace free from violence and harassment. Such a workplace will ensure equality, respect, dignity, freedom from fear which may lead to depression and anxiety, non-discrimination of any kind, among other things. It is very unfortunate that international community took so much of time to adopt the Convention on such an important subject matter. However, it is better late than never. The Convention has been drafted in a comprehensive manner in terms of the meaning of *violence and harassment, worker, world of work*, etc. The accompanying Recommendation on Violence and Harassment gives guidance to Members for their national laws and policy on the subject matter. The Recommendation is non-binding and therefore, it is upto the

⁴⁵ Id., section 11.

⁴⁶ Id., section 12.

⁴⁷ Id., section 13.

⁴⁸ Id., section 18.

⁴⁹ Id., section 26.

Members to adopt it fully or partially or adopt with changes or not to adopt it. It is however advisable to take the recommendation into account while making national laws and policies.

The Convention is a promising binding instrument which takes into account the future work place, i.e. virtual workplace and also takes care of workers from vulnerable group. The Director-General of ILO Guy Ryder rightly stated that “the new standards recognize the right of everyone to a world of work free from violence and harassment” and “the next step is to put these protections into practice, so that we create a better, safer, decent, working environment for women and men”.⁵⁰

If we have to conceive of a world where everyone irrespective of his/her sex or gender has the freedom to work without any fear of violence and harassment, the ratification of this Convention by majority of States becomes essential. The time has come when every State should change its mindset and have in place under its jurisdiction a robust system to prohibit violence and harassment at the

place of work. If the Convention gets support of a significant number of states by way of ratification, it will also help in dealing with underlying causes such as discrimination in various forms, gender-based power relations and gender stereotypes. By supporting ILO Convention only, the Member States can fulfil their human rights obligations under human rights treaties in a true sense.

As far as India is concerned, her Act of 2013 on the prevention of sexual harassment of women at workplace is doing very well. However, it is not gender neutral but women centric law. The time is ripe when India should come out with a gender neutral law. All men, women, and persons of third gender have the right of equality and dignity. The persons of third gender are more likely to be discriminated than men and women. They are also more vulnerable in society. It is highly recommended that India should become a party to the ILO Convention and bring in place a law that will protect all persons irrespective of their gender from violence and sexual harassment at work place. The legislature may have some additional provisions for women and the persons of third gender, but a law protecting all persons is the need of the hour.

50 https://www.ilo.org/ilc/ILCSessions/108/media-centre/news/WCMS_711366/lang--en/index.htm

Ways of Coping and Mental Health among Male and Female Police Constables: A Comparative Study



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ABSTRACT

Police play an important role in maintaining laws, rules and regulation in the society. In doing so, their nature of duty put them in different kind of mental health issues like stress and anxiety. Ways of coping skills help them to cope effectively with those mental health issues. Gender plays a vital role in determining one's coping strategies and mental health. The effort is made in this piece of work to study gender differences in the variables under study. The data was collected from 300 police constables (an equal number of male and female) in the age range of 25 to 40 years utilizing random sampling technique. Ways of Coping Questionnaire (Folkman and Lazarus, 1988) and WHO Measure of Mental Health (Wig, 1999) were administered to collect the data. Results were obtained on applying t-test which revealed that male and female police constables are significantly different in ways of coping and mental health. Male police constables were found to have higher mean scores on the variables, ways of coping and mental health than female police constables, which, reflects comparatively better ways of coping and mental health in male police constables than female police constables.

Key words: Police, Ways of Coping, Mental Health

INTRODUCTION

Crime and violence rate is increasing gradually. Burden on law enforcement agencies are also increasing. Police service is one of among the law enforcement agencies which directly or indirectly have to face and tackle minor to major crime related cases or incidences. Police personnel have to perform a versatile role and responsibility in order to maintain law and order in society. In doing so,

their nature of duty put them in different kind of mental health issues like stress, anxiety, depression etc.

Ways of coping skills help them to cope effectively with those mental health issues. Individual having good skills to cope with life stressors adapt better in their life circumstances than those who have lack of coping skills. Gender plays a vital role in

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determining one's coping strategies and mental health. Due to the biological makeup and socialization process both male and female acquire different characteristics which largely determines individual's coping strategies and mental health. Hence, the effort in this piece of paper is made to study gender differences in ways of Coping and Mental Health among police constables of Union Capital Territory Chandigarh.

POLICE CONSTABLE

Before explaining the concept of ways of coping and mental health, it is important here to consider the definition of the concept 'police constable', their role and responsibilities along with empirical finding. The concept of Police originated from Latin word 'politia' which stands for the condition of a 'polis' or 'state' reported by Mathur (1999). Oxford Dictionary defines Police as a system of regulation for the preservation of order and enforcement of law. It also means, the internal government of a state. In police service, the hierarchy is made from higher level officers to lower level constables to facilitate and enforce rules and regulations in society. Constable can be understood as the person holding a particular office, most commonly in law enforcement department.

ROLES AND RESPONSIBILITIES OF POLICE CONSTABLE

When it comes to understanding the roles and responsibilities of police, Walker and Katz (2000) noted that, the role of police in any particular society is not defined clearly. Police officers are asked to provide a variety of tasks, many of which include crime prevention, order maintenance and law enforcement. There

is also the problem of role conflict amongst police officers, politicians and citizens as reported by the author. According to Agolla (2009), the work of police is to protect life and property. In order to do so, they face a lot of challenges such as fighting and prevention of crime. These roles and duties expose police officers to work in different situations that require different physical and mental ability to deal with those circumstances firmly and effectively (Alkus and Padesky, 1983; Violanti and Aaron, 1994; Anshel, 2000; Rollinson, 2005 and Morash et al., 2006).

Sehgal et al. (2006) revealed that women join the police service due to the pressure from women's rights activist and the courts. It was reported further that, women's work in police is generally restricted to cases involving women and children, and to clerical tasks. Usually, women are assigned work relating to victims of sexual crimes, juvenile and female offenders, missing persons and abused children. According to Muhammad and Shukla (2007), the main duties performed by the Indian women police are: helping the investigation, the team in the cases in which a child and woman is involved, interrogation and interview of child/juvenile and woman suspects, offenders and eyewitness. Also, women police assist local police in tracing missing women and children. They work as a security guard at airports, railway stations and bus stands.

Above cited findings reveal that, the police constable's roles and responsibilities are so versatile and challenging that require high level of coping skills and mental health so that they can feel comfortable and serve society in a better way.

WAYS OF COPING

Coping involves responses such as thoughts, feelings and actions that an individual uses to deal with problematic situations that are encountered in everyday life. It is an effortful attempt by an individual to deal with stressors that are beyond the normal range of functioning, with the purpose of reducing the negative impact of that stressor. According to Lazarus and Folkman (1988), coping is the cognitive and behavioral effort to manage specific external and internal demands that are appraised as taxing or exceeding the resources of a person.

There are eight coping strategies identified by Lazarus and Folkman (1988) that are: 1) Confronting Coping: it means an aggressive effort of an individual to change the situation. 2) Seeking Social Support: it involves efforts of the individual to obtain emotional comfort and information from others. 3) Planful Problem Solving: it requires deliberate problem focused efforts by the individual to solve the issues. 4) Self Control: it includes efforts of the individual to regulate their feelings. 5) Distancing: it means efforts made by the individual to detach oneself from a stressful situation. 6) Positive Reappraisal: it requires efforts by the individual to find a positive meaning in the experience by focusing on personal growth. 7) Accepting Responsibility: it means acknowledgment of an individual's role in the problem. 8) Escape Avoidance: it involves an individual's wishful thinking.

Lazarus and Folkman (1984) classified coping strategies in two categories-emotion focused coping and problem focused

coping. Emotion focused coping involves the conscious regulation of emotions. It includes accepting responsibility, positive reappraisal, acceptance, denial and/ or cognitive and behavioral avoidance or distraction. Problem focused coping on the other hand attempts to manage the stressful problems or situations. Problem focused coping strategies are intended to get the person who is experiencing stress to change his or her behavior or to develop a plan of action to deal with the stress situation and follow it. The problem focused strategies include active coping, direct problem solving and planning (Folkman and Lazarus, 1988).

In most stressful incidents, people employ both emotion and problem focused coping strategies but use emotion focused when the situation seems to be unchangeable and use problem focused more often in situations where they see as relatively modifiable and changeable situations. The transactional model emphasizes the relationship between the person and the environment, taking into account the characteristics of the person on the one hand and the nature of the environmental event on the other.

MENTAL HEALTH

It is important to recognize that the physical and mental health is not separate construct Wig (1996). The separation between body and mind is only a convenient way of understanding the construct of health. Medical science has made it clear that mind influences the body in the same way as body influences the mind. It is also being said that the healthy body not only keeps a healthy mind but also a healthy mind greatly plays a

role to keep individual's body healthy.

The World Federation of Mental Health (Wig, 1996) explained the concept of mental health on the basis of three criteria that are: being comfortable with self, being comfortable with others and ability to meet life demands. Being comfortable with self means a person who is mentally healthy must be comfortable within him/herself. They need not to have emotions which frequently put them in to discomfort. If they feel emotions like tense, nervous, fearful, sad, aggressive or suspicious which shows that they are not mentally healthy. Being Comfortable with others: a person who is mentally healthy is not only comfortable within oneself but also makes others comfortable around him or her. An individual may be very happy and comfortable within oneself but if they are making life miserable for those around them, in this case too it can be said that they are not mentally healthy. Ultimately mental health is a kind of balance or harmony between an individual's self-interest and social responsibility. Ability to Meet Life Demands means a mentally healthy person is constantly striving to improve further. They never feel that they have reached perfection because they always make further efforts for self-improvement.

Mental health has been recognized as an indispensable aspect of an individual's total health status. It has been considered as a factor that contributes to the maintenance of physical health as well as social effectiveness. Mental health is an individual's innate capacity to keep balance in every life circumstances, either negative or positive. The people in the state having healthy mental health feel peace. They adapt better in every situation.

They are said to have adaptive personality characteristics and also they are task oriented. They work productively and cope effectively with the situation experienced to be negative.

Differences in gender role and responsibility at social and family levels reflect ability to balance between social/family and occupational roles and responsibilities. As the gender differences play an important role in performing one's task in the family and at the services. Gender difference also plays an equally important role in determining one's ways of coping skills with psychological distress and mental health. On the basis of the above explanation the aims of the study was formulated which is presented below.

The aim of the study is to understand how male and female police constables of Union Capital Territory Chandigarh are different from each other in terms of ways of coping strategies and mental health. Keeping this aim in mind the following mentioned objective was framed.

OBJECTIVE

To study gender differences in Ways of Coping and Mental Health among police constables.

Hypothesis

Male police constables will be significantly different from female police constables in the Ways of Coping and Mental Health.

REVIEW OF LITERATURE

Ways of Coping among Male and Female Police Constables

Ronen and Pines (2008) reported significant gender difference in burnout, with women

engineers reporting higher levels of burnout than men. The gender differences in style of coping revealed i.e. women's greater tendency to utilize emotion-focused coping. Haarr and Morash (1999) found that women cope with stress by using escape and by keeping written records more often than men. The authors also reported that African-American officers rely on strong relationships with fellow minority officers when symptoms coping with stress. Overall, the constructive coping mechanism is considered to be the more appropriate approach to reducing stress.

Bond and Bunce (2003) found that workers with higher levels of the acceptance coping style significantly predicated better mental health and job performance. It was further suggested that, an intervention would be effective, that enhances acceptance coping styles of workplace stressors and increases behavioral changes to help the law enforcement officers pursue their work objectives that they wish to achieve. Khan et al. (2005) results indicated that both male and female teachers used the same strategies to cope with job strain. Significant difference was not found to exist between the male and female teachers on different types of coping strategies except use of humor.

Mental Health among Male and Female Police Constables

Govind (2012) investigated gender differences in mental health of college students. The study showed gender differences with regard to mental health. Males showed better mental health when compared to female students. Ram et al. (2014) reported from

their findings that male and female youth inhabit different social worlds. According to them, female expressed greater restrictions to their independence than male.

Triveni and Aminabhavi (2002) reported that women professionals experience significantly higher occupational stress than men due to under participation. According to Greenglass (2002), men were more likely to confront problems directly or to deny or avoid their existence, on the other hand women in order to solve their problems and to deal with their stress preferred to seek social support from friends and family. It was also found that female employees sought more emotional support and relied more on social network.

Berg et al. (2005), it was found that policewomen perceived and experienced work-related stress more severely than policemen in all factors measured. This finding is supported by the work of Yoo and Franke (2011) who found that female police officers experienced significantly higher levels of stress and poorer health outcomes than their male counterparts.

Eaton and Bradley (2008) investigated the role of gender and negative affectivity in stressors appraisal and coping selection. Differential exposure to stressors was controlled by requiring participants to rate the stressfulness of identical hypothetical scenarios. It was found that women rated the scenarios as more stressful than men, and perceptions of stressfulness increased with participant negative affectivity. Women endorsed the use of emotion-focused coping strategies more than men, even when perceived stress was controlled.

Mental Health Issues among Police Constables

Due to those roles, responsibilities and functions of police mentioned above they are highly prone to face mental health challenges. It is reported in several studies that police work has been identified as the most psychologically stressful and critical profession in the world (Heiman, 1975; Manolias and Hyatt-Williams, 1986; Bonifacio, 1991). According to Selye (1980), due to the inherent nature of police work, this profession is likely to be one of the most stressful occupations in the world.

Miller (2005) reported that law enforcement is one of the important professions in which employees deal with a range of individuals from different levels of society. Police officers interact with criminals, they have many relationships with other community members and they also have mutual communication with other law enforcement professions. Even though personnel of law enforcement agencies are trained to manage interactions with different kinds of people, the necessity of making decisions under time constraints for specific circumstances creates significant stress for law enforcement.

On the basis of above explanation it was felt that consideration of ways of coping and mental health among police constable is needed to be studied in order to help them understand their mental health issues and cope with them effectively adopting an appropriate coping strategy, so that they can serve to the society maintaining balance between their personal and occupational life.

In view of the above explanation based upon the theoretical and empirical rationale of ways of coping and mental health, it is important here to mention that both the constructs are important to consider for the study in every individuals irrespective of their stages of life, nature of work and services they provide because both coping styles and mental health of an individual determines an individual's adaptive nature and effectiveness in society.

Specifically, if we talk about the ways of coping and mental health of police personnel i.e. constables, it has been observed in the findings of the literature that their roles and responsibilities are so much versatile and challenging that make them susceptible to get into mental health problems. Their mental health largely depends on how they cope with challenges in the front while providing services in order to maintain law and order in society.

The inconsistencies in the research findings have been observed which suggest that there is significant gender difference in ways of coping and mental health. There are literature reported to have male police constable with better coping skills and mental health than female police constable. Opposite findings are also available which suggest female constable have better coping skills and mental health comparative to the male police constable. Mix findings have also been reported in the existing literature. Therefore, the present study was formulated to understand gender difference in coping with styles and mental health in police constables of Union Capital territory Chandigarh.

METHODOLOGY

The present study is designed to explore gender difference in ways of coping and mental health among Chandigarh police constables. Therefore, the data is collected keeping in mind the objective of the study. In the subsequent sections necessary information about sample, tools used and the procedure employed for obtaining the relevant information has been presented.

Sample

The data was collected from 300 police constables (an equal number of male and female) serving in different police departments of Chandigarh such as police stations, traffic departments and Police Control room department, in the age range of 25 to 40 years utilizing random sampling technique. Only married constables were selected. And also, only those constables were selected who had been working for at least last 3 years. Educational qualifications of the individuals participated in the study were restricted to minimum 10th to graduation.

Tools

To measure the strategies that police constables use to cope with stress, Ways of Coping questionnaire developed by Folkman and Lazarus (1988) was used. To measure Mental Health, the WHO measure of Mental Health adapted for use in India by Wig (1999) was used. The descriptions of both the tools are presented below:

1. Ways of Coping Questionnaire (Folkman and Lazarus, 1988) there are 66 items in this questionnaire which measures 8 empirically derived subscales.

Each of the 8 subscales describes different ways of coping which is used by an individual. Those subscales along with their brief descriptions are presented below:

- 1) **Confronting Coping:** It reflects an aggressive effort of an individual to change the situation and suggest some degree of hostility to risk taking.
- 2) **Seeking Social Support:** It reflects efforts of the individual to obtain informational, tangible and emotional support from others.
- 3) **Accepting Responsibility:** It reflects acknowledgment of an individual's own role in the problem with a concomitant theme of trying to put things right.
- 4) **Plan-full Problem Solving:** It reflects deliberate problem focused efforts by the individual to alter the situation, coupled with an analytic approach of problem solving.
- 5) **Distancing reflects:** It reflects cognitive efforts of the individual to detach oneself from the stressful events in order to minimize the significance of the situation.
- 6) **Self-Controlling:** It reflects efforts of the individual to regulate their feelings and actions.
- 7) **Escape Avoidance:** It reflects an individual's wishful thinking and behavioral efforts to escape or avoid the problem.

8) Positive Reappraisal: It reflects efforts by the individual to find a positive meaning in the experience by focusing on personal growth.

According to Lazarus and Folkman (1984), there are two categories of coping strategies, emotion focused coping and problem focused coping. Emotion focused coping includes the conscious regulation of emotions. Accepting responsibility, positive reappraisal, acceptance and denial/ avoidance or distractions are considered as emotional focused coping. Problem focused coping includes attempts to manage the stressful problems or situations. The problem focused strategies includes active coping, direct problem solving and planning (Folkman and Lazarus, 1988). These coping strategies are required to change behavior or to develop a plan of action to deal with the stressful situation.

Individuals respond to each item on a 4 point scale, including the frequency with which each strategy is used. (0) Indicates 'doesn't apply/or not used', (1) indicates 'used somewhat', (2) indicates 'used quite a bit' and (3) indicates 'used a great deal'. The scale has been widely used in Indian context by Parke (1986), Opara (1999), Mohan (2002, 2004, 2005, 2015), Shourie (2003) and Savneet (2012), and the test is reported to have good reliability and validity.

2. WHO Measure of Mental Health (Wig, 1999): The scale has 16 items and is designed to measure Mental Health on 3 dimensions. Those 3 dimensions are

presented below along with their brief descriptions:

1) Being Comfortable with self reflects how comfortable the individual is in his/herself. If an individual who is mentally healthy must be comfortable within him/herself. They need not have emotions like tense, nervous, fearful, sad, aggressive or suspicious which frequently put them into discomfort.

2) Being Comfortable with others reflects how comfortable an individual feels in establishing and maintaining relation with others. An individual who is mentally healthy is not only comfortable within oneself but also makes others comfortable around him or her. Mental health is a kind of balance or harmony between an individual's self-interest and social responsibility.

3) Perceived Ability to Meet Life Demands means a mentally healthy person is constantly striving to improve further. They never feel that they have reached perfection because they consistently make efforts for self-improvement.

The test gives three scores on mental health dimensions and a summated score on total mental health. The response format has two categories 'Yes or No'. A score of one is given if the subject ticks 'yes' and a score is given zero if he ticks 'no'. It has been successfully used in India by Mohan (2004, 2005), Puri (2002), Sehgal (2002), Tripathi (2008), Rampal (2011),

Agarwal (2015) and Thakur (2015) reported to have good reliability and validity.

RESULTS AND DISCUSSION

The t-test was applied to study the gender differences in Ways of Coping and Mental Health among police constables of Union Capital Territory Chandigarh. The results obtained on applying t-test on the data collected

from male and female police constables on the variables of ways of coping and mental health is presented below in the Table.

TABLE

Means, Standard Deviations and t-ratios comparing Male and Female Police Constables on the variables of ways of coping and mental health

Sr. No.	Variables Mean	Male Police Constables (n=150)		Female Police Constables (n=150)		t-ratios
		SD	Mean	SD		
	Variables of Ways of Coping					
	Confronting Coping	9.65	2.39	7.63	2.31	7.42**
	Seeking Social Support	9.41	2.09	7.03	2.21	9.55**
	Accepting Responsibility	7.57	2.07	6.79	2.00	3.32**
	Plan-full Problem Solving	8.53	2.15	6.65	2.23	7.44**
	Distancing	15.91	9.69	11.87	2.45	4.96**
	Self-Controlling	17.00	2.99	12.36	2.88	13.72**
	Escape –Avoidance	18.74	3.40	13.47	4.00	12.30**
	Positive Reappraisal	17.98	3.04	12.61	3.26	14.75**
	Variables of Mental Health					
	Being Comfortable with Self	2.14	1.20	1.82	1.00	2.50*
	Being Comfortable with Others	2.14	1.20	1.61	0.87	4.35**
	Perceived Ability to Meet Life Demands	2.10	1.12	1.46	0.82	5.70**
	Total Mental Health	6.84	2.77	4.89	2.05	6.92**

*t-value significant at 0.05 level=1.97

**t-value significant at 0.01 level=2.60

Results obtained on applying t-ratios reveal significance of difference between two means. The Table shows the mean, standard deviation and t-ratios of the measured variables in male and female police constables in the age group of 25 to 40 years. The group differences are examined on all the variables using t-ratios.

All the variables of Ways of Coping come out to be significant. Those variables are: Confronting coping, Seeking social support, Accepting responsibility, Plan-full problem solving, Distancing, Self-controlling, Escape-avoidance, Positive reappraisal.

Male Police Constables scored higher than Female Police Constables on Confronting coping ($t(298) = 7.42, p < 0.01$); Seeking social support ($t(298) = 9.55, p < 0.01$); Accepting responsibility ($t(298) = 3.32, p < 0.01$); Plan-full problem solving ($t(298) = 7.44, p < 0.01$); Distancing ($t(298) = 4.96, p < 0.01$); Self-controlling ($t(298) = 13.72, p < 0.01$); Escape-avoidance ($t(298) = 12.30, p < 0.01$); Positive reappraisal ($t(298) = 14.75, p < 0.01$).

A glance at t-ratios Table comparing male and female police constables revealed that male police constables scored higher than female police constables on emotion focused coping styles (Distancing, Self-Controlling, Escape-Avoidance, Positive Reappraisal) and Problem Focused Coping styles (Confronting Coping, Seeking Social Support, Accepting Responsibility and Plan-full Problem Solving).

Ways of coping, according to Lazarus (1991), refer to the cognitive and behavioral efforts to manage specific external or internal demands and conflicts between them that are appraised as taxing or exceeding the resources of the person. Coping is a continuous cognitive and behavioral process of overcoming stress and stressful consequences of external forces (Mohan, 2003).

Research conducted by Roxburgh (1996) and Hall (2006) showed that just as females reported greater use of emotion-focused coping strategies than males, they also reported higher levels of subjective stressor exposure, higher levels of felt stress, more stress-related health problems, more health and illness behaviors, and also more health-promoting lifestyles. The reason behind this kind of gender differences in ways of coping

strategies and mental health can be said that is because of differential gender socialization processes. Due to the socialization of both the gender differently, females have to involve in child birth and their care, they are more prone to health-related risks than male. Women were more attuned to, and more experienced, in terms of coping with stress and health threats, and perhaps these factors helped explain females higher use of coping specifically emotion-focused coping behaviors.

Hobfoll and Freedy (1996) in their study of the multiaxial model of coping reported that men utilized more aggressive and anti-social actions in their coping. Tamres (2002) reported that, women were found to report using all coping behaviors more often than men. In none of the studies did men report engaging in more absolute levels of coping than women. In contrast, studies investigating relative coping showed that men were more likely to use problem-focused coping, whereas women were more likely to seek emotional support. He concluded that gender differences in coping occurred due to appraisal rather than to preferred coping strategies.

All the variables of Mental Health come out to be significant. Those variables are: Being comfortable with self, Being comfortable with others, Perceived ability to meet life demands, Total mental health.

Male Police Constables scored higher than Female Police Constables on Being Comfortable with Self ($t(298) = 2.50, p < 0.05$); Being comfortable with others ($t(298) = 4.35, p < 0.01$); Perceived ability to meet life demands

($t(298) = 5.70, p < .01$); Total mental health ($t(298) = 6.92, p < .01$).

A glance at t-ratios table comparing male and female police constables revealed that male police constables scored higher than female police constables on total mental health and its dimensions viz. being comfortable with self, being comfortable with others and perceived ability to meet life demands.

Mental health can be understood as one's innate "intrinsic, natural state of well-being or wisdom arising from pure consciousness and accessed via a clear mind, or from realizing the infinite capacity for formless creation of new experience via thought" (Pransky and Carpenos, 2000). Mental health also explained in terms of either a level of cognitive or emotional well-being or an absence of a mental disorder.

Caur (2006) reported significant gender differences on the stressfulness of life events, daily hassles, escape avoidance, positive reappraisal and perceived happiness status. Louw (2007) reported from his findings that female police officers were found to experience more stress as compared to the male police officers. He et al. (2005) too reported that female officers had higher levels of stress than males. De Souza et al. (2007) found that female police officers have been shown to experience a greater proportion of psychological distress, and indicate that it could be due to the need for women to work harder in order to achieve the same professional recognition as men in a predominantly masculine institution.

According to Lipp (2009), greater proportion

of females than males reported to have stress. Brown and Fielding (1993) reported that women uniformed officers reported higher levels of associated self-perceived stress than their male counterparts. However, the opposite findings have also been reported which reveals that females experienced crime related stressors less intensively and frequently than their male counterparts. McCarty et al. (2007) reported from their study that male and female officers did not report significantly different levels of occupational stress and burnout.

CONCLUSION

Male police constables scored higher than female police constables on all the variables of both emotion focused coping styles and problem focused coping styles. This result reveals that male police constables uses both problem focused coping and emotional focused coping strategies in their life to cope with their life stressors which reflects better coping skills in male than female police constable. And also, male police constables were found to have higher scores on all the three variables of mental health than female police constable. These findings reflect that male police constables have better mental health than female police constables. Over all, the finding of the study reveals that male police constables have better ways of coping skills and mental health than female police constables.

IMPLICATIONS

This study specifically will be helpful for the professionals serving with police department for the purpose of police personnel's training

and counseling. The professional such as psychologist, counselor and criminologist can make use of certain intervention or therapy module keeping gender differences in ways of coping and mental health among police personnel for the better outcome from their counseling or therapy sessions. The intervention or therapy module can consist of different components of ways of coping skills and mental health.

The professional conducts intervention programmes targeting to enhance the **ways of coping strategies** among police constables may be suggested from the findings of this study to incorporate constructs of ways of coping skills in their training module. As the importance of coping skills has been highlighted by Siponet al. (2014) mentioning it as survival skills in encountering various challenges in life. Grant et al., (2003) mentioned that coping strategies is a significant element in life functioning and individual development. The intervention will make police personnel aware, learn, and acquire the skills and knowledge required to deal with harmful, threatening or challenging problems or circumstances causing distress. The intervention module will consist of different components of ways of coping.

Confronting Coping the police constable specifically women police needs to be trained the skills required to make active efforts to change their stressful situation. **Seeking Social Support** training will help them learn the skills required to obtain information, tangible and emotional support from others that is required to cope with the distress. **Accepting Responsibility Skill** training will help them to learn the ways to acknowledge

their own role in the problem so that they can work simultaneous to make things better.

Training of **Plan-full Problem Solving** skills will make the police constable learn and acquire the knowledge that how the situations can be altered by focusing upon the problem utilizing analytical approach of problem solving. Training police constables **Distancing** will help them learn and acquire the skills required cognitive efforts to detach themselves from the stressful events in order to minimize the distressing impact of the situation.

Self-Control teaching will help police constable learn the skills require regulating their own feelings and actions so that they can cope effectively with the distressing circumstances. **Escape Avoidance** training will enhance police constables wishful thinking and behavioral efforts to escape or avoid the situation causing stress. **Positive Reappraisal** training will help them learn the ways of attributing positive meaning to their experience by focusing on their personal growth.

The intervention targeting to enhance the **mental health** among police constables may suggest incorporating constructs of mental health which have been studied in this piece of work. Making police personnel aware, learn, and acquire the skills and knowledge require to feel comfortable with self as well as others and also to perceive ability to fulfill their life demands positively through the training, counseling and psychotherapy sessions.

Training the construct of **Being Comfortable with self** of mental health domain will make

them understand how comfortable they are. They will also come to know, if they are healthy they must be comfortable to themselves which will allow them to avoid emotions such as tense, nervous, fearful, sad, aggressive or suspicious which frequently put them into discomfort.

The police constables can be made aware about the construct of **Being comfortable with others** which reflects how comfortable they feel in establishing and maintaining relation with others. Police constable will come to know that those individuals who are mentally healthy being not only comfortable within oneself but also make others around them comfortable. Through the training of this construct of mental health they are educated to learn that mental health is a kind of balance or harmony between an individual's self-interest and social responsibility.

Session pertaining to **Perceived Ability to Meet Life Demands** will encourage police constables to improve themselves further in their life endeavors. The kind of awareness about the feelings that they have not reached perfection will help them make consistent efforts for self-improvement.

Learning these skills of mental health will enable police personnel to develop capacity to keep balance in every life circumstances either negative or positive. People having good mental health feel peace, adapt better in every situation, they are task oriented and possess adaptive personality traits. Also they acquire the knowledge and skills to work productively and cope effectively with life situations.

Cognitive-behavioral coping strategies incorporating emotional and behavioral coping techniques used to manage stressful events. Mindfulness training through meditation, yoga and physical activity/exercise is suggested to be some of the intervention programmes that would have a better impact in learning different ways of coping skills and the constructs of mental health.

Bhole (1977) highlighted that, breathing practices are intended to develop certain types of awareness within oneself. According to Nagendra and Nagarathna (1988), yoga has been emphasized as a key to combat stress. Mathur (1999) reported that physical exercise can play an important part both in reducing stress and in increasing one's ability to cope with a stressful situation. Swanson and Territo (1983) reported that more physically fit an officer feels, the more self-assured and happier he is with himself.

Apart from the training and counseling intervention related implications of this study, there are some other implications like higher authorities in the police department might gain an insight into assigning tasks or duties to the constable police keeping gender differences in ways of coping and mental health in mind. Policy makers of Indian police services can have a better idea from this piece of study to formulate policies related to police personnel's duties, role and responsibilities, and also for their training purposes.

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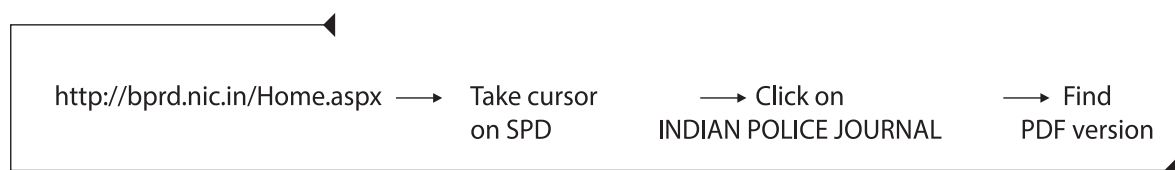
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